

CONSOLIDATED ACTS OF SAMOA 2008

NARCOTICS ACT 1967

Arrangement of Provisions

TITLE

1. Short title and commencement
2. Interpretation
3. Administration of Act
4. Appointment of inspectors
5. Head of State may amend lists of narcotics or prohibited plants
6. Unlawful cultivation of prohibited plants
7. Possession of narcotics
8. Supplies of opium for registered addicts
9. Supplies of narcotics for ships, aircraft and first aid kits
10. Importation and exportation
11. Licences to deal in narcotics
12. Approval of Minister required for grant of licences to some persons
13. Miscellaneous offences
14. Issue of search warrants
- 14A. Search without a warrant
15. Power to inspect books and stocks of narcotics
16. Power of arrest of person suspected of committing offence
17. Penalty for illegal import or export of narcotics
18. Penalty for unlawful supply or possession of narcotics
19. Abetting offence against corresponding law in another country
20. Failure to comply with conditions of licence
21. Penalty for false statement
22. Failure to answer question
23. General offence of breach of provisions of Act or regulations
24. General penalty for such breach
25. Forfeiture of goods
26. Onus of proof in certain cases
27. Chief officers of company liable for offence by company
28. Protection of persons acting under authority of Act
- 28A. Obstruction of officers
- 28B. Reports as evidence
29. Regulations
30. Repeal and revocation

Schedules

THE NARCOTICS ACT 1967

1967 No.3

AN ACT to regulate the importation, exportation, growing, manufacture, sale, distribution, use and possession of narcotic drugs.

(24 July 1967)

(Commencement date: 1 August 1967)

1. Short title and commencement - This Act may be cited as the Narcotics Act 1967, and shall come into force on the 1st day of August 1967.

2. Interpretation - (1) In this Act, unless the context otherwise requires:

"**Chief Executive Officer**" or 'CEO' means the Chief Executive Officer of the Ministry of Health;

"**Constable**" includes any member of the Police Service.

"**controlled precursor**" means a substance prescribed by the Head of State under subsection 5 (3);

"**controlled quantity**" in relation to a controlled precursor means a quantity prescribed by the Head of State under subsection 5(4) as a quantity that is to be regarded as a controlled quantity of that controlled precursor;

"**Cultivate**" includes sow and plant; and "cultivation" has a corresponding meaning.

"**Deal in**" includes purchase, receive, or otherwise acquire, or produce, manufacture, sell, distribute, dispense, administer, use in manufacture or otherwise dispose of; and "dealing in" has a corresponding meaning.

"**Ministry**" means the Ministry of Health.

"**Inspector**" means an inspector appointed under section 4 of this Act.

"**Medicinal opium**" means opium which has undergone the processes necessary to adapt it for medicinal use.

"**Minister**" means the Minister of Health.

"**Narcotic**" means any of the plants, drugs, preparations, substances or mixtures named or described in the First Schedule or in the Second Schedule to this Act and includes every prohibited plant.

"**Opium**" means the coagulated juice of the opium poppy.

"**Opium poppy**" means the plant of the species *Papaver somniferum L.*

"Prepared opium" means any form of opium other than raw opium and medicinal opium, and includes opium prepared for smoking, and dross and any other residues remaining after opium has been smoked.

"Prohibited plant" means:

- (a) any plant of the genus *Cannabis*;
- (b) every variety of *Papaver somniferum L.*;
- (c) any plant of the genus *Erythroxylon*; and
- (d) any other plant which is declared to be a prohibited plant by the regulations;

"Regulations" means regulations made under this Act.

"trafficable quantity" in relation to a narcotic means a quantity not less than the quantity prescribed by the Head of State under subsection 5(2) as a trafficable quantity of that narcotic.

(2) In calculating for the purposes of this Act the percentage of any drug present in a preparation, the percentage in the case of a liquid preparation shall, unless otherwise prescribed, be calculated on the basis that a preparation containing one part percent of any substance means a preparation in which one gramme of the substance, if a solid, or one millilitre of the substance, if a liquid, is contained in every 100 millilitres of the preparation, and so in proportion for any greater or less percentage.

(3) In calculating for the purposes of this Act the percentage of morphine present in a preparation it shall be calculated as in respect of anhydrous morphine.

3. Administration of Act - The Chief Executive Officer and the Ministry, under the control of the Minister, shall be charged with the administration of this Act.

4. Appointment of inspectors - The Public Service Commission may, from time to time, on the recommendation of the Chief Executive Officer, appoint any officer of the Public Service to be an inspector for the purposes of this Act and having the powers conferred on inspectors by this Act.

5. Head of State may amend lists of narcotics or prohibited plants – (1) The Head of State, acting on the advice of Cabinet, may from time to time by order add to or omit any drug, preparation or substance from the list of narcotics set out in the First Schedule or the Second Schedule to this Act, or any plant from the list of prohibited plants set out in section 2 of this Act, as those lists are for the time being varied by any such Order previously made, or transfer any drug preparation or substance from one Schedule to this Act or to another.

(2) The Head of State acting on the advice of Cabinet may by order prescribe in relation to a

narcotic, a quantity that is to be regarded as a trafficable quantity of that narcotic.

(3) The Head of State acting on the advice of Cabinet may by order prescribe a substance (including a growing plant) as a controlled precursor if Cabinet is satisfied that there is a substantial risk that the substance concerned may be used to unlawfully manufacture a narcotic substance.

(4) The Head of State acting on the advice of Cabinet may by order prescribe in relation to a controlled precursor, a quantity that is to be regarded as a controlled quantity of that controlled precursor.

