



## SAMOA

# POSTAL SERVICES ACT 2010

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**POSTAL SERVICES ACT 2010**

**2010**

**No. 30**

**AN ACT** to establish a new legislative framework for the provision of postal services in Samoa and related purposes.

*[Assent date: 19 October 2010]*

*[Commencement date: 9 December 2010]*

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

**PART 1  
 PRELIMINARY**

**1. Short title and commencement** – (1) This Act may be cited as the Postal Services Act 2010.

(2) This Act commences on the date of assent of the Head of State.

**2. Interpretation** – (1) In this Act, unless the contrary intention appears:

“commercial postal service” has the meaning in section 7;

- “controlled precursor” has the same meaning as in the Narcotics Act 1967;
- “convention” means a convention to which Samoa is a party or an agreement or arrangement between Samoa and a foreign country;
- “indecent document” has the same meaning as in the Indecent Publications Ordinance 1960;
- “interconnection” means the physical linking of the postal service operated by Samoa Post with a postal service operated by another postal service provider;
- “Minister” means the Minister responsible for communications;
- “Ministry” means the Ministry responsible for communications;
- “narcotic” has the same meaning as in the Narcotics Act 1967;
- “Officer of Customs” has the same meaning as in the Customs Act 2014;
- “PO Box” means:
- (a) a receptacle established by Samoa Post for the delivery of postal articles; or
  - (b) a postal delivery address at a postal service point that includes the words “PO Box”;
- “police officer” has the same meaning as “commissioned officer” in the Police Service Act 2009;
- “postage” in relation to a postal article, means the amount payable for the carrying of the article by post;
- “postage stamp” includes an imprinted or printed mark, label or design authorised by Samoa Post for the purpose of paying postage for a postal article and any other purpose as required by Samoa Post and bearing the word “Samoa”;
- “postal article” means an article of a kind that, under the terms and conditions on which Samoa Post supplies postal services, may be carried by post;
- “postal service point” means a place identified by Samoa Post for the provision of postal services and includes a house, building, room, place or structure where postal articles are by permission or under the authority of Samoa Post received, delivered, sorted

- or made up from or from which postal articles are despatched;
- “post-box” means any receptacle established by Samoa Post for the lodgement, receipt or handling of postal articles;
- “Regulator” has the same meaning as in the Telecommunications Act 2005;
- “reserved postal service” has the meaning in section 6;
- “rural areas” means any area outside a 6 mile circular radius from the Apia Town Clock;
- “Samoa Post” means the company Samoa Post Ltd incorporated under the Companies Act 2001;
- “Samoa Post operating procedures” means the operating procedures set out in guidelines prepared under section 14;
- “this Act” includes regulations made under this Act;
- “universal postal service” has the meaning in section 5;
- “UPU Regulations”:
- (a) means the Convention of the Universal Postal Union and the UPU General Regulations; and
  - (b) includes appendices, annotated acts and codes, arrangements to those regulations and any additional agreements or regulations published by the International Bureau of the Universal Postal Union in pursuance of the agreement concluded by the postal administration of member countries concerned in the Universal Postal Union Congress.

(2) Unless the contrary intention appears, any words or phrases used in this Act and not defined in this Act and used in the UPU Regulations have the same meaning or interpretation given to them in the UPU Regulations.

**3. Object** – The object of this Act is to establish an effective legal and regulatory framework to ensure that the postal industry operates in a competitive, accessible, efficient and affordable environment for the inhabitants of Samoa.

