

Serial Number 1948/199



**THE WESTERN SAMOA EXCHANGE CONTROL
REGULATIONS 1948**

B. C. FREYBERG, Governor-General

By his Deputy,

H. F. O'LEARY

ORDER IN COUNCIL

At the Government House at Wellington, this 15th day of
December, 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 Exchange Control Regulations 1948.

2. (1) These regulations shall come into force on the day following the date of their publication in the *Western Samoa Gazette*.

(2) Upon the coming into force of these regulations the Samoa Finance Emergency Regulations 1944 and the Samoa Finance Emergency Regulations 1944, Amendment No. 1, shall be revoked.

3. In these regulations, unless the context otherwise requires,—

“ High Commissioner ” means the High Commissioner of Western Samoa, and includes the Deputy High Commissioner :

“ Current rate of exchange ” means a rate of exchange for the time being fixed or approved by the Reserve Bank :

“ Fixed deposit ” means money deposited with a bank or other person for a fixed term, or on condition that it will not be withdrawn before a fixed date or will not be withdrawn without at least one month's notice :

“ Foreign currency ” means the bank-notes or other currency of any country other than New Zealand or Western Samoa, and includes postal notes, money-orders, promissory notes, bills of exchange, and any other negotiable instruments payable otherwise than in the currency of Western Samoa or New Zealand :

- “ Foreign security ” means any security (as hereinafter defined) which is registered, inscribed, or situated elsewhere than in Western Samoa or New Zealand, or which creates a right (whether actual or contingent) to receive any payment elsewhere than in Western Samoa or New Zealand or in any foreign currency or out of any funds that are to be provided elsewhere than in Western Samoa or New Zealand :
- “ Money ” includes the bank-notes and other currency of any country, and includes postal notes, money-orders, promissory notes, bills of exchange, and any other negotiable instruments payable in the currency of any country :
- “ Minister ” means the Minister of Finance, and includes any person for the time being authorized by the Minister to exercise any of his powers or functions under these regulations :
- “ Person ” includes a corporation sole and also a body of persons, whether corporate or unincorporate :
- “ Reserve Bank ” means the Reserve Bank of New Zealand established under the Reserve Bank of New Zealand Act, 1933 :
- “ Securities ” include shares, stocks, bonds, debentures, debenture stock, Treasury bills, or any other like securities (by whatever name they may be called) issued by the Government of New Zealand or the Government of any other country, or issued by any local governing body or authority, in New Zealand or elsewhere, or issued by any company or other corporation, in New Zealand or elsewhere, but does not include bills of exchange or promissory notes.

4. From every decision of the High Commissioner or other person acting pursuant to or in the administration of these regulations there shall be a right of appeal to the Minister, whose decision on any matter shall be final.

RESTRICTION ON EXPORT OF MONEY AND SECURITIES FROM WESTERN SAMOA

5. (1) Subject to the provisions of this regulation, no person in Western Samoa shall, without the consent of the Minister, and whether in person or by agent and whether on his own behalf or on behalf of any other person,—

- (a) Take or send any money or foreign securities out of Western Samoa, or permit or cause to be taken or sent out of Western Samoa any money or foreign securities of which he is the owner or over which he has control ; or
- (b) Transfer the interest of any person in any foreign securities ; or
- (c) Draw or negotiate any bill of exchange or promissory note or transfer any security or acknowledge any debt or make any payment as consideration for—
 - (i) Receiving any payment or acquiring any property elsewhere than in Western Samoa or in New Zealand ; or
 - (ii) Acquiring a right (whether actual or contingent) to receive any payment or to acquire any property as aforesaid ; or