6. Unlawful cultivation of prohibited plants - (1) Every person who:

(a) cultivates any prohibited plant; or

(b) has in his or her possession the seed of any prohibited plant,-

commits an offence against this Act, and is liable on conviction to imprisonment for a term not exceeding 7 years.

(2) If the Court is satisfied that any offence against this section was not committed wilfully, then the offender shall be liable to a fine not exceeding 2 penalty units or to imprisonment for a term not exceeding 3 months, or both such a fine and imprisonment, instead of being liable to the penalty specified in subsection (1) of this section.

(3) It shall be a defence to a charge under subsection (1) of this section if the defendant proves:

(a) that he or she cultivated the prohibited plant or had in his or her possession the seed of the prohibited plant, as the case may be, to which the charge relates, pursuant to and in accordance with the conditions of a licence granted under this Act by the Chief Executive Officer; or

(b) that the prohibited plant or the seed as the case may be, to which the charge relates, is a variety of *Papaver Somniferum* L., and that it was not intended to be a source of any narcotic or that it was not being developed as a strain from which a narcotic could be produced.

(4) Any constable, inspector, or officer of Customs, Health, or Agriculture, with such assistants as he or she thinks necessary, may seize and destroy:

(a) Any prohibited plant that is being cultivated otherwise than pursuant to and in accordance with the conditions of a licence granted under this Act by the Chief Executive Officer; or

(b) The seed of any prohibited plant if that seed is in the possession of any person otherwise than pursuant to and in accordance with the conditions of a licence granted

under this Act by the Chief Executive Officer.

7. Possession of narcotics - No person shall knowingly be in possession of, or attempt to obtain possession of, any narcotic, unless:

- (a) He or she is entitled to import or export that narcotic;
- (b) He or she is licensed to deal in that narcotic;
- (c) The narcotic was supplied for his or her use, or for the treatment of some animal under his or her care, by a licensee, or pursuant to the prescription of a licensee, authorised to supply or prescribe narcotics for that purpose;
- (d) His or her possession is for or on behalf of a person lawfully entitled to the possession of that narcotic;
- (e) His or her possession is permitted by the regulations;
- (f) He or she has the narcotic as a sample or for analysis under the Food and Drugs Act 1967;
- (g) He or she is in the service of the Government and his or her possession is for the purpose of investigating an offence or alleged offence or the prosecution of any person; or
- (h) He or she is lawfully in possession of the narcotic pursuant to an authority or supply granted or issued under section 8 or section 9 of this Act.

8. Supplies of opium for registered addicts - (1) The Chief Executive Officer may keep the register of persons who in his or her opinion have become addicted to the quasi-medical use of opium prior to the passing of this Act, and are unlikely to be able to be safely cured of that addiction.

(2) The Chief Executive Officer may from time to time supply such reasonable quantities of medicinal opium as he or she shall think fit to persons whose names are on that register.

(3) Each such person may personally make a quasi-medical use of the medicinal opium so supplied to him or her without committing an offence against this Act.

9. Supplies of narcotics for ships, aircraft and first aid kits - The Chief Executive Officer may in writing, subject to such conditions as he or she may specify, authorise the master of a ship or the person in charge of an aircraft, or the person having control of a first aid kit within Samoa approved by the Chief Executive Officer, to obtain and to be in possession of such narcotics as in the case of a ship or aircraft are authorised or required to be carried on such ship or aircraft by the country of registry of the ship or aircraft for medical stores or as are usually carried by such ship or aircraft for that purpose only, and in the case of a first aid kit for use for

emergency purposes only.

10. Importation and exportation - (1) No person shall import into or export from Samoa any prepared opium or any prohibited plant.

(2) No person shall import into or export from Samoa any other narcotic named or described in the First Schedule to this Act except pursuant to a licence granted by the Chief Executive Officer.

(3) No licence under subsection (2) to import any narcotic shall be granted except to a person who is licensed under section 11 of this Act to deal in that narcotic.

(3A) No person shall import into Samoa a controlled quantity of a controlled precursor except under a licence granted by the CEO.

(4) Nothing in this section shall apply to or prohibit the carriage through Samoa by ships or aircraft of:

(a) Such quantities only of narcotics as are authorised or required to be carried on any such ship or aircraft by the country of registry of the ship or aircraft for medical stores or as are usually carried by such ship or aircraft for that purpose only;

(b) Narcotics whose destination is out of Samoa if such narcotics are accompanied by a copy of an export authorisation from the country from which they have been exported showing the nature, description, quantity, and destination of such narcotics, and such narcotics correspond with details shown in the export authorisation.

11. Licences to deal in narcotics - No person shall deal in any narcotic except pursuant to a licence granted by the Chief Executive Officer.

12. Approval of Minister required for grant of licences to some persons - Except with the approval of the Minister, no licence of any kind shall be granted to any person who has been convicted of an offence against any provision of this Act or the regulations or any Act or regulations repealed or revoked by this Act, or who being a previous holder of a licence has had it cancelled for any breach of any condition thereof or of any provision of this Act or the regulations or any Act or regulations so repealed or revoked.

