

Petroleum (Protection of National Interest) Amendment Act 2003

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2003, No. 12

AN ACT to amend the Petroleum Act 1984

[26th June 2003]

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

1. Short title and commencement -

(1) This Act may be cited as the Petroleum (Protection of National Interest) Amendment Act 2003 and shall be read with and form part of the Petroleum Act 1984 (the Principal Act).

(2) This Act shall commence on the date of its assent by the Head of State.

(3) Notice of commencement shall be published in Samoan and English in the Savali and one other newspaper circulating in Samoa.

2. Application of Act –

This Act shall apply in relation to any contract made under section 4 of the Principal Act, whether such contract is entered into before or after the commencement of this Act.

3. Interpretation –

The Principal Act is amended:

(1) In section 2 by deleting the definition of “Financial Secretary” and inserting in correct alphabetical order the following definition:

“Chief Executive Officer” means the Chief Executive Officer of the Ministry of Finance and, in respect of any powers or functions conferred on the Chief Executive Officer by this Act, includes any person authorized by the Chief Executive Officer to exercise any of those powers or functions on behalf of the Chief Executive Officer;”.

(2) By deleting the words “Financial Secretary” wherever they appear and substituting the words “Chief Executive Officer”.

(3) In section 2 in the definition of “Revenue Board” by deleting the words “National Revenue Board Act 1990” and substituting the words “Public Finance Management Act 2001”.

4. Contract transitional arrangements –

The Principal Act is amended by inserting the following after section 3:

“3A. Contract transitional arrangements –

(1) Despite the provisions of this Act, the Chief Executive Officer may exercise the powers provided under this section in the national interest of Samoa to ensure that the transition from one contract made under section 4 to another such contract shall be such as to minimize the disruption of the supply and distribution of fuel oil and petroleum in Samoa.

(2) Subject to this section, the Chief Executive Officer may enter, take control of, operate, maintain, alter, modify, adapt or otherwise deal with:

- (a) Land on which any storage or distribution facilities are located; and
- (b) Any storage or distribution facilities.

(3) The powers under subsection (2) shall be exercised only:

- (a) After the Chief Executive Officer and the owner of any land on which any storage or distribution facilities are located, the owner of any storage or distribution facilities, any operator of such facilities and each party to a lease thereof have undertaken discussions in good faith and made every reasonable effort to reach agreement as to how such land and facilities are to be managed and operated so as to minimize the disruption of the supply and distribution of fuel oil and petroleum in Samoa;
- (b) Within the period 6 months before and 6 months after the due date for the completion of a contract made under section 4;
- (c) After the Chief Executive Officer has provided Notice to that effect to the owner, operator and any party to a lease thereof of any land on which storage or distribution facilities are located and of any storage or distribution facilities which would be affected by the exercise of the powers under this section.

(4) The Chief Executive Officer is authorized to use such force as may be reasonably necessary in the exercise of any power under this section.

3B. Right to compensation –

Where the Chief Executive Officer exercises any power under section 3A the Government shall pay to the owner of and any party to a lease of any land or storage and distribution facilities fair and adequate compensation (if any) which shall be assessed in accordance with the provisions of Article 14 of the Constitution (Rights regarding property) * and section 8 of the Act (which provides a fair and adequate compensation to

be made and determined in accordance with the provisions of the Taking of Land Act 1964, an Act which complies with the requirements of Article 14 of the Constitution).

*** Note: Article 14(1) of the Constitution states as follows:**

“14. Rights regarding property –

(1) No property shall be taken possession of compulsorily, and no right over or interest in any property shall be acquired compulsorily, except under the law which, of itself or when read with any other law:

- (a) Requires the payment within a reasonable time of adequate compensation therefore;
- (b) Gives to any person claiming that compensation a right of access, for the determination of his interest in the property and the amount of the compensation, to the Supreme Court; and
- (c) Gives to any party to proceedings in the Supreme Court relating to such claim the same rights of appeal as are accorded generally to parties to civil proceedings in that Court sitting as a Court of original jurisdiction.”

3C. Requirement to provide assistance –

(1) Every:

- (a) Owner of land on which storage or distribution facilities are located;
- (b) Owner of storage or distribution facilities;
- (c) Party to a lease of land referred to in paragraph (a);
- (d) Party to a lease of storage or distribution facilities; and
- (e) Operator of storage or distribution facilities,

shall provide the Chief Executive Officer with such assistance as the Chief Executive Officer may reasonably require concerning the exercise of any power under section 3A.

(2) Any person who contravenes subsection (1) commits an offence punishable by a fine not exceeding 100 penalty units or imprisonment not exceeding 12 months, or both.”

5. Powers of entry, etc –

Section 12(2) of the Principal Act is amended by deleting the expression “\$50.00” and substituting the expression “10 penalty units”.

6. Regulations –

Section 14(2)(h) of the Principal Act is amended by deleting the expression “\$50.00” and substituting “10 penalty units”.

7. Penalties –

Section 15 of the Principal Act is amended by deleting the figure “\$500.00” and substituting the expression “10 penalty units”.
