

SAMOA

TRUSTEE COMPANIES ACT 1987

(as amended, 2009)

Arrangement of Provisions

PART I - Preliminary and Registration of Trustee Companies

1. Short title and commencement
2. Interpretation
3. Application of this Act
5. Application for registration as a trustee company
6. Registration
7. Names of trustee company
8. Supply of information and inspection
9. Cancellation of registration
10. Temporary continuation for winding-up
11. Transfer of shares

PART II - Powers of Trustee Companies

12. Trustee company's power under the International Companies Act, 1987
13. Trustee company's power to act as executor and obtain probate
14. Trustee company's power to act as administrator
15. Additional powers of a trustee company
- Trustee company's power to act as sole trustee
- Trustee company's power to act as joint trustee with another
18. Delegation to a trustee company
19. Delegation of functions by a trustee company
20. Acting through subsidiary company

PART III - Miscellaneous

21. Removal from office
22. Taxation
23. Affidavit of officer
24. Trustee company may act under power of attorney by managing director
25. Examination of books and accounts of a trustee company
26. Money paid to a trustee company to be held in trust
27. Commissions, fees, charges and expenses levied by a trustee company
28. Management fees
29. Director's fees
30. Application of other Acts to trustee companies
31. Secrecy
32. General penalty
33. Regulations
34. Procedure where none laid down
35. English the authentic text
- Pioneer Status
37. Immunity

AN ACT to provide for the registration of companies as trustee companies in Samoa and to prescribe their powers and duties and for purposes consequent thereon and incidental hereto.

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

Part I - Preliminary and Registration of Trustee Companies

Short title and commencement

1.(1) This Act may be cited as the Trustee Companies Act 1987.

The Act shall come into force on such date as may be specified by the Head of State by Order.

Interpretation

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

“Authority” means the Samoa International Finance Authority established under the Samoa International Finance Authority Act 2005;

“Carry on business” or “carrying on business” in relation to a trustee company means carrying on any economic activity as a trustee, agent, executor or administrator pursuant to the objects of the company and without limiting the generality of the foregoing includes:

establishing or using a share transfer office or share registration office;

administering, managing or otherwise dealing with property as an agent, legal personal representative or trustee, whether by servant or agent or otherwise;

maintaining an agent for the purpose of soliciting or procuring business whether or not the agent is continuously resident in Samoa;

maintaining an office, agency or branch whether or not that office, agency or branch is also used for any purpose by another company;

the provision of—

management and accounting services to; and

directors, secretaries and registered offices for international companies incorporated under the International Companies Act 1987 and foreign companies registered under that Act;

incorporating or registering companies under the International Companies Act 1987 and generally acting as a lodging agent for any document required to be lodged by a company or person under that Act; and

doing all things capable of being done by a trustee company under the International Companies Act 1987;

“Companies Act 1955 (NZ)” means the Companies Act 1955 (NZ) in its application to Samoa pursuant to the provisions of the Samoa Companies Order 1935;

“Court” means the Supreme Court of Samoa;

“Estate” means any property, whether real or personal which is committed to the administration or management of a trustee company as executor, administrator, trustee, receiver, committee, guardian or agent;

“Minister” means the Minister of Finance;

“Non-resident” has the same meaning as in the Off-Shore Banking Act 1987;

“Registrar” means the Registrar of International and Foreign Companies appointed pursuant to the provisions of the International Companies Act 1987;

“Trustee Companies” means any company registered as a trustee company under this Act and includes any wholly owned subsidiary company of a trustee company nominated pursuant to section 20 of this Act.

Application of this Act

3.(1) Registration of a company to carry on business as a trustee company under this Act does not relieve that company from compliance with the Companies Act 1955 (NZ).

Nothing in this Act shall be deemed to affect in any way the operation of the Public Trust Office created pursuant to the Public Trust Office Act 1975.

Restrictions on trustee companies

4.(1) No company shall carry on business in Samoa as a trustee company unless that company is registered so to do under this Act.

A trustee company registered under this Act shall provide services only to non-residents of Samoa.

Application for registration as a trustee company

5.(1) Any company, that is incorporated under the Companies Act 1955 (NZ) or that is registered as an overseas company under that Act, may apply to the Authority, through the Registrar, for registration to carry on business as a trustee company, and upon application shall pay such fee as may be prescribed. Every such application shall be submitted to the Registrar in the prescribed form and shall contain such information and particulars and shall be accompanied by such references as may be prescribed.

