

Serial Number 1948/146



THE WESTERN SAMOA AUDIT REGULATIONS 1948

B. C. FREYBERG, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington, this 8th day of
September, 1948

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Samoa Act, 1921, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following regulations.

REGULATIONS

1. These regulations may be cited as the Western Samoa Audit Regulations 1948.
2. These regulations shall come into force on the 1st day of October, 1948.
3. The regulations numbered from 153 to 175, both inclusive, of the Samoa Treasury Regulations 1930* are revoked, and such other provisions of the said regulations as direct how the audit of the accounts of the Samoan Treasury shall be made are likewise revoked, but only so far as they so provide.
4. In these regulations, unless inconsistent with the context,—
 - “ Accounting Officer ” means any person who by any law, regulation, Ordinance, or appointment is required to render any account or who is charged with the duty of collecting or receiving, or who does actually collect or receive, any public moneys, or who is charged with the duty of disbursing, or who does actually disburse, any public moneys, or who is charged with the receipt, custody, or disposal of or the accounting for public stores or other public property :
 - “ Act ” means the Samoa Act, 1921 :
 - “ Audit Office ” means the Controller and Auditor-General holding office under the Public Revenues Act, 1926, and includes the Acting Controller and Auditor-General and the Deputy Controller and Auditor-General appointed under that Act :

* Gazette, 6th November 1930, Vol. III, page 3479.

- “ Estimates ” includes every statement of proposed expenditure of the public revenue during any financial year or period recommended by the High Commissioner and approved by the Legislative Assembly, and any statement prepared in the form of supplementary estimates :
- “ Financial year ” means the period of twelve months ending on the expiration of the 31st day of March, in any year :
- “ Government ” means the Government of Western Samoa :
- “ High Commissioner ” means the High Commissioner of Western Samoa, and includes the Deputy High Commissioner :
- “ Imprestee ” means any person in whose hands any public money is placed for expenditure in the public service :
- “ Legislative Assembly ” means the Legislative Assembly of Western Samoa :
- “ Local authority ” means any Council, Board, Trustees, Commissioners, or other persons, by whatever name designated, entrusted by or under the authority of any Act or Ordinance with the administration of the affairs of any municipality, district, town, or village and having power to levy rates or taxes or to impose fines or penalties :
- “ London Audit Officer ” means the person for the time being holding the office of Audit Officer in London pursuant to the Public Revenues Act, 1926 :
- “ Minister ” means the Minister of Island Territories :
- “ Statutory authority ” means any Council, Board, Trustees, Commissioners, or other persons, by whatever name designated, entrusted with the administration of any scheme, trust, fund, or other undertaking of a public nature established by or under the authority of any Act or Ordinance :
- “ Public Account of Western Samoa ” includes any bank account now opened or to be opened in the name of the Government, and more particularly includes every bank account of the Samoan Treasury at Apia and Wellington, and every bank account of the Government at Wellington and London :
- “ Public moneys ” means all moneys lodged to the credit of the Public Account of Western Samoa, including moneys received by the Department of Island Territories on behalf of the Government, moneys received by way of deposit on account of Customs duties or otherwise on public account, moneys paid into any Court under the provisions of any Act, Ordinance, or rule, moneys deposited with an officer of the Samoan Public Service in his official capacity, and all moneys, bonds, debentures, securities of what kind soever for the payment of money, received for, or on account of, or payable to, or belonging to the Government :
- “ Public Revenues Ordinance ” means any Ordinance passed by the Legislative Assembly pursuant to section 12 of the Samoa Amendment Act, 1947, to provide for the collection, expenditure, and control of the public revenues of Western Samoa :
- “ Public stores ” or “ stores ” means all chattels in possession of or under the control of any person or Department on account of the Government :
- “ Treasurer ” and “ the Treasury ” mean the Treasurer of Western Samoa as defined in the Act :

5. The Audit Office is hereby appointed to audit the accounts of the Samoan Treasury, public moneys, and stores.

6. The Audit Office may from time to time, by instrument in writing, delegate to an officer of the Audit Department or other fit person all or any powers, duties, and functions in respect of the audit of the accounts of the Samoan Treasury which the Audit Office may think fit so to delegate.