13. Miscellaneous offences - Every person commits an offence against this Act who:

(a) Uses or permits to be used any premises or vehicle for the purpose of the commission of an offence against this Act; or

(b) Has in his or her possession any needle, syringe, pipe or other utensil for any such purpose; or

(c) Without lawful excuse smokes or otherwise uses prepared opium or is on premises

being used for the smoking of opium;

14. Issue of search warrants - (1) If a Judge of the Supreme Court or a District Court Judge is satisfied by information on oath that there is reasonable ground for suspecting:

(a) That any narcotic is in the possession or under the control of any person in any building, aircraft, ship, carriage, vehicle, premises or place (hereinafter collectively referred to as "premises"), and that an offence against any provision of this Act or the regulations has been committed in relation to such narcotic; or

(b) That there is in the possession or under the control of any person in any premises any document directly or indirectly relating to or connected with any transaction or dealing which was, or any intended transaction or dealing which would if carried out be an offence against any provision of this Act or the regulations, or, in the case of a transaction or dealing carried out or intended to be carried out in any place outside Samoa, an offence against the provisions of any law corresponding with or having objects similar to this Act or the regulations in force in that place,-

he or she may grant a search warrant authorising a constable or inspector named in the warrant or any other constable or inspector, at any time or times within one month from the date of the warrant, to enter with such assistants as he or she thinks necessary, and if need be by reasonable force, the premises named in the warrant, to search those premises and any persons found therein, and to seize and detain any such narcotic or document or evidence of any offence found on or in those premises or on any such person.

(2) Every constable or inspector executing a search warrant granted under this section shall have the warrant with him or her and produce it if required so to do.

14A. Search without a warrant - (1) Where under the circumstances that an immediate search is to be carried out and there is no time to apply for a search warrant as provided under section 14 of this Act, any constable, if he or she has reasonable ground to believe that there is in or on any building, aircraft, ship, carriage, vehicle, premises or place any narcotic for which an offence against this Act has been committed, he or she, with any assistants he or she may require, may enter and search the building, aircraft, ship, carriage, vehicle, premises, or place and any person found therein or thereon as if authorised to do so by a search warrant issued under section 83 of the Criminal Procedure Act 1972 and by subsection (1) of section 14 of this Act.

(2) Where any constable has reasonable ground for believing that any person is in possession of any narcotic and that an offence against this Act has been or is suspected of having been committed in respect of that narcotic, he or she may search and detain that person for the purpose of search and may take possession of any narcotic found.

(3) Nothing in subsection (2) shall limit the provisions of subsection (1) of this section or authorise any member of the Police to enter and search any building, aircraft, ship, carriage, vehicle, premises, or place otherwise than in accordance with the provisions of that subsection.

(4) Every constable exercising a power of search or of entry and search conferred by subsections (1) and (2) of this section shall identify himself or herself to every person searched, and also to any person in or on the building, aircraft, ship, carriage, vehicle, premises, or place who questions his or her right to enter and search the same, and shall also tell those persons that the search is being made pursuant to the authority of that subsection. He or she shall also, if not in uniform and if so required, produce evidence that he or she is a constable.

(5) Every constable exercising the power of search or of entry and search under subsections (1) and (2) of this section shall within 72 hours after the search submit to the Commissioner of Police Service a report in writing stating the reason for and result of the search.

15. Power to inspect books and stocks of narcotics - (1) Any constable or officer of Customs or Health or inspector shall have power to enter the premises of any person carrying on the business of a producer, manufacturer, seller or distributor of any narcotic, or who otherwise undertakes the supply or administration thereof, and to demand the production of and to inspect any books or records relating to dealings in any narcotic, and to make copies of any entries appearing therein, and to inspect, weigh, measure and record the stocks of any narcotic.

(2) If any person wilfully delays or obstructs any constable or officer of Customs or Health or inspector in the exercise of his or her powers under this section, or fails to produce, or conceals or attempts to conceal, any such books, documents or stock, he or she shall be guilty of an offence against this Act.

16. Power of arrest of person suspected of committing offence - (1) If any constable, officer of Customs or inspector has reasonable cause to believe or suspect, or finds, that any person has imported into or exported from Samoa any narcotic in contravention of any provision of this Act, or has been concerned in such importation or exportation, or is engaged in dealing in any narcotic in contravention of any such provision, or is in possession of any narcotic or other thing in contravention thereof, he or she may arrest that person without a warrant.

(2) Pending the laying of an information against the person so arrested the remanding officer before whom the accused is produced pursuant to Clause (4) of Article 6 of the Constitution, as substituted by section 2 of the Constitution Amendment Act 1965, may either discharge the accused from custody or adjourn the matter for any period not exceeding 48 hours; and may, if the proceedings are so adjourned, either remand the accused in custody or release him or her on recognizance, with or without sureties, to appear at the time and place to which the matter has been so adjourned, in the same manner, so far as may be, as if an information had been laid against the accused by the officer or inspector by whom he has been so arrested.

(3) If at the time to which the matter has been so adjourned no information for any offence as aforesaid has already been laid in accordance with this Act the accused shall be discharged.

(4) The arrest or discharge of any person under this section shall not take away or in any manner affect the right of proceeding against him or her in respect of any offence under this Act which may have been committed previously to that arrest or discharge.

17. Penalty for illegal import or export of narcotics - (1) Every person who imports into or exports from, or attempts to import into or export from, Samoa any narcotic in contravention of any provision of this Act is guilty of an offence against this Act, and shall be liable to:

(a) in the case of a trafficable quantity of a narcotic - to a fine not exceeding 500 penalty units or to imprisonment for a term not exceeding 7 years or both; and

(b) in any other case - to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years or both.

(2) Without affecting any other liability he or she may have incurred under this Act any person found in possession of any narcotic imported in contravention of any provision of this Act shall be liable to:

(a) in the case of a trafficable quantity of a narcotic - to a fine not exceeding 500 penalty units or to imprisonment for a term not exceeding 7 years or both; and

(b) in any other case - to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years or both,

unless he or she proves:

(a) that he or she obtained possession thereof without knowledge that it was illegally imported; or

(b) that he or she obtained possession thereof with some other lawful justification.