No company shall be entitled as of right to be registered to carry on business as a trustee company and the Minister may accept or reject any application for registration.

No company shall be registered to carry on business as a trustee company unless the aggregate of its capital issued and paid up in cash and its unimpaired reserves is not less than five hundred thousand tala or an equivalent amount in any other currency approved for that purpose by the Minister.

Every trustee company incorporated outside Samoa shall maintain such minimum level of capital and reserves within Samoa as may be prescribed.

Registration shall not be granted to any trustee company having either its head office or its registered office outside Samoa unless such trustee company designates and notifies the Minister through the Registrar, in writing of:

its principal office in Samoa; and

two of its officers, subject in their personal capacities to jurisdiction in Samoa who are designated

to be the authorised agents of the trustee company in Samoa.

It shall be a condition of every registration granted to a trustee company to which subsection (5) applies, that the trustee company shall forthwith notify the Authority in writing through the Registrar of any change of:

its principal office in Samoa; or

either or both of the officers designated pursuant to subsection (5)(b).

It shall be a condition of every registration granted to a trustee company that when and as often as any alteration is made in the memorandum or articles of association of such trustee company or in any other instrument whereunder the said trustee company was incorporated, that trustee company shall forthwith give the Minister, through the Registrar, full particulars in writing of such alteration, verified by an affidavit or declaration sworn or, as the case may be, made by a senior officer of the trustee company.

Registration

6.(1) Subject to this Act, the Authority may grant registration to a company to carry on business as a trustee company subject to such terms and conditions, if any, as it may deem fit.

Every company granted registration by the Authority shall pay to the Registrar such initial and annual registration fees as may be prescribed.

The Registrar shall cause to be published annually in the Savali or other Samoa newspapers the name of each company registered as a trustee company pursuant to this Act.

Names of trustee companies

The Authority may refuse to grant registration to a trustee company, or in the case of a trustee company which is already registered it may revoke such registration, if in its opinion such trustee company is carrying on or intending to carry on business under a name which--

is identical with that of any company, firm or business house whether within Samoa or not or which so nearly resembles any such name as to be likely or calculated to deceive; or

is likely or calculated to suggest, falsely, the patronage of or connection with some person or authority whether within Samoa or not; or

is likely or calculated to suggest, falsely that such trustee company has a special status in relation to or derived from any governmental or public authority within Samoa or has the official backing of or acts on behalf of any such authority or of any department or official thereof or is recognised in Samoa as being such a trustee company or national trust company.

Supply of information and inspection

8.(1) Every trustee company shall submit to the Registrar such information, data and returns as maybe prescribed at such times as may be prescribed.

Every trustee company shall, at least once in every year, have its accounts audited by a person registered as an accountant with a professional body of accountants and who is a registered company auditor.

Within six months of the end of the trustee company's financial year the auditor so appointed shall report in writing to the shareholders of the trustee company and shall forthwith supply a copy of that report to the Registrar.

It shall be the duty of the Registrar—

- to maintain a general review of the activities of trustee companies in Samoa;
whenever he thinks fit or when so required by the Authority examine in such manner as he thinks necessary, the affairs or business of every trustee company carrying on business in Samoa for the purpose of satisfying himself that the provisions of this Act are being complied with and that the trustee company is in a sound financial position, and to report to the Authority the results of every such examination;
- to examine and report on the information, data and returns submitted to him pursuant to subsection (1);
- to certify to the Authority that he has received the auditor's report submitted to him pursuant to subsection (3) and whether or not that report is satisfactory;
- to examine and make recommendations to the Authority with respect to applications for registration under this Act.

Subject to the provisions of section 31 of this Act, the Registrar shall be entitled at all reasonable times:

- to have access to the books, records vouchers, documents, cash and securities of any trustee company;
- to call upon any officer of any trustee company for such information or explanation, as the Registrar may reasonably require for the purpose of enabling him to perform his functions under this Act.

The Authority may in writing authorise any other person to assist the Registrar in the performance of his functions under this Act.

Any person who fails to comply with any requirement made pursuant to subsection (5) by the Registrar or any person authorised under subsection (6) commits an offence against this Act and is liable on conviction to a fine not exceeding two thousand tala in respect of each day during which the offence against this Act continues; and if any information or explanation supplied pursuant to subsection (5) is false in any material particular, the trustee company concerned shall be liable to a fine of twenty thousand tala.