**4. Act binds Government** – This Act binds the Government.

**5. Meaning of “universal postal service”** – In this Act, “universal postal service” means:

- (a) the collection, transport and delivery of domestic and cross-border addressed mail to addressees in the following categories—
  - (i) addressed letters weighing not more than 100 grams; and
  - (ii) small packages weighing up to 2 kg; and
- (b) the collection, transport and delivery of domestic and international postal parcels weighing up to 20 kg; and
- (c) the provision of postal money orders in line with UPU regulations; and
- (d) the provision of special services such as registered items and declared value items; and
- (e) the provision of P.O. Boxes in rural areas with at least 3000 inhabitants or the provision of postal service points in rural areas with 3000 inhabitants, accessible by public road; and
- (f) the issuing of postage stamps; and
- (g) the exchange of mail in transport through the postal sorting centres.

**6. Meaning of “reserved postal service”** – In this Act, “reserved postal service” means:

- (a) the collection, transport and delivery of domestic and cross-border addressed mail to P.O. Boxes in the following categories—
  - (i) addressed letters weighing not more than 100grams; and
  - (ii) small packages weighing up to 2 kg; and
- (b) the collection, transport and delivery to P.O. Boxes of domestic and international postal parcels weighing up to 20 kg; and
- (c) the provision of postal money orders in line with the UPU regulations; and
- (d) the provision of P.O. Boxes; and
- (e) issuing of postage stamps.

**7. Meaning of “commercial postal service”** – In this Act, “commercial postal service” means a postal service that is not a universal postal service and includes:

- (a) all addressed mail not delivered to P.O. Boxes, but delivered directly to the addressee as value added letter mail;
- (b) unaddressed mail and advertising mail;
- (c) incoming cross-border mail that is not delivered through P.O. Boxes but delivered directly to the addressee;
- (d) postal parcels being single mail items of weight exceeding 20 kg;
- (e) all courier and express mail services not delivered to P.O. Boxes, but directly to the addressee as value added mail, supplemented with some extra services, such as bar-coding for track and trace, insured items and guaranteed on time delivery;
- (f) all value added postal services outside the scope of the basic UPS, such as pre-mailing activities including addressing, printing, insertion and pre-sorting and hybrid mail being a combination of mail generated by electronic media with physical delivery through postal system;
- (g) postal financial services such as utility bill payments;
- (h) international money transfers with third party providers.

**8. Minister may give directions to Samoa Post – (1)** Where the Minister considers it in the public interest to do so, he or she may give to Samoa Post written directions in relation to the provision by Samoa Post of a reserved postal service or a universal postal service.

**(2)**The Minister shall not give a direction under subsection (1) in relation to rates of postage.

**(3)**The Minister shall cause a copy of a direction given under subsection (1) to be laid before the Legislative Assembly within 15 sitting days.

## **PART 2**

## **SAMOA POST**

**9. Samoa Post** – (1) Samoa Post is a public trading body for the purposes of the Public Bodies (Performance and Accountability) Act 2001.

(2) Samoa Post must provide a universal postal service within Samoa.

(3) Samoa Post has the exclusive right to provide a reserved postal service within Samoa.

(4) Samoa Post may provide such commercial postal services as it considers appropriate in accordance with section 8 of the Public Bodies (Performance and Accountability) Act 2001.

(5) Samoa Post may conduct such other commercial activities as are consistent with the Companies Act 2001 and the Rules of Samoa Post made under that Act.

**10. Postage stamps** – (1) Samoa Post also has the exclusive right to print and issue postage stamps within Samoa.

(2) Samoa Post may cancel and destroy any stamps that are not required.

**11. General governmental obligations** – Samoa Post shall perform its functions in a way consistent with:

- (a) any general policies of which the directors of Samoa Post are notified under the Public Bodies (Performance and Accountability) Act 2001; and
- (b) any directions given by the Minister under section 8; and
- (c) any directions given by the Regulator in respect of interconnection arrangements; and
- (d) Samoa's obligations under any convention.

**12. Terms and conditions of postal service provided by Samoa Post** – (1) Subject to any express provision of this Act or any other Act, the terms and conditions of a postal service supplied for a person by Samoa Post are:

- (a) so far as Samoa Post and the person agree on terms and conditions for the supply of the service, the agreed terms and conditions; and
- (b) so far as Samoa Post and the person do not agree on terms and conditions, the terms and conditions

determined by the Samoa Post that are applicable to the supply of the service.