18. Penalty for unlawful supply or possession of narcotics - A person who contrary to the provisions of this Act or the regulations:

(a) deals in or has possession of any narcotic;

(b) sells, gives, supplies or administers or offers to sell, give, sell or supply any narcotic to any person,

commits an offence and is liable to,

(c) in the case of a trafficable quantity of a narcotic - imprisonment for a term not exceeding 14 years; and

(d) in any other case - to a fine not exceeding 500 penalty units or to imprisonment for a term not exceeding 7 years or both:

PROVIDED THAT if the Judge is satisfied that the contravention of the Act or the regulations was not wilful, or that it constituted merely a breach of a provision relating to the keeping of books or the issuing or dispensing of prescriptions or other matters of a

procedural character, the offender is liable to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years or both.

18A Unlawful manufacture of a narcotic-(1) A person who manufactures a narcotic commits an offence and is liable to a fine not exceeding 1000 penalty units or to imprisonment for a term not exceeding 14 years or both.

(2) In this section ‘manufacture’ means any process by which a narcotic is produced (other than the cultivation of a plant), and includes the following:

- (a) the process of extracting or refining a narcotic;
- (b) the process of transforming a substance into a narcotic.

(3) For the purposes of this section, a person manufactures a narcotic if the person:

- (a) engages in its manufacture; or
- (b) exercises control or direction over its manufacture; or
- (c) provides finance for its manufacture.

18B. Unlawful sale of a controlled precursor-(1) A person who:

- (a) sells a controlled quantity of a controlled precursor believing that the person to whom it is sold, or another person, intends to use any of the substance to manufacture a narcotic; or
- (b) manufactures a controlled quantity of a controlled precursor with the intention of using any of it to manufacture a narcotic; or
- (c) manufactures a controlled quantity of a controlled precursor:
 - (i) with the intention of selling any of it to another person; and
 - (ii) believing that the other person intends to use any of the substance to manufacture a narcotic; or
- (d) possesses a controlled quantity of a controlled precursor with the intention of using any of it to manufacture a narcotic,

commits an offence and is liable to a fine not exceeding 1000 penalty units or to imprisonment for a term not exceeding 14 years or both.

(2) For the purposes of this section, if a person sells, manufactures or possesses a controlled quantity of a controlled precursor, the person is taken to have sold or manufactured or to possess

the controlled quantity of the controlled precursor with the intention that the controlled precursor be used for the manufacture of a narcotic and the onus is on the person to prove that the person did not have that intention.

19. Abetting offence against corresponding law in another country - Every person who in Samoa aids, abets, counsels, or procures the commission in any place outside Samoa of any offence punishable under the provisions of any law corresponding with or having objects similar to this Act and in force in that place, or who does any act preparatory to or in furtherance of the commission out of Samoa of any act which, if committed in Samoa, would constitute an offence against this Act, is guilty of an offence and shall be liable to a fine not exceeding 4 penalty units or to imprisonment for a term not exceeding 2 years, or to both such fine and imprisonment.

20. Failure to comply with conditions of licence – (1) Every person who acts in contravention of or fails to comply with any term or condition of any licence issued under or in pursuance of this Act is guilty of an offence, and shall be liable to a fine not exceeding 2 penalty units.

(2) A person who imports into Samoa a controlled quantity of a controlled precursor under a licence granted by the CEO under section 10 must keep accurate records of the sale, use or other disposal of the precursor and shall upon request by a police officer or an officer authorised by the CEO, make those records available for inspection.

(3) A person who fails to keep records required under subsection (2) or fails to make those records available for inspection when requested under subsection (2), commits an offence and is liable to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years or both.

21. Penalty for false statement - Every person who, for the purpose of obtaining, whether for himself or herself or any other person, the grant or renewal of any licence under this Act, or for any other purpose in relation to this Act, makes any declaration or statement which to his or her knowledge is false in any particular, or utters, produces, or makes use of any such declaration or statement or any document containing the same, or knowingly utters, produces, or makes use of any document which is not genuine, is guilty of an offence against this Act, and shall be liable to a fine not exceeding 2 penalty units or to imprisonment for a term not exceeding 12 months, or to both such fine and imprisonment.

22. Failure to answer question - Every person who fails or refuses to answer any question which any officer of Customs or Health or constable, or inspector is authorised by this Act to put to that person for the purposes of this Act and does put to him or her, or who does not truly answer the same, is guilty of an offence against this Act.

23. General offence of breach of provisions of Act or regulations - Every person commits an offence against this Act or the regulations who acts in contravention of or fails to comply in any respect with any provision of this Act or the regulations, or of any requirement, direction, prohibition, notice, approval, or condition given or imposed thereunder.

24. General penalty for such breach - (1) Every person who commits an offence against this

Act or the regulations for which no other penalty is provided by this Act or the regulations is liable to a fine not exceeding 2 penalty units or to imprisonment for a term not exceeding 3 months, or to both such fine and imprisonment.

(2) Where any person commits an offence against this Act or the regulations for which no penalty is provided elsewhere than in this section, being an offence which involves the unlawful supplying or procuring of any narcotic, or the unlawful offering to supply or procure any narcotic, and that person has previously been convicted of an offence against this Act or the regulations involving any such unlawful supplying, procuring or offering, he or she shall be liable to a fine not exceeding 4 penalty units or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

25. Forfeiture of goods - (1) If any person is convicted of an offence against this Act or the regulations, then, in addition to any penalty imposed pursuant to this Act or the regulations, there shall be forfeited to the Government by virtue of the conviction all articles, if any, in respect of which the offence was committed and in the possession of that person.