- (d) Create or transfer a right (whether actual or contingent) to receive any payment or acquire any property elsewhere than in Western Samoa or New Zealand, or dispose or otherwise deal with any money, securities, or property held or payable elsewhere than in Western Samoa or New Zealand, as consideration for—
- (i) Receiving any payment or acquiring any property in Western Samoa or New Zealand ; or
 - (ii) Acquiring a right (whether actual or contingent) to receive any payment or acquire any property as aforesaid ; or
 - (iii) The discharge of a debt payable in Western Samoa or New Zealand.
- (2) The restrictions imposed by the last preceding clause shall not apply in respect of—
- (a) The taking or sending of money, being New Zealand currency, to New Zealand ; or
 - (b) The taking by any person leaving Western Samoa of silver coin not exceeding £2 in value in New Zealand currency ; or
 - (c) Any class of transaction that, in accordance with a notice published in the *Western Samoa Gazette*, may be exempted by the Minister from the said restrictions.
- (3) No person in Western Samoa shall be a party to any transaction which involves the conversion of the currency of Western Samoa or New Zealand into the currency of any other country, or the conversion of the currency of any other country into the currency of Western Samoa or New Zealand, at a rate of exchange other than the current rate of exchange between Western Samoa and that country.
- (4) For the purposes of this regulation money shall be deemed to be taken or sent out of Western Samoa if it is so taken or sent by telegraph or post or by means of draft, letter of credit, traveller's cheque, transfer of account, or by any other means whatsoever.
6. (1) For the purposes of this regulation the term "authorized officer" includes the High Commissioner, any officer of Customs within the meaning of the Customs Act, 1913, whether in Western Samoa or New Zealand, and any other person whether in Western Samoa or New Zealand acting with the authority of the Minister or with the authority of any person acting on behalf of the Minister.
- (2) Every person of the age of sixteen years or upwards who is about to leave Western Samoa shall, immediately prior to his embarkation on the vessel or aircraft in which he proposes to leave Western Samoa, make and deliver to an authorized officer a written statement, in such form as the authorized officer may require, as to any money or securities that he is taking with him, whether on his person or otherwise.
- (3) Any authorized officer may require any person who is about to leave Western Samoa, or any person having charge of any person who is about to leave Western Samoa, to produce and deliver to the authorized officer any money or securities that any such person may have with him or under his control.
- (4) For the purpose of discovering whether any person about to leave Western Samoa has in his possession or under his control or is taking from Western Samoa any money or securities in contravention of these regulations, any authorized officer may search that person and may examine and search any article that he is taking with him.

(5) Any examination and search made by an authorized officer pursuant to the foregoing provisions of this regulation may be made on board any ship or aircraft that is about to leave Western Samoa, or may be made before the person concerned has actually gone on board such ship or aircraft.

(6) Any authorized officer may examine and search any goods consigned or otherwise taken or sent or proposed to be taken or sent from Western Samoa to a destination outside Western Samoa for the purpose of ascertaining whether there are being sent with such goods any money or securities.

(7) Any money or securities produced to or discovered by an authorized officer in accordance with this regulation shall be seized by that officer unless he is satisfied that the taking or sending thereof from Western Samoa would not in the circumstances have been in contravention of these regulations.

(8) Any money or securities seized by an authorized officer under the provisions of this regulation shall be forfeited to and shall become the property of the Crown unless the Minister otherwise directs.

ACQUISITION OF FOREIGN CURRENCY AND FOREIGN SECURITIES ON
BEHALF OF THE NEW ZEALAND GOVERNMENT IN RESPECT OF
WESTERN SAMOA

7. (1) Every person ordinarily resident in Western Samoa who, on the coming into force of these regulations, is, or on any later date becomes, entitled to sell or procure the sale of any foreign currency shall, within fourteen days after the commencement of these regulations or within fourteen days after such later date, as the case may be, offer such foreign currency for sale or cause the same to be offered for sale in accordance with this regulation.

(2) Any offer for sale of foreign currency under this regulation may be made to the High Commissioner or to any other person authorized in that behalf by the Minister or High Commissioner.

(3) Any foreign currency offered for sale pursuant to this regulation may be acquired by the High Commissioner on behalf of the Government of New Zealand.

(4) The value of any such foreign currency shall be determined by the Minister in accordance with the current rate of exchange between Western Samoa and the country whose currency it is, and the price shall be fixed by the Minister having regard to that rate of exchange and to any other relevant factors.

(5) Nothing in this regulation shall require any person to offer for sale any foreign currency if all the foreign currency to which he is for the time being entitled is of a value less than £5 in the currency of Western Samoa.

8. (1) Every person ordinarily resident in Western Samoa who, on the coming into force of these regulations, is, or on any later date becomes, entitled to assign or to procure the assignment of any right to receive, elsewhere than in Western Samoa or New Zealand, payment of any amount in a foreign currency, in respect of any credit or balance at a bank or with any other person, shall, within fourteen days after the commencement of these regulations or within fourteen days after such later date, as the case may be, do all things necessary for the

purpose of assigning that right to the Minister or to a person specified by the Minister for the purposes of this regulation, on behalf of the Government of New Zealand in respect of Western Samoa :

Provided that the Minister, on application by or on behalf of the person concerned or by notification in such manner as he thinks sufficient, may exempt any person from compliance with this subclause in respect of any matter or of matters of a specified class.