(2) Without limiting subsection (1), the terms and conditions determined by Samoa Post may make provision with respect to:

- (a) the kinds of articles that may be carried by post and the means by which different kinds of articles may be carried; and
- (b) the carriage of letters and other postal articles; and
- (c) rates of postage; and
- (d) the payment of postage, including the issue and sale of postage stamps, the pre-stamping of postal articles and the use of franking machines; and
- (e) undelivered letters and other articles (including the forfeiture and destruction of such articles).

**13. Fees and Charges – (1)** Fees and charges for universal postal services provided by the Samoa Post:

- (a) shall be proposed by the Regulator in consultation with the Ministry; and
- (b) are subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001; and
- (c) are to be prescribed by regulations.

**14. Samoa Post operating procedures – (1)** Samoa Post shall prepare guidelines setting out its operating procedures in relation to matters such as:

- (a) the destruction of postage stamps that are damaged or excess to requirements; and
- (b) the opening and destruction of undeliverable mail; and
- (c) the opening and destruction of mail suspected of carrying illegal or dangerous material; and
- (d) any other prescribed matter.

(2) Guidelines prepared under subsection (1) must be consistent with:

- (a) the Public Bodies (Performance and Accountability) Act 2001; and
- (b) the Companies Act 2001; and
- (c) the Public Finance Management Act 2001; and
- (d) any direction under section 8.



(3) Guidelines prepared under subsection (1) and any variation to those guidelines must be submitted to the Regulator and the Controller and Chief Auditor for approval.

**15. Performance standards to be met by Samoa Post –**

(1) The regulations may prescribe performance standards to be met for reserved mail services.

(2) The prescribed performance standards must relate to:

- (a) the frequency, speed or accuracy of mail delivery; or
- (b) the availability or accessibility of post-boxes or other mail lodgement points.

(3) Without limiting subsection (1), the prescribed performance standards may relate to methods of determining the level of mail delivery service for a particular area.

(4) In addition to any requirements specified in the Companies Act 2001 or the Public Bodies (Performance and Accountability) Act 2001 relating to roles and responsibilities of a company director, the directors of Samoa Post must take measures to ensure that Samoa Post complies with any performance standards prescribed for the purposes of subsection (1).

**16. Reporting requirements – (1)**

In addition to any reporting requirements under the Companies Act 2001 or the Public Bodies (Performance and Accountability) Act 2001, Samoa Post shall prepare and provide to the Minister and the Regulator an annual report setting out:

- (a) the cost of the provision of universal postal services;
- (b) the quality of services for single mail items nationwide;
- (c) the infrastructure of Samoa Post;
- (d) efforts to improve service levels and infrastructure for universal postal services; and
- (e) any other prescribed information.

(2) Any commercially sensitive information in the report to the Minister and the Regulator shall not be made public.

**17. Postal service points – (1)**

Samoa Post must provide access to universal postal services through postal service points.

(2) A postal service point must provide:

- (a) for the collection and delivery of single item letter mail and parcel mail to P.O. Boxes; and

- (b) for the sale of stamps or other means of postal franking; and
  - (c) for the rental of P.O. Boxes.
- (3) A postal service point need not be a post office or postal agency.
- (4) A P.O. Box referred to in subsection (2) need not be a physical P.O. Box but may be a postal address for the delivery of postal articles.

**18. Post-boxes** – Samoa Post may erect, maintain and use post-boxes in any public road, street or highway or in any other public place.

**19. Separation of reserved postal services and commercial postal services** – Samoa Post must ensure that there is no cross subsidisation between reserved postal services and commercial postal services provided by Samoa Post.

**20. Accounts of Samoa Post** – (1) Samoa Post must keep such accounts as are required under the Companies Act 2001 and the Public Bodies (Performance and Accountability) Act 2001.