(2) Articles forfeited under the provisions of subsection (1) of this section shall be sold, destroyed, or otherwise disposed of as the Minister directs.

25A. Confiscation and forfeiture of tainted property-(1) Police may seize and detain tainted property and, upon conviction for the offence, such property is forfeited to the Government of Samoa and may be disposed in such way as the Minister acting on the advice of Cabinet directs.

(2) In this section:

‘property’ includes currency, investments, holdings, possessions, assets and all other property real or personal, heritable or moveable including things in action and other intangible or incorporeal property wherever situate, whether in Samoa or elsewhere, and includes any interest in such property;

‘tainted property’, in relation to an offence involving a narcotic, means –

(a) property that was used, or was intended by an offender to be used, in relation to the commission of the offence; or

(b) property that was derived either wholly or in part by anyone from the commission of the offence; or

(c) property that was derived by anyone from property mentioned in paragraph (a) or (b);

and includes an amount of money held in an account with a financial institution that represents the value of property mentioned in paragraph (a), (b) or (c) that has been directly or indirectly credited to the account.

(3) For paragraph (2)(a), any property found in the possession of an offender at the time of, or immediately after, the commission of the offence is taken to be property that was used, or was intended by the offender to be used, in relation to the commission of the offence, unless the contrary is established by the offender.

(4) Examples of tainted property for paragraph (2)(c) are:

(a) a house in relation to which a mortgage is partly or completely discharged using money obtained during the commission of the offence, or a mixture of that money and money unconnected with the offence;

(b) other property purchased using the money mentioned in paragraph (a);

(c) shares or negotiable instruments bought using money obtained during the commission of the offence, or a mixture of that money and money unconnected with the offence;

(d) loans, gifts or other transfers or dispositions to any person using money obtained during the commission of the offence, or a mixture of that money and money unconnected with the offence.

25B. Mandatory reporting of suspicion of illegal use of a narcotic-(1) If a doctor or nurse reasonably suspects that a person they are treating has illegally used a narcotic, the doctor or nurse must as soon as practicable report to a police officer the name of the person they are treating and the grounds of their suspicion.

(2) A doctor or nurse who fails to report to a police officer as required under subsection (1), commits an offence and is liable to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years or both

26. Onus of proof in certain cases - (1) In any proceedings under this Act or the regulations against any person in which it is proved that he or she had in his or her possession any narcotic, the onus of proving (where such proof would constitute an answer to the charge) that he or she came into possession thereof in a manner not prohibited by this Act or the regulations shall lie on the person charged.

(2) In any such proceedings under this Act or the regulations it shall not be necessary to prove that the narcotic was imported into Samoa since the coming into force of this Act.

27. Chief officers of company liable for offence by company - Where a person convicted of an offence against this Act or the regulations is a company, every director and every officer concerned in the management of the company shall be guilty of the like offence, unless he or she proves that the act constituting the offence took place without his or her knowledge or consent.

28. Protection of persons acting under authority of Act - Any person who does any act in pursuance or intended pursuance of any provision of this Act or the regulations shall not be under any civil or criminal liability in respect thereof, whether on the ground of want of

jurisdiction, or mistake of law or fact, or on any other ground, unless he or she has acted in bad faith or without reasonable care.

28A. Obstruction of officers - Every person who wilfully obstructs, hinders, resists, or deceives any Constable, Officer of Customs or Inspector in the execution of any duties or powers conferred under this Act commits an offence and is liable on conviction to imprisonment for a term not exceeding 5 years.

28B. Repealed

29. Regulations - (1) The Head of State, acting on the advice of Cabinet, may from time to time make such regulations as in his or her opinion may be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power hereinbefore conferred, regulations may be made under this section for all or any of the following purposes:

- (a) Controlling or restricting the cultivation of prohibited plants and the sale, distribution, and possession of the seeds of prohibited plants;
- (b) Prescribing the forms of licences under this Act, including the terms and conditions thereof, and enabling additional conditions to be imposed;
- (c) The granting, renewal, and cancellation of licences under this Act;
- (d) Permitting the import, export, possession or dealing in all or any narcotics otherwise than pursuant to a licence under this Act but subject to such conditions as may be prescribed;
- (e) Requiring persons engaged in the import or export of, or who are dealing in, any narcotic, or who utilise any narcotic in the exercise of their profession or calling, to keep books in such form and manner and to furnish information with respect to such matters as may be prescribed;
- (f) The issue by medical practitioners, dentists, and veterinary surgeons of prescriptions containing any narcotic;
- (g) The dispensing and compounding of narcotics;
- (h) The packing, labelling, storing and carriage of narcotics;
- (i) The weighing, counting, measuring, sealing, seizing, and taking of samples of narcotics;
- (j) Generally for prohibiting, controlling, or restricting the importation, exportation, possession, dealing in and use of narcotics;

(k) Prescribing fees payable for the granting and renewal of licences and other matters, and providing for the waiver or reduction or total or partial refund of fees in particular cases or classes of cases; and

(l) Prescribing all matters which are required or permitted to be prescribed by this Act or with respect to which regulations are necessary or convenient for giving full effect to this Act.

(3) Regulations made under the powers hereby conferred may prescribe for any breach thereof a fine not exceeding 2 penalty units or imprisonment for a term not exceeding 3 months, or both such fine and imprisonment.