If in the opinion of the Authority a trustee company is carrying on business in a manner detrimental to the public interest or to the interest of its customers or creditors or is either contravening in Samoa any provision of this Act or any other law or any regulation made under this Act or is elsewhere acting in a manner which, if done in Samoa, would be such a contravention, the Authority may—

- by notice in writing require an officer or authorised agent of such trustee company to supply within such reasonable time as may be specified in the notice—
 - the financial statement of that trustee company as at a date within the previous fifteen months audited, at the expenses of the trustee company, by an auditor who shall be approved for the purpose by the Authority, and
 - such other information relating to the trustee company as may be so specified; or
- from time to time as may seem necessary require such trustee company forthwith to take such steps as the Authority consider necessary to rectify the matter; or
- cancel the registration of such trustee company pursuant to the provisions of section 9 of this Act.

Cancellation of registration

9.(1) If the Authority is of the opinion that any trustee company—

has contravened or failed to comply with any condition or term of its registration; or

is in breach of any of the provisions of this Act or of any regulation made under this Act; or

has contravened any other law which imposes duties or obligations upon it; or

has committed a criminal offence whether in Samoa or elsewhere; and the Authority considers that, having regard to the nature of the contravention, failure, or offence it is undesirable that the company should continue to be registered, it shall notify the company of his opinion and of the reasons therefor and shall require the company to make representations within 30 days as to why the company should continue to be so registered.

On receipt of any representation made under subsection (1) of this section, and after due consideration of those representations or, on expiry of the time prescribed in that subsection if no such representations are made, the Authority shall decide whether—

to cancel the registration of the trustee company; or

to take no further action; or

to issue a reprimand to the trustee company.

Where the Authority decides to cancel the registration of a trustee company under subsection (2)(a) of this section then—

the Authority shall inform the trustee company of its decision and of the reasons therefor; and

the trustee company, not later than 30 days after being informed of the Authority's decision, may appeal to the Court which may confirm, vary or reverse the decision of the Authority.

Where the Court has confirmed a decision to cancel the registration of a trustee company under subsection (3)(b) of this section, or where a trustee company has been informed of the Authority's decision to cancel its registration and has not appealed within the time prescribed in that subsection, the Authority shall notify that cancellation in the Savali or other Samoa newspapers and the cancellation, subject to section 10 of this Act, shall take effect from the date specified in that notice.

Temporary continuation for winding up

10. The Authority at his discretion, may fix a date later than the date referred to in subsection (4) of section 9 of this Act, for the purpose only of enabling the company to wind-up its affairs consequent upon the cancellation of its registration. If a later date is so fixed then that date shall be specified in the notice referred to in subsection (4) of section 9 of this Act.

Transfer or Issue of shares

11.(1) No shares in or other securities whatsoever of a trustee shall be issued without prior written approval of the Authority and no issued shares or beneficial interests in shares or other securities of a trustee company shall be transferred or disposed of in any manner without the prior written approval of the Authority.

In subsection (1) the reference to shares being transferred or disposed of in the trustee company includes any transfer of shares that would result in any change in beneficial ownership of the trustee company.

No bearer shares or share warrants to bearer may be issued by a trustee company.

PART II - Powers of Trustee Companies

Trustee company's power under the International Companies Act 1987

12. A trustee company shall have the power to do all things capable of being done by a trustee company under the International Companies Act 1987.

Trustee company's power to act as executor and obtain probate

13. Subject to this Act, where any trustee company is appointed either alone or jointly with any other person as executor in the last will or in a codicil thereto of any testator (whether the will or any codicil thereto was made before or after the commencement of this Act) the trustee company may act as executor and may apply in Samoa or elsewhere for probate of such will and any codicil thereto, and may perform and discharge all the acts and duties of an executor as fully and effectively as any other executor.

Trustee company's power to act as administrator

14.(1) Subject to this Act, in any case in Samoa or elsewhere in which a person may apply for a grant of letters of administration of the estate of a deceased person (whether with or without the will annexed), that person may—

join with a trustee company in an application for a grant of letters of administration of the estate to himself and the trustee company jointly; or

instead of himself applying, authorise a trustee company to apply for a grant of letters of administration of the estate.

Where administration of any estate, with or without the will annexed, is granted to a trustee company either alone or jointly with any other person the company may do and perform all acts and duties which belong to the office of administrator or joint administrator, as the case may be, notwithstanding its incorporation.