(2) In addition to the accounts specified in subsection (1), Samoa Post must maintain accounts that provide for the separation on a cost accounting basis of revenue and expenditure in respect of universal postal services and revenue and expenditure in respect of commercial postal services.

**21 Immunity from certain actions** – An action or proceeding does not lie against Samoa Post or any other person in relation to any loss or damage suffered, or that may be suffered, by a person because of any act or omission done or omitted to be done in good faith by or on behalf of Samoa Post in relation to the carrying out of a universal postal service by Samoa Post.

**22 Infringing a reserved postal service** – A person other than Samoa Post who engages in conduct that involves an infringement of an exclusive right that Samoa Post has under this Act, commits an offence and is liable on conviction to a fine not exceeding 5,000 penalty units for a first offence and 10,000 penalty units for a subsequent offence.

**PART 3**  
**REGULATOR'S FUNCTIONS AND POWERS**

**23. Responsibilities, functions and powers of the Regulator – (1)** The Regulator has the following responsibilities and functions:

- (a) to ensure that Samoa Post is properly meeting Samoa's obligations under the UPU regulations by providing universal postal services; and
- (b) to ensure that Samoa Post is meeting the performance standards required in respect of the provision of reserved postal services; and
- (c) *repealed*; and
- (d) to ensure that Samoa Post is adequately accounting for the services it provides and there is no cross subsidisation between reserved postal services and commercial postal services provided by Samoa Post; and
- (e) to deal with complaints about the provision of reserved postal services by Samoa Post; and
- (f) where, appropriate, to give directions to Samoa Post in respect of interconnection;
- (g) to adjudicate on interconnection issues.

(2) The Regulator may request Samoa Post to supply information that the Regulator considers is reasonably necessary to carry out the functions and responsibilities set out in subsection (1) and Samoa Post must comply with that request.

(3) The Regulator may make such orders, procedures, guidelines and rules as the Regulator thinks appropriate in relation to the execution and performance of the functions and responsibilities under subsection (1) and Samoa Post must comply with any such order.

(4) An order under subsection (3) may direct Samoa Post to take certain actions considered necessary to ensure that Samoa Post is providing postal services in accordance with this Act.

**24. Appeal and review of orders of the Regulator – (1)** An appeal from an order of the Regulator under this Act may be made only:

- (a) on any question of law; and

(b) to the Supreme Court with the leave of the Court.

(2) An application for leave to appeal is to be made within 30 days after the date of the order appealed from.

(3) An appeal is to be brought within 60 days after the day on which leave to appeal is granted.

(4) On an appeal under this section the Supreme Court may draw any inference that is not inconsistent with the findings of fact made in the order.

(5) Despite any other law, on hearing an appeal under this section the Supreme Court shall have only the jurisdiction and power to:

- (a) determine the applicable law; or
- (b) declare the order subject to appeal, or part of the order, to be lawful or unlawful; or
- (c) remit the order to the Regulator for further determination by the Regulator in accordance with any determination or declaration made under paragraph (a) or (b).

**25. Regulator to report on compliance with prescribed performance standards and other matters – (1)** At least once each year, the Regulator shall report to the Minister on the extent to which Samoa Post has met its obligations under the Act and any prescribed performance standards.

(2) The Regulator shall include in the report any other matters the Regulator considers relevant to the functions under section 23.

**26. Regulator's independence –** For the avoidance of doubt, section 8(3) of the Telecommunications Act 2005 applies to the Regulator's responsibilities, functions and powers under this Act.

#### **PART 4 OPENING AND SEARCHING MAIL**

**27. Undeliverable postal article – (1)** If a postal article:

- (a) cannot be delivered to the intended recipient because it is not addressed or it is inadequately or incorrectly addressed; and

- (b) cannot be returned to the sender because it does not bear the sender's address, or because the sender's address is not shown or is inadequately or incorrectly shown, –

a Samoa Post employee may, in accordance with Samoa Post operating procedures, open the article and examine its contents for the purpose of obtaining sufficient information to:

- (a) deliver the article to the intended recipient; or
- (b) return the article to the sender.

