



SAMOA

ASIAN DEVELOPMENT BANK LOAN ACT 1969

Arrangement of Provisions

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ASIAN DEVELOPMENT BANK LOAN ACT 1969 1969 No.25

AN ACT to provide for the raising of a loan from the Asian Development Bank and for matters connected therewith.
[Assent and commencement date: 11 December 1969]

1. Short title – This Act may be cited as the Asian Development Bank Loan Act 1969.

2. Interpretation – In this Act, unless the context otherwise requires:

“Bank” means the Asian Development Bank;

“Department” means the Department of Public Works;

“Director” means the Director of Works;

“enactment” includes any Act, Ordinance, order, proclamation, notice, rules or regulations which are in force in Samoa, whether enacted or made in Samoa or in New Zealand, and every part thereof;

“Government” means the Government of Samoa;

“loan” means the loan agreed to be made by the Loan Agreement and authorised by this Act;

“Loan Agreement” means an agreement between the Government and the Bank for the borrowing of an amount in various foreign currencies equivalent to \$US2,400,000 for the purposes of the project;

“Minister” means the Minister of Finance;

“project” consists of the reconstruction and upgrading of the existing Airport at Faleolo and the existing road of approximately 24 miles between Mulifanua and Apia, as more particularly described in Schedule 2 of the Loan Agreement;

“Samoa” means the Independent State of Samoa.

3. Authority to borrow from the Bank – (1) Despite anything contained in the Public Finance Management Act 2001 or any other Act, the Minister is authorised to borrow from the Bank, for the purposes of the project, in accordance with the provisions of this Act and the Loan Agreement, up to an amount in various foreign currencies equivalent to \$US2,400,000.

(2) The amount of the loan within the limit set by this Act, the rate of interest, the date or dates upon which the money is to be repaid, and the other terms of the loan, is as determined between the Government and the Bank in the Loan Agreement.

(3) The Loan Agreement may be signed on behalf of the Government by the Minister or by any other person authorised by the Minister in writing.

4. Receipt and expenditure of loan money – All money received by the Government under the Loan Agreement is paid into such special fund or account as may be agreed between the Government and the Bank, and expenditure of such money may be made for the purposes for which it was borrowed or for such other purposes as may be agreed between the Government and the Bank, and shall be charged on and be made from that fund or account and be statutory expenditures.

5. Repayment of principal and payment of interest – (1) All principal, interest and other money repayable or payable under the Loan Agreement is declared to be a charge on the public revenues of Samoa and on the Treasury Fund or such

other fund or account as the Minister thinks fit, and to be statutory expenditure, and to be payable out of the last mentioned fund or account at the time or times provided in the Loan Agreement.

(2) Despite anything to the contrary in the Public Finance Management Act 2001:

- (a) it is not necessary to issue or register stock in respect of the loan; and
- (b) the Government need not set aside or pay any amount in any half year during the currency of the loan as a contribution to the National Loans Sinking Fund.

6. Implementation of obligations under Loan Agreement – (1) Despite anything contained in any other enactment, the Loan Agreement is valid and enforceable and has full force and effect in Samoa in accordance with its terms.

(2) Without prejudice to the generality of subsection (1):

- (a) no stamp duty or other tax is payable on the Loan Agreement; and
- (b) the principal of the loan is repayable, and the interest on and any other charges in respect of the loan is payable, free from liability for income tax and any other tax and free from any currency or exchange control restriction; and
- (c) the Government is empowered to employ a foreign firm of consultants acceptable to the Bank, to prepare or assist with the preparation of plans, specifications, work schedules, and construction methods for the project, and to assist with the procurement of equipment and supplies for the project and with the supervision of work on the project, and to pay the fees chargeable by that firm; and
- (d) the Government is empowered to procure such equipment and supplies for the project as it thinks fit otherwise than through the Stores Division of the Treasury; and
- (e) the Government is empowered to establish a Special Projects Division of the Department to carry out the work on the project, under the

general supervision of the Minister responsible for Works and the Director and the technical supervision of the consultants, to recruit the necessary staff of the Division, and to pay all or some of the staff of the Division on a fee or contract basis so as not to include them in the Public Service within the meaning of Article 83 of the Constitution.

7. Public Finance Management Act 2001 not to apply –
The Public Finance Management Act 2001 does not apply to any borrowing by the Government from the Bank in accordance with this Act.

REVISION NOTES 2008 – 2017

This is the official version of this Act as at 31 December 2017.

This Act has been revised by the Legislative Drafting Division from 2008 to 2017 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) References to Western Samoa have been amended to Samoa in accordance with an amendment to the Constitution of Samoa in 1997.
- (b) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (c) Amendments have been made to up-date references to offices, officers and statutes (reference to *Public Finance Management Act 2001*).
- (d) Insertion of the commencement date
- (e) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
 - (i) “shall be” changed to “is” and “shall have” changed to “has”
 - (ii) “notwithstanding” changed to “despite”
 - (iii) “hereby” and “from time to time” (or “at any time”) removed

There were no amendments made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*.

A handwritten signature in blue ink, reading "L. Retzlaff", is written over a light blue rectangular background.

Lemalu Hermann P. Retzlaff
Attorney General of Samoa

*This Act is administered by
the Ministry of Finance.*