7. It shall be the duty of the Treasurer and of all persons in the Samoan Public Service, and of all other persons whomsoever, to afford all such information as the Audit Office at any time requires, and to answer all such questions as may be addressed to him or any of them by the Audit Office touching the accounts of the Samoan Treasury or any other matter which may enable the Audit Office to fulfil the duties imposed on the Audit Office.

8. It shall be the duty of the High Commissioner to ensure full and proper compliance by all persons with the requirements of the Audit Office under these regulations, and to this end the High Commissioner shall have and may use all such powers as may be necessary without further authority than this regulation.

9. The powers exercisable by the Audit Office shall include all such powers as may be conferred on the Audit Office by any Ordinance of the Legislative Assembly.

10. The powers and duties conferred or imposed on the Audit Office by these regulations in respect of the accounts of the Samoan Treasury shall be exercisable in respect of all public moneys, securities for money, public stores, and other public property, so far as may be necessary for the purposes of a complete and effectual audit of all or any of the said accounts.

11. (1) The Audit Office shall communicate with the Minister upon all matters arising under the Act or these regulations or any Ordinance of the Legislative Assembly relating to the collection, receipt, issue, and payment of public moneys or stores or other public property.

(2) The Audit Office shall report to the Minister the name of every person failing to comply with the requirements of the Act relating to public moneys or stores or these regulations, and thereupon, and until such failure is made good to the satisfaction of the Minister, all moneys that may be or become due to such person may be withheld.

12. If at any time the Audit Office finds that any public moneys are lying in the hands of or are due from any person, firm, or other body which ought to have been paid into the Public Account of Western Samoa, the Audit Office shall call on such person, firm, or other body forthwith to pay such moneys into the account to which they belong; and in default of such payment shall inform the Minister of such default, to the intent that the Minister may take such steps as he thinks fit to facilitate the recovery of such moneys by the proper authority to the use of the Government and the payment of the same into the account to which they belong; but nothing herein shall relieve any person, firm, or other body from any penalties incurred by making default in such payment.

13. (1) The Audit Office may by precept require any person to appear personally before the Audit Office or any other authority named in the precept, at a time and place to be named in the precept, and then and there to produce any accounts, vouchers, books, or papers in the possession or control of such person, and every such authority shall

have full power to examine such person on oath touching the receipt, expenditure of, or otherwise dealing with any public moneys or stores, and touching all other matters necessary for the due execution of the powers vested in the Audit Office by these regulations.

(2) Every person who is compelled under the provisions of this regulation to attend before the authority named in a precept shall be paid from the Public Account of Western Samoa such expenses as the Audit Office certifies to the Treasurer to be reasonable.

(3) The Audit Office may, when the Audit Office thinks fit, cause search to be made in and extracts taken from any book, document, or record in the custody of the Minister or of the High Commissioner or in any public office without paying any fee for the same.

14. The Audit Office shall, in order that the examination, inspection, and audit of the public accounts may proceed *pari passu* with the cash transactions of any Department, have free access at all convenient times to the offices, and to the books of account and other documents relating to the accounts of such Department, and may require the officers of any Department to furnish the Audit Office from time to time, or at regular periods, with accounts of its cash transactions up to such times or periods.

15. In case any difference of opinion arises between the Audit Office and the Treasury or any other Department of the Samoan Public Service as to the appropriation, fund, account, or other authority to which any expenditure ought to be charged, or as to the proper head of revenue, fund, or account to which any receipt should be credited, or as to the lawfulness of any expenditure or proposed expenditure, the question shall be determined by the Minister, and it shall be the duty of the Audit Office and of the Treasury or other Department concerned to act in accordance with that determination :

Provided that if and so far as in the opinion of the Audit Office the question involves matter of law, then it shall be referred by the Minister for the opinion of the Attorney-General thereon, and the Attorney-General shall give his opinion in writing thereon, and it shall be the duty of the Audit Office and of the Treasury or other Department concerned to act in accordance therewith.

16. Every bank at which public moneys are lodged shall from time to time, at such times as the Audit Office directs, send to the Audit Office in Western Samoa, or elsewhere as the Audit Office may require, a bank sheet setting forth the details of the credit and debit sides of every account forming part of the Public Account of Western Samoa for the period to which such sheet relates, with the balance brought and carried forward respectively.