Additional powers of a trustee company

15. Subject to this Act, a trustee company may be appointed as an agent or as trustee under any settlement or other instrument creating a trust, or to perform any trust or duty which it is authorised by this Act or by its charter to undertake, and may be so appointed whether the settlement or instrument creating the trust or imposing the duty was made or came into operation before or after the commencement of this Act and either as an original or a new trustee or as an additional trustee and may perform and discharge all the acts and duties of a trustee as fully and effectively as any other trustee.

Trustee company's power to act as sole trustee

16.(1) Subject to this Act, a trustee company may be appointed or continue to act as sole trustee notwithstanding that it is provided by the terms of the instrument creating the trust or of any power or otherwise that there shall be more than one trustee to perform the trust.

For the purposes of subsection (1) of this section, where a trustee company is appointed or continues to act as sole trustee in the circumstances referred to in that subsection, the trustee company shall be deemed to be equivalent to two trustees.

A trustee company shall not be appointed or be entitled to act as sole trustee in any case in which the instrument creating the trust or power expressly—

forbids the appointment of a trustee company; or

provides that there shall be another trustee in addition to a trustee company; or

provides that a trustee company shall not be appointed to act as a sole trustee.

Trustee company's power to act as joint trustee with another

17.(1) Subject to this Act, a trustee company may act as trustee, executor or agent jointly with another trustee company or person if the instrument under which it acts so provides or is authorised or required to do so by law or if the Court so orders.

A trustee company shall not be liable for breach of trust or loss resulting from any act or omission of a joint trustee, executor or agent with whom it is acting, unless the company has itself actively participated in, or assented to, such breach of trust knowing it to be a breach of trust.

Delegation to trustee company

18. Subject to this Act, it shall be lawful for any executor or administrator, trustee or agent to delegate by deed or writing to a trustee company either alone or jointly with any other corporation or person, as his attorney all such trusts and powers as may be lawfully delegated by him. All acts done by the trustee company as such delegate shall, as against any person dealing with the trustee company without notice of the revocation of such authority by such executor, administrator, trustee or agent, be valid and effectual notwithstanding such revocation.

Delegation of functions by a trustee company

19.(1) A trustee company may from time to time by resolution of its board of directors delegate to any director or to the secretary of the company either generally or in any particular case or class of cases such of the powers, authorities, duties and functions of the company as are specified in the resolution.

A director or secretary of the company, when acting within the scope of any such delegation to him, shall be deemed to be the company.

The board of directors may by resolution revoke or vary any such delegation.

In relation to any particular matters or class of matters, a trustee company may be writing delegate any of its powers or functions, except this power of delegation, to any officer or employee of the company, so that the delegated powers or functions may be exercised by the delegate with respect to the powers or functions or class of matters specified in the instrument of delegation.

Every such delegation shall be revocable in writing at will, and no delegation shall prevent the exercise of any power or function by the trustee company.

Acting through subsidiary company

20.(1) With the written approval of the Authority and notwithstanding subsection (1) of section 4 of this Act, a trustee company may for the purpose of or in connection with the undertaking of its own business as a trustee company nominate any wholly owned subsidiary company of that trustee company to act as a trustee or nominee in respect of the provision of services pursuant to the International Companies Act 1987.

Any wholly owned subsidiary company nominated in accordance with subsection (1) of this section:

must be incorporated either as a company or an international company under the laws of Samoa;
and

shall not be required to be registered under this Act as a trustee company provided that it remains wholly managed, controlled and owned by a trustee company.

When pursuant to subsection (1) of this section any wholly owned subsidiary company of a trustee company acts as a trustee or nominee, the trustee company and the subsidiary company shall be jointly and severally liable and responsible for the performance of all the subsidiary company's duties and obligations, which duties and obligations shall be deemed to include all such statutory duties and obligations as are imposed upon trustee companies.

PART III - Miscellaneous

Removal from office

21. Where a trustee company has been appointed executor, administrator, trustee, agent or attorney whether before or after the commencement of this Act, it shall be subject in all respects to the same control and to removal or restraint from acting and generally to the jurisdiction of the Court, in the same manner as any other executor, administrator, trustee, agent or attorney.

Taxation

22. Subject to Section 30 of this Act, a trustee company shall be subject to the general laws of Samoa imposing income tax, goods and services tax stamp duty or other taxes, imposts or deductions of any kind whatsoever.