30. Repeal and revocation - As from the coming into force of this Act the Dangerous Drugs Act 1927 (N.Z.), and the Samoa Dangerous Drugs Regulations 1955 (Serial Number 1955/38, N.Z.) are hereby repealed or revoked as to their application to Samoa.

SCHEDULES

FIRST SCHEDULE

Section 2

acetorphine	[6, 7, 8, 14-tetrahydro-7alpha-(1-hydroxy-1-methylbutyl)-6, 14-endo-ethenooripavine 3-acetate]
acetyldihydrocodeine acetylmethadol	(3-acetoxy-6-dimethylamino-4, 4-diphenyl-3-heptane)
allylprodine	(3-allyl-1-methyl-4-phenyl-4-propionoxy-piperidine)
alphacetylmethadol	(alpha-3-acetoxy-6-dimethylamino-4, 4-diphenylheptane)
alphameprodine	(alpha-3-ethyl-1-methyl-4-phenyl-4-propionoxypiperidine)
alphamethadol	(alpha-6-dimethylamino-4, 4-diphenyl-3-heptanol)
alphaprodine	(alpha-1, 3-dimethyl-4-phenyl-4-propionoxy-piperidine)
anileridine	(1-(para-aminophenethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
benzethidine	(1-(2-benzyloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
benzylmorphine -	(3-benzylmorphine)
betacetylmethadol	(beta-3-acetoxy-6-dimethylamine-4, 4-diphenylheptane)
betameprodine	(beta-3-ethyl-1-methyl-4-phenyl-4-propionoxypiperidine)
betamethadol	(beta-6-dimethylamino-4, 4-diphenyl-3-heptanol)
betaprodine	(beta-1, 3-dimethyl-4-phenyl-4-propionoxy-

	piperidine)
bezitramide -	(1-(3-cyano-3, 3-diphenylpropyl)-4-(2-oxo-3-propionyl-1-benzimidazolyl)-piperidine)
cannabis, - being any leaf, seed, stalk, root, fruit, blossom, or part thereof of any plant of the genus cannabis (Cannabis sativa L.) cannabis resin	
clonitazene	(2-para-chlorbenzyl-1-(2-diethylaminoethyl)-5-nitrobenzimidazole)
coca leaf	(Erythroxyton coca L.)
cocaine	(methyl ester of benzoylecgonine)
codeine	(3-methylmorphine)
codoxime	(dihydrocodeinone-0-(carboxymethyl)oxime)
concentrate of poppy straw	
desomorphine	(dihydrodeoxymorphine)
dextromoramide	((+)-4-[2-methyl-4-oxo-3, 3-diphenyl-4-(1-pyrrolidinyl)-butyl] morpholine)
diampromide	(N-[2-(methylphenethylamino)propyl]-propionanilide)
diethylthiambutene	(3-diethylamino-1, 1-di-(2'-thienyl)-1-butene)
dihydrocodeine	(7, 8-dihydrocodeine)
dihydromorphine	(7, 8-dihydromorphine)
dimenoxadol	(2-dimethylaminoethyl-1-ethoxy-1, 1-diphenylacetate)
dimepheptanol	(6-dimethylamino-4, 4-diphenyl-3-heptanol)
dimethylthiambutene	(3-dimethylamino-1, 1-di-(2'-thienyl)-1-butene)
dioxaphetyl butyrate	(ethyl 4-morpholino-2, 2-diphenyl-butyrate)
diphenoxylate	(1-(3-cyano-3, 3-diphenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
dipipanone	(4, 4-diphenyl-6-piperidino-3-heptanone)
ecgonine	(—)-3-hydroxytropane-2-carboxylate)
ethylmethylthiambutene	(3-ethylmethylamino-1, 1-di-(2'-thienyl)-1-butene)
ethylmorphine	(3-ethylmorphine)
etonitazene	(1-diethylaminoethyl-2-para-ethoxybenzyl-5-nitrobenzimidazole)
etorphine	(6, 7, 8, 14-tetrahydro-7alpha-(1-hydroxy-1-methylbutyl)-6, 14-endo-ethenooripavine)
etoxeridine	(1-[2-(2-hydroxyethoxy)ethyl]-4-phenylpiperidine-4-carboxylic acid ethyl ester)
fentanyl	(1-phenethyl-4-N-propionylanilinopiperidine)
furethidine	(1-(2-tetrahydrofurfuryloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
heroin	(diacetylmorphine)
hydrocodone	(dihydrocodeinone)
hydromorphanol	(14-hydroxy-7, 8-dihydromorphine)
hydromorphone	(dihydromorphinone)