17. (1) The Audit Office may from time to time, by notice in writing to the Treasurer, require that any claims or class of claims specified by the Audit Office shall be submitted to the Audit Office for examination before payment is made by the Treasurer.

(2) If the Audit Office is of opinion that any claim submitted in accordance with a requirement so made is in any respect not in accordance with law, or is wrongly charged to any appropriation, fund, or account, the Audit Office may refuse to pass such claim for payment.

(3) Any person paying a claim to which any such requirement as aforesaid applies without its having been passed for payment shall be deemed to have made a payment not duly authorized and shall be liable to surcharge accordingly.

18. The London Audit Officer may from time to time, without the need of special authorization from the Audit Office, exercise in the United Kingdom in respect of the Public Account of Western Samoa, in respect of public moneys, securities for money, public stores, and other public property, and in respect of accounting officers, all the powers for the time being delegated by the Audit Office pursuant to Regulation 6.

19. (1) The Audit Office shall from time to time examine all vouchers for moneys paid out of every account forming part of the Public Account of Western Samoa, and shall pass all vouchers examined on being satisfied in respect of each—

- (a) That it is in proper form and that the computations therein are correct ;
 - (b) That payment of the sum named in the voucher is authorized by the person or body appointed to authorize the same ;
 - (c) That the sum named in the voucher is charged against the proper appropriation, fund, or account provided for the same ; and
 - (d) That for every payment made in or towards discharge of a liability a receipt evidencing discharge has been duly given by a person legally qualified to give a discharge, and that for every other payment a sufficient receipt has been duly given by a person legally qualified to receive the money paid.
- (2) The Audit Office shall not pass any voucher for payment of salary and allowance unless satisfied that the requirements which may be prescribed by any Ordinance have been duly complied with.

(3) The Audit Office shall not refuse to pass and allow any account or voucher by reason merely of the fact that it is not stamped according to law, except in cases where, in the opinion of the Audit Office and of the Treasurer, the omission so to stamp the same was wilful or fraudulent.

(4) Any person certifying a claim for payment which does not comply with the provisions of paragraphs (a) to (c) of clause (1) hereof, and any person paying a claim without obtaining a receipt which complies with the provisions of paragraph (d) of clause (1) hereof, shall be liable to surcharge for the amount so paid.

20. If on examination of a voucher the Audit Office finds that any person is liable to be surcharged, then, in addition to surcharging him as provided by Regulation 25 hereof, the Audit Office shall refuse to pass the voucher in respect of which the liability to surcharge arose, and shall note thereon the reason for the refusal and shall supply full particulars of the matter to the Treasurer.

21. The Audit Office shall from time to time examine all claims to transfer charges from one heading, subheading, fund, or account to another, and shall, so far as circumstances permit, deal with them in the manner prescribed by Regulations 19 and 20 hereof.

22. The Audit Office may make such remarks addressed to the Minister or any other person and call for such accounts, vouchers, statements, documents, information, and explanations, as the Audit Office thinks necessary.

23. The Audit Office may, whenever the Audit Office thinks fit, and shall whenever required so to do by the Minister, inspect, examine, and audit the books and accounts of any accounting officer or other person in the Samoan Public Service or otherwise subject to the provisions of the Act or of these regulations into whose possession or control any public moneys or stores or other property have come or

are believed to have come or into whose possession or control any moneys or stores or other property have (by virtue of his office, service, or employment, or of any legal process whatever) come or are believed to have come for or on account of or for the use or benefit of any other person.

24. The Audit Office shall also, if possible, once at least in every year make an inspection, examination, and audit of the books and accounts of every accounting officer or other person in the Samoan Public Service, or subject to the provisions of the Act or of these regulations, into whose possession or control any public moneys or stores or other property have come or are believed to have come or into whose possession or control any moneys or stores or other property have (by virtue of his office, service, or employment, or of any legal process whatever) come or are believed to have come for or on account of or for the use or benefit of any other person ; and shall forthwith report to the Minister the general result of such inspection, examination, and audit, stating in what condition the books and accounts are found, and whether proper care is taken of public stores and other property :

Provided that there may be exempted by the Audit Office from such yearly inspection, examination, and audit, such books and accounts as are otherwise inspected and examined to its and the Minister's satisfaction :

Provided also that where the expense of a yearly audit would be disproportionate to the amount involved the audit shall be at such intervals as may be sanctioned by the Minister.