(2) If Samoa Post cannot determine who sent the postal article, it must keep the postal article in safe custody for at least 3 months.

(3) If Samoa Post has kept such a postal article in safe custody for at least 3 months but the postal article remains unclaimed, Samoa Post may destroy or otherwise dispose of the postal article as it thinks fit.

**28. Repair** – A Samoa Post employee may, in accordance with Samoa Post operating procedures, open a postal article for the purpose of repairing it or its contents so that the article may be made safe for carriage by post.

**29. Postal articles on which customs duty is payable – (1)** Where there are reasonable grounds for believing that a postal article consists of, or contains, anything on which customs duty is payable or that is being carried in contravention of a law of Samoa relating to the importation into, or exportation from, Samoa of that thing, an employee of Sāmoa Post authorised for that purpose may, in accordance with Samoa Post operating procedures, open the article in the presence of an Officer of Customs.

(2) An Officer of Customs in whose presence the article is opened may examine the postal article to check whether it consists of or contains anything on which customs duty is payable or that is being carried in contravention of a law of Samoa.

(3) If the article is found not to consist of or contain anything referred to in subsection (1), the postal article must be closed up and the article returned to the normal course of carriage.

(4) If the article is found to consist of or contain anything referred to in subsection (1), the postal article and its contents

must be dealt with in accordance with any applicable laws of Samoa.

**30. Articles reasonably believed to consist of drugs or other prohibited items – (1)** This section applies to a postal article that is reasonably believed by an Officer of Customs or a police officer to consist of, or contain, narcotics, a controlled precursor or other chemical compounds or other prohibited items that are being carried in contravention of a law of Samoa.

(2) The Officer of Customs or police officer, after notifying an employee of Sāmoa Post authorised for that purpose, may open the postal article in the presence of that employee of Sāmoa Post.

(3) If the article is found not to consist of or contain anything referred to in subsection (1) the postal article must be closed up and the article returned to the normal course of carriage.

(4) If the article is found to consist of or contain anything referred to in subsection (1) the postal article and its contents must be dealt with under any applicable laws of Samoa.

**31. Postal articles to carry notice of opening – (1)** If a postal article has been opened as permitted by a provision of this Act and the article is to be returned to the normal course of carriage, Samoa Post must cause to be endorsed on the cover of the article, or on a label affixed to its cover, a notification that the article has been opened and that explains briefly the purpose for which the article was opened.

(2) Sāmoa Post must keep a record of all items opened in accordance with a provision of this Act and shall provide that record to the Regulator if requested to do so.

**32. Dealing with dangerous or deleterious things – (1)** If an employee of Samoa Post knows, or has reasonable grounds for suspecting, that a postal article contains something that is or could be explosive, dangerous or deleterious, the article may be dealt with in accordance with the applicable provisions of the Samoa Post operating procedures.

(2) If the postal article is physically offensive or dangerous it may be destroyed immediately by an employee of Sāmoa Post in accordance with the Sāmoa Post operating procedures.

(3) If an employee of Sāmoa Post believes, on reasonable grounds:

- (a) that the postal article is likely to die, rot, spoil, or otherwise perish; or
- (b) that the postal article is or is about to become dangerous and that it is necessary, in order to avoid the threat of harm to any persons or property, to destroy or otherwise dispose of the postal article immediately, –

an employee of Sāmoa Post may destroy or otherwise dispose of the postal article in accordance with the applicable provisions of the Sāmoa Post operating procedures.

(4) Samoa Post must ensure that, before the article is destroyed, the following information is recorded, to the extent to which it is evident:

- (a) the sender's name and address;
- (b) the intended recipient's name and address;
- (c) what the article contains.