(2) The value of any rights assigned pursuant to this regulation shall be determined by the Minister in accordance with the current rate of exchange between Western Samoa and the country whose currency is concerned, and the price shall be fixed by the Minister having regard to that rate of exchange and any other relevant factors.

9. (1) Every person ordinarily resident in Western Samoa who, on the coming into force of these regulations, is, or on any later date becomes, the owner of any fixed deposit repayable in any foreign currency, shall, within fourteen days after the commencement of these regulations or within fourteen days after such later date, as the case may be, notify the existence of the fixed deposit to the High Commissioner, and shall from time to time furnish to the Minister, or to a person authorized by the Minister for the purpose, such information and particulars in relation to the deposit as the Minister may from time to time require.

(2) For the purposes of this regulation any person in whose name a fixed deposit is made or who receives or is entitled to receive (whether on his own behalf or on behalf of any other person) the amount of the deposit or interest thereon, or who has any other legal or equitable interest therein, shall be deemed to be the owner of that fixed deposit.

(3) All such owners shall be jointly and severally liable for default in compliance with the requirements of this regulation, but compliance by one of such owners shall, to the extent thereof, absolve all of the other owners from the obligation imposed on them by this regulation.

10. (1) The Minister may from time to time, by notice published in the *Western Samoa Gazette*, exempt any foreign currency or currencies from the operation of Regulations 7, 8, and 9 hereof.

(2) Every person who in Western Samoa has the receipt or control or disposal of any foreign currency as agent for a person ordinarily resident in Western Samoa shall in respect of such foreign currency be liable to the same obligations as are imposed on his principal by Regulations 7, 8, and 9 hereof.

(3) It shall be a defence to any person charged with an offence of failing to comply with any requirement of Regulations 7, 8, and 9 hereof within a time thereby prescribed if he proves first that by reason of inadequate means of communication such compliance within the time so prescribed was impossible and secondly that he complied with such requirement as soon as he was reasonably able to do so.

11. (1) Except with the consent of the Minister, no person shall sell, transfer, charge, or otherwise dispose of or deal with, any foreign currency to which Regulation 7 hereof applies, or any right to which Regulation 8 hereof applies, or any fixed deposit to which Regulation 9 hereof applies :

Provided that the restrictions imposed by this regulation shall not apply to the transfer of money to Western Samoa or to New Zealand through any bank acting as the agent of the Reserve Bank.

(2) The Minister, in his discretion, may refuse any application for his consent under this regulation, or may grant it either wholly or partly and either unconditionally or upon or subject to such conditions as he thinks fit.

12. (1) This regulation shall not be in force unless the Minister, by notice in the *Western Samoa Gazette*, declares that it shall come into force in accordance with the terms of that notice. Such notice may be at any time amended or revoked in like manner.

(2) Every notice under the last preceding clause shall have effect in accordance with its tenor.

(3) While this regulation is in force Regulation 7 of the Finance Emergency Regulations 1940 (No. 2)* shall also be in force in Western Samoa; and references in the said regulation to New Zealand or to persons ordinarily resident in New Zealand shall, for the purposes of this regulation, be deemed to be references to Western Samoa or to persons ordinarily resident in Western Samoa.

(4) Except as provided in the last preceding clause, words and expressions used in the said Regulation 7 shall, in the application of that regulation to Western Samoa, have the same meanings respectively as when used in the said regulation.

CONTROL OF EXPORTS

13. (1) Nothing in this regulation shall apply with respect to goods any of the following classes, namely :—

- (a) Goods exported or proposed to be exported from Western Samoa to New Zealand; or
- (b) Any goods exported or proposed to be exported through the Post Office otherwise than for purpose of trade, unless the Minister, by notice given in such manner as in the circumstances he thinks sufficient, determines, either generally with respect to any specified goods or with respect to goods of any specified class, that they shall not be exported except in accordance with this regulation; or
- (c) Any goods exported as ship's stores; or
- (d) Any other goods in respect of which the Minister, by notice given in such manner as he thinks fit, determines that they shall not be subject to this regulation.

(2) Any notice given by the Minister for the purposes of the last preceding clause may be at any time varied or revoked in like manner.

(3) Except as provided in clause (1) hereof, no goods shall be exported from Western Samoa except by permission of the High Commissioner, or of a person acting with the authority of the High Commissioner.