hydroxypethidine	(4-(meta-hydroxyphenyl)-1-methylpiperidine-4-carboxylic acid ethyl ester)
isomethadone	(6-dimethylamino-5-methyl-4, 4-diphenyl-3-hexanone)
ketobemidone	(4-meta-hydroxyphenyl)-1-methyl-4-propionyl-piperidine)
levomethorphan	((-)-3-methoxy-N-methylmorphinan)
levomoramide	((-)-4-[2-methyl-4-oxo-3, 3-diphenyl-4-(1-pyrrolidinyl)-butyl]morpholine)
levophenacymorphan	((-)-3-hydroxy-N-phenacymorphinan)
levorphanol	((-)-3-hydroxy-Npmethylmorphinan)
metazocine	(2'-hydroxy-2, 5, 9-trimethyl-6, 7-benzomorphan)
methadone	(6-dimethylamino-4, 4-diphenyl-3-heptanone)
methadone-intermediate	(4-cyano-2-dimethylamino-4, 4-diphenylbutane)
methyl-desorphine	(6-methyl-delta6-deoxymorphine)
methyl-dihydromorphine	(6-methyl-dihydromorphine)
metopon	(5-methyl-dihydromorphinone)
moramide-intermediate	(2-methyl-3-morpholino-1, 1-diphenyl-propane carboxylic acid)
morpheridine	(1-(2-morpholinoethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
morphine	
morphine-N-oxide	
morphine pentavalent nitrogen derivatives	
myrophine	(myristylbenzylmorphine)
nicodine	(6-nicotinoylcodeine)
nicodicodine	(6-nicotinoyldihydrocodeine)
nicomorphine	(3, 6-dinicotinoylmorphine)
noracymethadol	((±)-alpha-3-acetoxy-6-methylamino-4, 4-diphenylheptane)
norcodeine	(N-demethylcodeine)
norlevorphanol	((-)-3-hydroxymorphinan)
normethadone	(6-dimethylamino-4, 4-diphenyl-3-hexanone)
normorphine	(demethylmorphine)
norpipanone	(4, 4-diphenyl-6-piperidino-3-hexanone)
opium	
oxycodone	(14-hydroxydihydrocodeinone)
oxymorphone	(14-hydroxydihydromorphinone)
pethidine	(1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)
pethidine-intermediate A	(4-cyano-1-methyl-4-phenyl-piperidine)
pethidine-intermediate B	(4-phenylpiperidine-4-carboxylic acid ethyl ester)
pethidine-intermediate C	(1-methyl-4-phenylpiperidine-4-carboxylic acid)
pethidine-intermediate C, esters of phenadoxone	(6-N-morpholino-4, 4-diphenyl-3-heptanone)

phenampromide	(N-(1-methyl-2-piperidinoethyl)propionanilide)
phenazocine	(2'-hydroxy-5, 9-dimethyl-2-phenethyl-6, 7-benzormorphan)
phenomorphan	(3-hydroxy-N-phenethylmorphinan)
phenoperidine	(1-(3-hydroxy-3-phenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
pholcodine	(morpholinylethylmorphine)
piminodine	(4-phenyl-1-(3-phenylaminopropyl)piperidine-4-carboxylic acid ethyl ester)
piritramide	(1-(3-cyano-3, 3-diphenylpropyl)-4-(1-piperidino)-piperidine-4-carboxylic acid amide)
proheptazine -	(1, 3-dimethyl-4-phenyl-4-propionoxyazacycloheptane)
properidine	(1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester)
racemethorphan	((±)-3-methoxy-N-methylmorphinan)
racemoramide	((±)-4-[2-methyl-4-oxo-3, 3-diphenyl-4-(1-pyrrolidinyl) butyl]morpholine)
racemorphan	((±)-3-hydroxy-N-methylmorphinan)
thebacon	(acetyldihydrocodeinone)
thebaine	(3, 6-dimethyl-8-dehydromorphine)
trimeperidine	(1, 2, 5-trimethyl-4-phenyl-4-propionoxy-piperidine)\

The isomers of the substances mentioned above in this Schedule whenever the existence of such isomers is possible within the specific chemical designation.

The esters and ethers of the substances mentioned above in this Schedule whenever the existence of such esters or ethers is possible.

The salts of the substances mentioned above in this Schedule whenever the existence of such salts is possible.

Any substance, preparation, or mixture containing any proportion of a substance named or described above in this Schedule other than the following preparations and mixtures, namely:

(a) Preparations containing any proportion of the following substances or of any salt of any such substance, namely, acetyldihydrocodeine, codeine, dihydrocodeine, ethylmorphine, and pholcodeine when:

(i) Compounded with one or more other pharmacologically active ingredients in such a way that the substance cannot be recovered by readily applicable means or in a yield which would constitute a risk to health; and

(ii) Containing not more than 100 milligrammes of the substance in each dosage unit and with a concentration of not more than 2.5 per cent in undivided

preparations;

(b) Preparations of cocaine containing not more than 0.1 per cent of cocaine base, being preparations compounded with one or more other pharmacologically active ingredients (none of which are substances named or described elsewhere in this Schedule) in such a way that the preparation has no, or a negligible, risk of abuse, and in such a way that the cocaine cannot be recovered by readily applicable means or in a yield which would constitute a risk to health;

(c) Preparations of opium or morphine containing not more than 0.2 per cent of morphine, being preparations compounded with one or more other pharmacologically active ingredients (none of which are substances named or described elsewhere in this Schedule) in such a way that the preparation has no, or a negligible, risk of abuse, and in such a way that the opium or the morphine, as the case may be, cannot be recovered by readily applicable means or in a yield which would constitute a risk to health;

(d) Solid dosage units of diphenoxylate containing in each unit not more than 2.5 milligrammes of diphenoxylate calculated as base and not less than 25 microgrammes of atropine sulphate;

(e) Liquid preparations of diphenoxylate containing, in each millilitre, not more than 0.5 milligrammes of diphenoxylate calculated as base and not less than 5 microgrammes of atropine sulphate;

(f) Ipecacuanha and opium powder containing 10 per cent of opium in powder and 10 per cent of ipecacuanha root in powder intimately mixed with finely powdered lactose;

(g) Mixtures containing not more than one of the preparations specified in paragraphs (a) to (f) above, being mixtures whereof none of the other ingredients is a substance named or described elsewhere in this Schedule.