(5) If the sender's name and address has been recorded, Samoa Post must, as soon as practicable after the article's destruction, cause written notice to be given to the sender advising of the article's destruction and the reasons for its destruction.

**33. Disposal following conviction** –On the conviction of any person for an offence against this Act involving any postal article, the convicting court, in addition to any other sentence or making any other order in respect of the offence, may order that the postal article is forfeited to the Government; and in that case the postal article so forfeited must be destroyed or otherwise disposed of as the Minister directs.

**34. Samoa Post and employees not liable for actions in good faith under this Part** – Neither Samoa Post, nor an employee of Samoa Post, is liable to an action or other proceeding for damages for or in relation to an act done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of a power or duty under this Part.

## **PART 5**

**OFFENCES RELATING TO  
INTEGRITY OF THE MAIL**

**35. Unauthorised opening of postal article** – A person, not being:

- (a) the addressee or an agent, officer or employee of the addressee; or
- (b) an employee of Samoa Post authorised for that purpose and acting in accordance with Samoa Post operating procedures; or
- (c) an Officer of Customs or a police officer acting in accordance with this Act, –

who opens or endeavours to open any postal articles, commits an offence and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**36. Divulging information obtained from postal article** –

(1) Subject to subsection (3), an employee of a Samoa Post or another postal service provider who discloses without good and sufficient cause any information obtained from a postal article obtained in the course of that employee's duties, commits an offence and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both.

(2) Subject to subsection (3), an officer of Customs or a police officer who discloses without good and sufficient cause any information obtained from a postal article obtained in the course of that officer's duties, commits an offence and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both.

(3) Subsections (1) and (2) do not apply where the disclosure is:

- (a) reasonably necessary for the enforcement of the criminal law; or
- (b) reasonably necessary for the protection of the public revenue; or
- (c) required or authorised by or under law.

**37. Theft of postal article** – A person who dishonestly appropriates a postal article (including an article that appears to



have been lost or wrongly delivered by or on behalf of Samoa Post or lost in the course of delivery to Samoa Post) with the intention of permanently depriving another person of that postal article, commits an offence and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**38. Wrongful delivery of postal article – (1)** A person who intentionally causes a postal article to be delivered to, or received by, a person other than the person to whom it is directed or that person's authorised agent, commits an offence and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**(2)** A person who dishonestly obtains delivery of, or receipt of, an article in the course of post that is not directed to that person, commits an offence and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**39. Forged postage stamps –** A person who:

- (a) forges a postage stamp or uses or issues a postage stamp knowing it to be forged; or
  - (b) attempts to forge a postage stamp or use or issue a postage stamp knowing it to be forged, –
- commits an offence and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**40. Use of previously used, defaced or obliterated stamps**

– A person who uses for postal services a postage stamp:

- (a) that has previously been used for postal services; or
  - (b) that has been obliterated; or
  - (c) that has been defaced, –
- commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 6 months, or both.

**41 Obstructing carriage of articles by post –** A person who intentionally obstructs or hinders the carriage by post of any postal article, commits an offence and is liable on conviction to

a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both.

## **PART 6 GENERAL OFFENCES**

**42. Posting of dangerous things etc – (1)** A person who intentionally causes to be carried by post an article that contains:

- (a) a noxious substance or thing, or any dead animal; or
- (b) an explosive, dangerous, or destructive substance or fluid; or

(c) an indecent document, –

commits an offence and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**(2)** A person who intentionally causes to be carried by post an article with the intention of inducing a false belief that:

- (a) the article consists of, encloses or contains an explosive or a dangerous or harmful substance or thing; or

(b) an explosive, or a dangerous or harmful substance or thing, has been or will be left in any place, –

commits an offence and is liable on conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**43. Causing narcotics to be carried by post –** A person who intentionally causes to be carried by post without lawful reason an article that consists of, encloses or contains narcotics or a controlled precursor, commits an offence and is liable on conviction to a fine not exceeding 200 penalty units or to imprisonment for a term not exceeding 2 years, or both.