25. If it appears to the Audit Office from any examination, audit, or inspection that—

- (a) Any accounting officer has wilfully or negligently omitted to collect or receive any money ;
- (b) Any money has not been duly credited to the proper head of revenue or account, or has not been duly accounted for ;
- (c) Any money has been applied and charged to any service or purpose for which the same was not legally available and applicable ;
- (d) Any payment made has not been duly authorized, or has not been duly certified, or has not been duly vouched by means of a voucher passed as complying with the requirements of Regulation 19 ;
- (e) There has been any deficiency or loss of public moneys or stores or other property caused through the fraud, mistake, default, negligence, or error of any person ;
- (f) Any account, voucher, statement, document, or explanation is in any essential particular defective or imperfect ;
- (g) Any material error has been committed ; or that
- (h) Any of the provisions of the Act or any other Act which relate to public moneys or stores or other public property or any of the provisions of these regulations has not been complied with,—

the Audit Office shall surcharge with the amount of any deficiency or loss or the amount miscredited, misapplied, or mischarged, or the value of such stores or other property, or the cost of repairs to stores or other property, or expenditure not duly authorized, vouched, or certified, the person who appears to the Audit Office to be in default, or responsible, notifying that person in writing of the surcharge and of the time within which the surcharge must be satisfied.

26. If the Audit Office is of opinion that more persons than one are jointly or severally in default, it may, in its discretion, surcharge each of them with the full sum involved or with any part of such full sum.

27. Any surcharge unsatisfied within the time so allowed shall be reported by the Audit Office to the High Commissioner to be by him enforced against the person surcharged.

28. The High Commissioner, on receiving the Audit Office's report of an unsatisfied surcharge, shall send notice of it in writing to the person surcharged, and take such steps to recover the amount as the case may require. No amount payable to or claimed by that person shall be paid until the surcharge has been satisfied and the amount of the surcharge shall be recoverable from that person as a debt due to the Government :

Provided that, unless the High Commissioner otherwise directs, payment of not more than one-fourth of the salary of any officer surcharged shall be withheld under this regulation.

29. The Audit Office may at any time revoke any surcharge made under these regulations if the Audit Office considers it to have been made in error.

30. In all cases of which notice of any surcharge has been sent by the High Commissioner to any accounting officer or other person in the Samoan Public Service or otherwise subject to the provisions of the Act and these regulations, who is dissatisfied with that surcharge, such accounting officer or other person may, within two months after the sending of the notice, appeal to the Minister, who, after making such investigations as he deems equitable, may determine the matter by an order either confirming the surcharge or directing the relief of the appellant therefrom, either wholly or in part.

31. If any person having possession or control of any public moneys or stores or other property applies to other than public services, or causes or permits the same or any part thereof to be so applied, or is a defaulter in respect of any such moneys or stores, or other property, the Audit Office, if it has reason to believe that a criminal offence has been committed for which the offender should be prosecuted, shall forthwith take all such steps as the Audit Office thinks fit to prosecute the offender according to law, but nothing herein shall prevent the prosecution of such person by any person other than the Audit Office.

32. The Audit Office may, with the consent of the Minister, dispense with the detailed audit of any accounts, but not with any appropriation audit of such accounts. The consent of the Minister shall be given only in those cases in which he considers that there are circumstances which render a detailed audit under these regulations unnecessary.

33. No sum shall be allowed by the Audit Office in any account as received or paid except upon the production of a voucher for the actual receipt or payment of the same :

Provided that the Minister, on satisfactory evidence being produced that the requisite papers have been lost or destroyed or that it is not possible to obtain or replace them, may order that any such sum be allowed, and may make such order in the premises as he thinks fit, and such order shall be binding on all parties concerned and be acted on accordingly.