Affidavit of officer

23. In all cases in which, if it were a natural person, a trustee company would be obliged or authorised to make any affidavit, declaration or statement, it may do so by any of its officers appointed for the purpose.

Trustee company may act under power of attorney by managing director

24. It shall be lawful for a trustee company to act, either alone or jointly with any other person, under any power of attorney by which the company is appointed attorney and all the power conferred, and the duties imposed, upon the company by such power of attorney may be exercised and carried into execution by the managing director, manager or secretary or by such other officer of the company as may from time to time be appointed by the board of directors for the purpose or by any two directors of the company; but in all cases the capital, both paid and unpaid, and all other assets of the company shall be liable for the due execution of the powers so conferred upon the company.

Examination of books and accounts of a trustee company

25.(1) Any person who—

can demonstrate to the satisfaction of the Court an interest under any trust which is for the time

being under the control or management of a trustee company; and

objects to an act or decision of the trustee company on the basis that there was some irregularity or impropriety by the trustee company in doing that act or making that decision;

may make application to the court to have examined such entries in the books and accounts of the trustee company as related to that act or decision.

Where the Court receives an application under subsection (1) of this section, which it believes to be bona fide and not frivolous or vexatious, the Court may appoint a person trained in accounting to examine such entries in the books and accounts of the trustee company as related to the act or decision to which objection is made.

Where it is established by such an examination of the books and accounts of a trustee company that there has been an irregularity or impropriety by the trustee company, the Court may make such order as it thinks fit.

Money paid to a trustee company to be held in trust

26. Subject to this Act, any money or other valuable consideration paid or given to a trustee company pursuant to any instrument creating a trust, shall be held by the trustee company, separate from its own moneys and other valuable consideration, in trust for the purposes for which it was paid or given and the trustee company shall account for it separately.

Commissions fees charges and expenses levied by a trustee company

27.(1) A trustee company shall be entitled

where it holds an estate on behalf of any person, to receive out of the estate, in addition to all moneys properly expended by the company and fees payable to it, and chargeable against the estate, a commission to be fixed from time to time by the directors of the trustee company;

in all other cases to levy fees, charges and expenses in respect of any work performed by the trustee company for or on behalf of any person, but where the fee, charge or expense is prescribed, the trustee company shall charge the prescribed amount. Where no fee, charge or expense is prescribed the directors of the trustee company shall determine the appropriate fee, charge or expense according to the circumstances of each case.

Where the Court is of the opinion that any commission, fee, charge or expense levied in respect of any estate or in respect of any work performed by the company is excessive, the Court may, on the application of any person on whose behalf the work was performed, review that commission, fee charge or expense, and may, reduce it as it thinks fit.

The commission, fee, charge or expense, which a trustee company is entitled to receive under this section, shall not in any way be affected or diminished by the fact that any other person may be entitled to a commission, fee, charge or expense in respect of the work performed.

A trustee company shall have the right to share the commission; fee, charge or expense to which it is entitled under this section with any other person.

Management fees

28.(1) A trustee company shall be entitled to receive out of any estate in respect of any service provided by the company in its administration or management of that estate such management fee as is reasonable having regard to the work involved in providing that service.

(2) A trustee company shall be entitled to receive out of any estate in respect of any service of an unusual nature provided by the company in its administration or management of that estate such management fee as is reasonable having regard to the work involved in providing that service or such fee as has been agreed to by a majority of the persons interested in the estate.

Director's fees

Where an estate has an interest in a company and an officer of the trustee company, in his capacity as such an officer, acts as a director of that company for the purposes connected with the administration or management of the estate--

the trustee company shall be entitled to receive from the company and to retain any director's fees which would be payable to the officer had he so acted otherwise than in his capacity as such an officer; and

neither the officer nor the estate shall be entitled to receive the fees which the trustee company is entitled to receive under paragraph (a) of this section.

Application of other Acts to trustee companies

30.(1) The provisions of subsection (2) of section 249 of the International Companies Act 1987 shall apply mutatis mutandis, to a trustee company, as if the trustee company were an international company or a foreign company, where that trustee company is acting for or on behalf of an international company or a foreign company, to the extent of the trustee company's dealings on the international company or foreign company's behalf provided that nothing in this subsection shall affect the liability for income tax and other taxes in respect of any of the income of a trustee company.