**44. Tampering with a post-box –** A person who without lawful reason opens a post-box or tampers with a post-box commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 6 months, or both.

## **PART 7 MISCELLANEOUS**

**45. Money orders and postal orders** – (1) Samoa Post may make arrangements for the issue and payment of money orders and postal orders:

- (a) within Samoa; and
- (b) between Samoa and a foreign country, –

and for the accounting for, and remittance of, moneys required for that purpose.

(2) A money order or postal order issued under this Act and not presented for payment within 12 months from the last day of the month of issue shall be payable under such conditions as are determined by Samoa Post.

(3) Samoa Post shall exercise reasonable care and diligence when paying the amount of a money order or a postal order in determining that the person presenting the money order or the postal order for payment is properly entitled to receive payment for the amount of that money order or postal order.

(4) Subject to subsection (3), an action or other proceedings shall not be maintainable against Samoa Post in respect of a money order or postal order after its payment to whomsoever presented it if it was paid without fraud or wilful misbehaviour.

**46. Regulations** – (1) The Head of State, acting on the advice of Cabinet, may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), regulations may be made with respect to:

- (a) the forfeiture and destruction of articles carried by post; and
- (b) the arrangements for collecting duties of customs and other duties payable in relation to postal articles carried by post; and
- (c) dealing with articles that may contain goods on which duties of customs or other duties are payable; and
- (d) the opening and examination of postal articles, and the examination of contents of postal articles, carried by post; and

- (da) prescribing fees and charges for the purposes of this Act; and
  - (e) prescribing fines and penalties not exceeding 10 penalty units or imprisonment for a term not exceeding 3 months, or both, for offences against the regulations.
- (3) The amount of a fee or charge prescribed under subsection (2)(da)
- (a) shall be proposed by the Regulator in consultation with the Ministry; and
  - (b) is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

**47. Repeal** – (1) Subject to subsection (2), the Post Office Act 1972 is repealed.

(2) An offence under the Post Office Act 1972 that took place prior to the commencement date can be prosecuted under that Act despite the repeal of that Act by subsection (1) and any provisions of that Act that are relevant for such prosecutions are deemed not to be repealed for the purposes of those prosecutions.

(3) A licence or permit in force under the previous Acts at the commencement date shall, to the extent that it is capable of doing so, continue and have effect under the corresponding provisions of this Act until such time as the licence or permit expires or is cancelled under the provisions of this Act.

(4) In this section:

“commencement date” means the date this section comes into operation;

“previous Acts” means the Post Office Act 1972 and the Postal and Telecommunications Services Act 1999.

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#### **REVISION NOTES 2010 – 2023**

This is the official version of this Act as at 31 December 2023.

This Act has been revised by the Legislative Drafting Division from 2010 to 2023 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Insertion of the commencement date;
- (b) Other minor editing has been done in accordance with the lawful powers of the Attorney General, where appropriate:
  - (i) Numbers in words changed to figures;
  - (ii) Removal of “and” from “and/or”;
  - (iii) Interpretation of certain words in section 2 paragraphed – “UPU regulations”;
  - (iv) “shall be” changed to “is to be’ or “is”;
  - (v) Numbering for Parts changed from Roman to decimal numbers;
  - (vi) “on conviction” added to penalty provisions;
- (c) Reference to the “Customs Act 1977” substituted with the “Customs Act 2014”.

The following amendments were made to this Act since its enactment:

*By the Fees and Charges (Miscellaneous Amendments) Act 2017, No. 13:*

Amendments made to this Act reflect that fees charged under this Act are to be prescribed by Regulations. Amendments are made to sections 13, 23 and 46.

*This Act is administered by  
the Ministry of Communications and Information Technology.*