SECOND SCHEDULE

Section 2

amphetamine	((±)-alpha-methylphenethylamine)
DET	(N, N-diethyltryptamine)
desxamphetamine	((±)-alpha-methylphenethylamine)
DMHP or SKF 5301	(3-(1, 2-dimethylheptyl)-7, 8, 9, 10-tetrahydro-6, 6,9-trimethyl-6H-dibenzo[b, d]-pyran-1-ol)
DMT	(N, N-dimethyltryptamine)
lysergide or LSD or LSD 25((±)-N, N-diethyllysergamide (d-lysergic acid diethylamide))	
mescaline	(3, 4, 5-trimethoxyphenethylamine)
methamphetamine	((±)-N-alpha-dimethylphenethylamine)

methylphenidate	(alpha-phenyl-2-piperidineacetic acid methyl ester)
parahoxyl	(3-hexyl-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo-[b,d] pyran-1-ol)
poyotl or poyote, that is, any part of the plant of the species lophophora williamsii or lophophora lewinii	
phenmetrazine	(e-methyl-2-phenylmorpheline)
psilicone or psilotsin	(3-(2-dimethylaminoethyl)-indol-4-ol)
psilocybine	(3-(2-dimethylaminoethyl)-indol-4-yl dihydrogen phosphate)
STP or DOM	(2, 5-dimethoxy-4, alpha-dimethylphenethylamine)
tetrahydrocannabinols, all isomers	(3ppentyl-6a, 7, 10, 10a-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo
	-[b,d] pyran-1-ol).

Revision Notes 1997

The Narcotics Act 1967 appearing in this reprint comprises that Act as it appears in the 1977 reprint together with amendments contained in the Narcotics Amendment Act 1988 and the Narcotics Amendment Act 1992/1993 as set out below:

Section 14A: Was added by section 2 of the 1988 Amendment Act but that was later repealed by section 2 of the 1992/1993 Amendment Act and a new section 14A was substituted.

Section 16(1): The words "commissioned officer of police" were deleted and the word "constable" substituted by section 3 of the 1992/1993 Amendment Act.

Section 28A: Was added by section 3 of the 1988 Amendment Act.

Section 28B: This provision was ruled unconstitutional in the *Police v. Sonny Stehlin* (Misc.15225) Court of Appeal 1993.

REVISION NOTES 2008

This law has been generally edited as provided for by section 5 of the *Revision and Publication of Laws Act 2008*. The following general revisions have been made –

- (a) References to Western Samoa have been amended to Samoa in accordance with an amendment to the Constitution of Samoa in 1997.
- (b) The fines have been amended and are stated as penalty units as provided for by the *Fines (Review and Amendment) Act 1998*.
- (c) All references to the male gender have been made gender neutral.

(d) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.

(e) Amendments have been made to up-date references to offices, officers and statutes.

(f) Other minor editing has been done in accordance with the lawful powers of the Attorney General.

The following amendments have been made to specific sections of the Act to incorporate amendments made by Act of Parliament passed since the publication of the *Western Samoa Statutes Reprint 1978-1996* –

Section 2: Is amended by omitting the definition of "Director" and inserting in subsection (1) in the proper alphabetical position the following definitions:

‘Chief Executive Officer’
‘controlled precursor’

‘controlled quantity’
‘trafficable quantity’

Section 5 amended by adding at the end subsections (2) (3) and (4)

Section 10 is amended by inserting after subsection (3) subsection (3A) which provides authorization for CEO to grant licence to import into Samoa a controlled quantity of a controlled precursor

Section 14 is amended by inserting in subsection (1) "or evidence of any offence" after "document" last occurring.

Section 17 is amended by substituting subsection (1)

(a) in the case of a trafficable quantity of a narcotic - to a fine not exceeding 500 penalty units or to imprisonment for a term not exceeding 7 years or both; and

(b) in any other case - to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years or both.";

AND: by omitting from subsection (2) "a fine not exceeding \$400 or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment," and substituting ":

(a) in the case of a trafficable quantity of a narcotic - to a fine not exceeding 500 penalty units or to imprisonment for a term not exceeding 7 years or both; and

(b) in any other case - to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years or both,".

Section 18 is amended by substituting subsection (1) to:

"A person who contrary to the provisions of this Act or the regulations:

(a) deals in or has possession of any narcotic; or

(b) sells, gives, supplies or administers or offers to sell, give, sell or supply any narcotic to any person,

commits an offence and is liable to,

(c) in the case of a trafficable quantity of a narcotic - imprisonment for a term not exceeding 14 years; and

(d) in any other case - to a fine not exceeding 500 penalty units or to imprisonment for a term not exceeding 7 years or both."

(b) by omitting subsection (2); and

(c) by omitting from the proviso "a fine not exceeding \$200 or to imprisonment for a term not exceeding 3 months or to both such fine and imprisonment" and substituting "a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years or both".

AND: by inserting new sections 18A and 18B by the *Narcotics Amendment Act 2006*

Section 20 is amended by adding at the end subsections (2) and (3)

Section 25 is amended by inserting sections 25A and 25B.

Revised and consolidated by Fetogi R Vaai
Under the supervision of Teleiai Lalotoa. Sinaalamaimaleula Mulitalo

REVISION NOTES 2008 No. 2

This law has been generally edited as provided for by section 5 of the *Revision and Publication of Laws Act 2008* and the commencement date has been inserted after the assent date.

Revised and consolidated under the supervision of Teleiai Lalotoa Sinaalamaimaleula Mulitalo (Parliamentary Counsel)

**The Narcotics Act 1967 is
administered in the Ministry of Health.**