The provisions of subsection (3) of section 249 of the International Companies Act 1987 shall apply, mutatis mutandis, to a trustee company, as if the trustee company were an international company or a foreign company and, for the purposes of interpreting that subsection, the trustee company shall be deemed not to be a domestic company.

The provisions of the Trustee Act 1975 shall not apply to a trustee company.

Secrecy

31.(1) A trustee company and the officers, servants and agents thereof, and every person appointed under section 25(2) of this Act to examine the books and accounts of a trustee company shall not, except when lawfully required to do so by the Court or under the provisions of any law in force in Samoa, make any disclosure as to the existence of any particular trust or estate or the identity of any executor, settlor, appointer, guardian, trustee or beneficiary of any particular trust or estate except as is necessary for the purposes of administering such trust or estate or investing or recovering or getting in the assets thereof or as authorised by this Act.

Except when lawfully required to do so by the Court or under the provisions of any law in force in Samoa or, in the case of any public officer for the purpose of the performance of his duties or the exercise of his functions under this Act, no person shall unless specifically so authorised by the trustee company concerned, disclose to any other person any information entrusted to him in confidence, or acquired by him in his capacity or in the course of his duties as a public officer, employee, agent liquidator, receiver or in a professional or similar fiduciary relationship, respecting the affairs of any trustee company whatsoever, whether while employed or acting in such capacity or relationship or after he has ceased to be employed or to act in such capacity or relationship.

The provisions of this section shall have effect with respect to any such information entrusted to or acquired by any person respecting the affairs of any trustee company whether such information was entrusted to or acquired by him before or after the commencement of this Act.

Every person who contravenes the provisions of subsection (1) or (2) commits an offence against this Act

and is liable on conviction to a fine not exceeding one hundred thousand tala or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

General penalty

32. Every person who is guilty of any willful act of commission or omission contrary to any of the provisions of this Act for which no penalty is expressly provided commits an offence against this Act and shall be liable on conviction to a fine not exceeding two thousand tala for each day during which the offence continues.

Regulations

33. 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 this Act and its due administration including all or any of the following particular purposes:-

Prescribing forms to be used for the purposes of this Act and the matters to be specified in such forms;

Prescribing forms of applications and other notices under this Act;

Fixing the fees and charges to be paid under his Act and the penalties for breaches thereunder, or delegating the power of fixing such fees charges and penalties to prescribed persons or bodies;

Empowering the employment of non-residents required to provide efficient services for the due administration of this Act, subject to, and on, the following conditions:-

Any person employed as a barrister or solicitor must obtain a practising certificate under the Law Practitioners Act 1976;

Any person employed as a public accountant must obtain a practising certificate under the Public Accountants Act 1984.

Delegating to the Minister responsible the function of granting such duty and other concessions as shall in the opinion of the said Minister be desirable to facilitate the objectives of the Act.

Procedure where none laid down

34. 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, application maybe made to the Registrar for 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.

English the authentic text

35.(1) Every document filed with the Registrar, and all records and accounts required to be kept under this Act shall be in the English language.

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.

Pioneer Status

36.(1) Where in the opinion of the Minister the operations of a trustee company incorporated or registered under this Act have been or are, or are likely to be of unusual and exceptional benefit to Samoa in the establishment promotion or advancement of the purposes of any of the Off-Shore Centre Acts then the Minister may direct that such trustee company shall have Pioneer Status for such period not exceeding five years as the Minister may direct, commencing from such time (whether before or after the date of the direction) as the Minister may determine and may issue to the company a certificate to that effect.

The income of a trustee company accruing during the period covered by a Pioneer Status certificate shall be exempt from taxation and the provisions of paragraph (v) of subsection (1) of section 7 of the Income Tax Act 1974 shall apply to that income accordingly.

The Head of State, acting on the advice of Cabinet may by regulation provide that the holder of a Pioneer Status certificate shall enjoy such other concessions and benefits as may seem desirable to assist the establishment promotion or advancement of the purposes of the offshore centre acts.

For the purposes of this section the expression "Off-Shore Centre Acts" means any or all of the following Acts:-

The Off-Shore Banking Act 1987;

The International Insurance Act 1988;

The Trustee Companies Act 1987;

The International Trusts Act 1987;

The International Companies Act 1987.

Immunity

37. No action shall lie against the Government or any statutory body or authority of Samoa, the Minister, the Authority, the Registrar or any person acting pursuant to any authority conferred by the Minister or the Registrar or the Authority 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.