34. (1) For the purposes of the last preceding regulation the Audit Office may accept as a sufficient voucher for the payment of any sum as wages a wage-sheet setting forth the names of the several payees

and the wages paid to them respectively, if the wages-sheet is signed by the paying officer and by some other officer or employee, who shall both certify on the wages-sheet that they were present when the wages were paid.

(2) For the purposes of this regulation "wages" means any moneys paid in return for services rendered where the amount payable is determined by a fixed hourly, daily, or weekly rate.

35. When a voucher produced for the payment of a sum of money is defective from the want of any certificate or other document which ought to have accompanied it, or in any other particular, the Audit Office, on proof to its satisfaction that such defect was not due to wilful neglect of the accounting officer and that the sum named in the voucher has been actually and properly paid, may pass the voucher as a sufficient discharge.

36. The functions of the Audit Office under these regulations shall extend to the audit of accounts of every statutory authority and local authority in Western Samoa, and the Audit Office shall have the same duties and powers in respect of the moneys, accounts, and stores of every statutory authority and local authority and of every person dealing therewith as in respect of the public moneys, accounts, and stores and of all persons dealing therewith.

37. (1) The Audit Office shall, within fourteen days of the receipt of any quarterly or annual abstract of receipts and payments which may be furnished to the Audit Office by the Treasurer in accordance with the provisions of any Ordinance, certify the same and return it to the Treasurer, and shall forward a true copy of every such certified abstract to the Minister.

(2) The Audit Office shall forward to the Minister along with any annual abstract of receipts and payments certified as aforesaid or, if an annual abstract of receipts and payments has not been so furnished within a reasonable time after the end of any financial year, then as soon as practicable after the end of that financial year, a report signed by the Audit Office showing—

- (a) The particulars of any discrepancies between such abstract and the books of the Treasury ;
- (b) Full particulars of every case in which the provisions of the Act or these regulations have not been carried out ;
- (c) Every case of failure to deliver or send in accounts or to collect or account for any money or stores ;
- (d) All sums allowed or disallowed without vouchers, or with imperfect vouchers or upon incorrect certificates ;
- (e) Any proceeding that may have been taken by or against any person in pursuance of the provisions of the Act or these regulations ;
- (f) All unsatisfied surcharges which may have been made by the Audit Office and all surcharges disallowed by the Minister on appeal ;
- (g) A list of the cases in which the Audit Office has, with the consent of the Minister, dispensed with a detailed audit ;
- (h) Such other information as may be prescribed, or as the Audit Office thinks desirable.

(3) The Minister shall forthwith cause the report to be delivered to the High Commissioner, and the High Commissioner shall, within fourteen days after receiving the report, cause it to be laid before the

Legislative Assembly if then in session, and if not, then within fourteen days after the commencement of the next ensuing session, and in the latter case shall, within fourteen days after receiving the report, cause it to be published in the *Western Samoa Gazette*.

38. The Audit Office may in any annual report, or in any special report which the Audit Office may at any time think fit to make, offer any suggestions for the better collection and payment of the public moneys, and the more effectual and economical audit and examination of the public accounts and stores, and any improvement in the mode of keeping such accounts, and generally report upon all matters relating to the public accounts, public moneys, and stores.

39. The Audit Office shall, as soon as possible after the receipt of any annual account (in addition to the annual abstract referred to in Regulation 37) required to be submitted to the Audit Office certify the same and return it to the Treasurer, at the same time forwarding a true copy thereof to the Minister.

40. (1) Every person who refuses or neglects to pay any public moneys into the account into which the same are payable is liable to a fine of £100.

(2) Every person who refuses or neglects to make any return or furnish any account, vouchers, or other papers which he is required to make or furnish under these regulations is liable to a fine of £20.

41. Every person who fails to attend at the time and place required of him by the Audit Office in pursuance of these regulations for the purpose of being examined, or to produce any accounts, books, vouchers, or papers in his possession or under his control which he is so required to produce, or refuses to be sworn or to answer any lawful question, is liable to a fine of £100.

42. Every person who is guilty of any wilful act of commission or omission contrary to any of the provisions of these regulations for which no other penalty is provided is liable to a fine of £50.

T. J. SHERRARD,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 9th day of September, 1948.

These regulations are administered in the Department of Island Territories.