

NARCOTICS AMENDMENT

WESTERN SAMOA

Arrangement of Provisions

Title	3.	Power of arrest of a person suspected of committing an offence
1. Short Title		
2. Search without a warrant	4.	Reports as evidence

1992/1993, No. 23.

AN ACT to amend the Narcotics Act 1967

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

1. **Short Title** - This Act may be cited as the Narcotics Amendment Act 1992/1993 and shall be read together with and deemed part of the Narcotics Act 1967 (hereinafter referred to as the principal Act).

2. **Search without a warrant** - Section 14A of the principal Act (as inserted by the Narcotics Amendment Act 1988) is repealed and the following section is substituted:-

"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 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, with any assistants he 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 may search and detain that person for the purpose of search and may take possession of any narcotic found.

(3) Nothing in sub-section (2) of this section shall limit the provisions of sub-section (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 to every person searched, and also to any person in or on the building, aircraft, ship, carriage, vehicle, premises, or place who

questions his 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 shall also, if not in uniform and if so required, produce evidence that he 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.

3. Power of arrest of person suspected of committing offence - Section 16 of the principal Act is amended by omitting from subsection (1) the words "commissioned officer of Police" and substituting the word "constable".

4. Reports as evidence - Section 28B of the principal Act (as inserted by the Narcotics Amendment Act 1988) is amended by-

(a) Repealing subsection (1) and substituting the following:-

"(1) A report purporting to be signed by or on behalf of an authorised analyst in respect of narcotic specimens or samples received by that authorised analyst for analysis and tests, shall be accepted by the Court in any proceedings under this Act, as evidence of the truth of the contents of such report, without the person who made the report being required to testify as to the same."

(b) Adding the following subsections:-

"(3) The Head of State acting on the advice of Cabinet may make regulations designating one or more persons whether corporate or unincorporated, and whether within or outside Western Samoa, to be authorised analysts for the purposes of this Act.

(4) For the purposes of this section, "authorised analyst" means a person designated as such pursuant to subsection (3) of this section."

TEUTEUGA O LE TULAFONO O NAKOTI

SAMOA I SISIFO

Faatulagaina o Aiaiga

Igoa.

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|----|--------------------------------------|----|--|
| 1. | Igoa Puupuu | 3. | Pule e taofia ai se tagata ua masalomia i le faia o se solitulafono. |
| 2. | Suesuega e aunoa ma se tusi faataga. | 4. | Lipoti e avea o se molimau. |

1992/1993 Nu. 23.

O SE TULAFONO e teuteu ai le Tulafono o Nakoti 1967.

UA FAIA e le Fono Aoa Fautulafono o Samoa i Sisifo i totonu o le Palemene ua potopoto e faapea:-

1. Igoa Puupuu - E mafai ona taua leni Tulafono o le Teuteuga o le Tulafono o Nakoti 1992/1993 ma e tatau ona faitauina faatasi ma avea ai o se vaega o le Tulafono o Nakoti 1967 (e pei ona faasinomia mulimuli ane iinei o le Tulafono autu).

2. Suesuega e aunoa ma se tusi faataga - O le fuaiupu 14A o le Tulafono autu (e pei ona faaofiina e le Tulafono o Teuteuga o le Tulafono o Nakoti 1988) ua soloia ma ua suia i le fuaiupu e faapea:-

"14A. Suesuega e aunoa ma se tusi faataga - (1) Pe afai i lalo o le tulaga e faapea o se suesuega e ao ona faagaoioia loa ma e faapea ua leai se taimi e talosaga ai mo se tusi faataga e suesue ai e pei ona aiaia i lalo o le fuaiupu 14 o leni Tulafono, o so o se leoleo, pe afai ua ia talitonu i ni mafuaga talafeagai e faapea o lo o i ai i totonu po o i luga o so o se fausaga, vaalele, vaa, mea tau felauaiga, taavale, fale po o se nofoaga ia so o se vailaau faasaina e faapea ua faia ai se solitulafono faasaga i leni Tulafono, e mafai e ia, faatasi ai ma so o se fesoasoani e ono manaomia ona ulufale ma sueina le fausaga, vaalele, vaa, mea tau felauaiga, taavale, fale

po o se nofoaga ma so o se tagata e maua i totonu po o i luga, e avea ai e faapei ua faatagaina e faia lea tulaga i luga o se tusi faataga e suesue ai e tusa ma le fuaiupu 83 o le Tulafono o Tualumaga Tau Faamasinoga 1972 ma le faafuaiupu (1) o le fuaiupu 14 o leni Tulafono.