(4) In the case of goods proposed to be exported for sale, permission to export may be given subject to the following conditions, namely :—

- (a) That the exporter, or his agent, or some responsible servant of the exporter on his behalf shall make application in the form prescribed in the Schedule hereto or to the effect thereof for permission to export such goods :

* Statutory Regulations 1940, Serial number 1940/118, page 407.

- (b) That on obtaining any shipping documents or drafts relative to the goods to which the licence relates the licensee shall forthwith deliver the same to the appropriate office of the trading bank named in his application (hereinafter in this regulation referred to as the local bank) :
- (c) That the exporter shall cause the net proceeds of the sale of the goods (hereinafter in this regulation referred to as foreign credit) to be—
- (i) Made available to an authorized agent of the Reserve Bank ; or
 - (ii) Dealt with in such other manner as the Reserve Bank may from time to time in its discretion determine and subject to such conditions (if any) as it thinks fit to impose.
- (5) In the case of goods proposed to be exported otherwise than for sale the exporter, or his agent, or some responsible servant of the exporter shall make written application to the High Commissioner for permission to export such goods and shall state in the application the circumstances in which and the conditions under which the goods are being or are intended to be exported, and the High Commissioner may thereupon in his discretion grant or refuse permission for their exportation. Any permission to export goods under this subclause may be given subject to such conditions (if any) as the High Commissioner thinks fit to impose.
- (6) On payment of any foreign credit to the Reserve Bank or its agent in accordance with this regulation the Reserve Bank shall forthwith pay or cause to be paid to the local bank in Western Samoa an amount equal to the value of the foreign credit converted into the currency of Western Samoa at a rate not less than the then current rate of exchange. If any question arises as to the current rate of exchange in relation to this subclause it shall be determined by the Reserve Bank.
- (7) The local bank in Western Samoa shall (subject to any agreed or customary charges and to any contractual rights and liabilities as between the bank and the exporter) hold the amount received from or on account of the Reserve Bank as aforesaid to the credit and subject to the directions of the exporter.

OFFENCES AND PENALTIES

14. Every person commits an offence against these regulations who—

- (a) Does any act prohibited by these regulations ; or
- (b) Fails to comply with any requirements of these regulations, or with any conditions imposed or directions given pursuant to or for the purposes of these regulations ; or
- (c) Makes any statement for the purposes of or in relation to these regulations which is false or misleading in any material particular, or fails to disclose anything that he is lawfully required to disclose, or otherwise misleads or attempts to mislead any person concerned in the administration of these regulations ; or
- (d) Obstructs or in any way interferes with any person in the exercise of any powers or functions under these regulations ; or

(e) Aids, abets, counsels, or procures or is in any way knowingly concerned with the commission by any other person of an offence against these regulations.

15. (1) Every person who commits an offence against these regulations shall be liable on summary conviction to a fine not exceeding £200 or to imprisonment for a term not exceeding twelve months, or to both such fine and such imprisonment in the case of an individual and to a fine not exceeding £1,000 in the case of a body corporate.

(2) Without limiting the provisions of the last preceding clause, the provisions of the Customs Act, 1913, shall apply with respect to offences under these regulations in all respects as if the restrictions imposed by these regulations on the export of goods from Western Samoa had been imposed under the authority of that Act in its application to Western Samoa.

SCHEDULE

The Western Samoa Exchange Control Regulations 1948

APPLICATION FOR LICENCE TO EXPORT GOODS

To the High Commissioner at Apia.

FULL name of applicant :

Occupation :

Address :

Local bank to which shipping documents are to be delivered :

Value of goods at port of shipment :

Name of ship by which goods are to be exported :

Place to which goods are to be exported :

Goods intended for sale (or goods not intended for sale) :

If goods not intended for sale, the purpose for which they are proposed to be exported :

The above-named applicant hereby applies for a licence to export in terms of the particulars set out above the goods described below :—

Distinguishing-marks.	Description of Goods, and Number and Description of Packages.	Quantities.

Date :

Signature :

I hereby license the exportation of the goods described in the above application in accordance with the provisions of the Western Samoa Exchange Control Regulations 1948.

Signature :

High Commissioner.
Collector of Customs.

Date :

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

Issued under the authority of the Regulations Act, 1936.

Date of notification in *Gazette* : 16th day of December, 1948.

These regulations are administered in the Department of Island Territories.