(2) Afai o so o se leoleo ua ia te ia ni mafuaaga talafeagai ua talitonu e faapea o so o se tagata ua ia umia so o se vailaau faasaina ma e faapea ua faia se solitulafono faasaga i leni Tulafono po o ua masalomia e faapea ua faia se solitulafono e tusa ai ma na vailaau faasaina, e mafai ona ia sueina ma taofia lena tagata mo le faamoemoe ina ia suesueina ma e mafai ona ia aveina so o se vailaau faasaina e maua ai i lena tagata.

(3) E leai se mea i le faafuaiupu (2) o leni fuaiupu e tatau ai ona faatapulaa aiaiga o le faafuaiupu (1) o leni fuaiupu po o e faataga ai so o se Leoleo e ulufale ai ma suesue so o se fausaga, vaalele, mea tau felauaiga, taavale, fale po o nofoaga e ese mai ai nai lo aiaiga o lena faafuaiupu.

(4) O leoleo uma o lo o faatinoina se pule e sueina po o le ulufale ma sueina e pei ona faaeeina i ai e faafuaiupu (1) ma le (2) o leni fuaiupu e tatau ona faailoa atu o ia i tagata uma ua suesueina, faapea foi i so o se tagata i totonu po o i luga o le fausaga, vaalele, vaa, mea tau felauaiga, taavale, fale, po o nofoaga o i latou ia e fesiligia lana aia e ulufale ai ma suesueina ia mea, ma e tatau foi ona ia logoina ia tagata e faapea o le suesuega o lo o faia e tusa ai ma le pule i lalo o lena faafuaiupu. E tatau foi ona ia, pe afai e le o ofuina lana toniga ma pe afai o lo o manaomia, ona ia tuuina atu se faamaoniga e faapea o ia o se leoleo.

(5) O leoleo uma o lo o faatinoina le pule o le sueina po o le ulufale ma faia se suesuega i lalo o faafuaiupu (1) ma le (2) o leni fuaiupu e tatau i totonu o le 72 itula pe a maea le suesuega, ona tuuina atu i le Komesina o Leoleo se lipoti tusitusia e faamatala ai le mafuaaga ma le taunuuga o le

suesuega.

3. Pule e taofia ai se tagata ua masalomia i le faia o solitulafono - O le fuaiupu 16 o le Tulafono autu ua teuteuina i le soloia mai le faafuaiupu (1) ia upu "alii ofisa fai-pine o leoleo" ma suia i le upu "leoleo".

4. Lipoti e avea o se molimau - O le fuaiupu 28B o le Tulafono autu (e pei ona faaofiina e le Tulafono o Teuteuga o Nakoti 1988) ua teuteuina i le -

(a) Soloia le faafuaiupu (1) ma suia e faapea:-

"(1) O se lipoti e faapea ua sainia e po o ua faia e avea ai ma sui o se tagata suedue faatagaina e tusa ai ma mea tau nakoti po o ni vaega o ia mea mo le suedueina ma le auiliiliina, e tatau ona taliaina e le Faamasinoga i so o se taualumaga i lalo o lenei Tulafono, e avea ma molimau mo le moni o mea o lo o aofia i sea lipoti, e aunoa ma le manaomia o le tagata na faia le lipoti ina ia faia se tautinoga e pei ona masani ai."

(b) Faaopoopo i ai ma faafuaiupu e faapea:-

"(3) E mafai e le Ao o le Malo i luga o le fautuaga a le Kapeneta ona faia ni Tulafono faatonutonu e tofia ai se tagata po o ni tagata pe faamauina faaletulafono po o le leai foi, pe o i totonu o Samoa i Sisifo po o fafo atu, e avea o ni tagata suedue faatagaina mo le faataunuaina o lenei Tulafono.

(4) Mo aano moni o lenei fuaiupu "tagata suedue faatagaina" o lona uiga o se tagata na tofia i sea tulaga e tusa ai ma le faafuaiupu (3) o lenei fuaiupu".