



SAMOA

## ROYAL SAMOAN HOTEL ACT 1984

### Arrangement of Provisions

- |   |                              |
|---|------------------------------|
| 1. Short title  | 7. Annual reports            |
| 2. Interpretation   | 8. Revocation of concessions |
| 3. Effect of Act  | 9. Commencement date         |
| 4. Relief from customs duty and excise tax  | 10. Offences                 |
| 5. Relief from income tax   | 11. Conversion of currency   |
| 6. Restriction upon disposal of articles imported free of customs duty and excise tax |                              |

---

## ROYAL SAMOAN HOTEL ACT 1984

1984

No.48

**AN ACT** to provide taxation and other concessions to the Royal Samoan Hotel Corporation Limited as incentives to construct and operate an hotel on the island of Upolu.

*[Assent date: 21 December 1984]*

*[Commencement date: see section 9]*

**1. Short title** – This Act may be cited as the Royal Samoan Hotel Act 1984.

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

“commencement date” means the date upon which the Hotel first accommodates a paying guest;

“Commissioner” means the Commissioner of Inland Revenue;

“Comptroller” means the Comptroller of Customs;

“consumables” includes all manchester, linen, crockery, cutlery, glassware, kitchen utensils, equipment and

***Royal Samoan Hotel Act 1984***

supplies required to equip and stock the Hotel for the commencement of its operations but does not include food or beverages or furniture;

“Corporation” means the Royal Samoan Hotel Corporation Limited;

“customs duty” means duty imposed under the Customs Tariff Act 1975;

“Director” means the Director of Economic Development;

“Excise tax” means excise tax imposed under the Excise Tax (Import Administration) Act 1984;

“Hotel” means the hotel to be constructed at Taumeasina on the island of Upolu to be known as the Royal Samoan Hotel;

“income tax” has the same meaning as in the Income Tax Act 2012;

“project” means the construction of the Hotel at Taumeasina on the island of Upolu;

“tax free period” means the period of 10 years commencing on:

- (a) the commencement date; or
  - (b) 31 May 1989, –
- whichever date is earlier.

**3. Effect of Act** – This Act has effect despite anything to the contrary in any other Act.

**4. Relief from customs duty and excise tax** – (1) Prior to the commencement date, the Corporation is entitled to import into Samoa free of customs duty and excise tax:

- (a) consumables; and
- (b) all building materials, plant, vehicles, machinery, fuel, furniture, fittings and other apparatus or equipment which it satisfies the Comptroller are required for the project to a total value not exceeding \$25,000,000 United States of American dollars.

(2) In this section, the “value” of any article, means the value of such article determined on a C.I.F. basis.

(3) The Corporation shall, as required by the Comptroller:

- (a) keep a record of any articles imported free of customs duty and excise tax and the value of such articles;
- (b) cause such articles to be marked; and
- (c) permit the Comptroller or any person authorised by him or her at any reasonable time to inspect such record and to examine such articles.

**5. Relief from income tax** – (1) Subject to subsections (2) to (9), the Corporation is subject to the Income Tax Act 2012 in respect of all income derived by the Corporation and is liable accordingly to pay all income tax payable on that income under those Acts.

(2) During the tax free period the Corporation is exempt from payment of income tax with respect to income derived from the operations of the Hotel.

(3) A person who derives income during the period commencing on the date this Act comes into force and expiring on the expiration of the tax free period that consists of:

- (a) interest paid by the Corporation on monies borrowed by the Corporation to construct the hotel; or
- (b) lease payments or rental payments made by the Corporation with respect to machinery or equipment used in the project, -

is not liable for withholding tax on any such income.

(4) A person who holds any fully paid shares in the Corporation at the commencement date and derives income that consists of dividends paid out of profits made by the Corporation during the tax free period in respect of such shares, or any other fully paid shares issued to such person during the tax free period, is not liable for withholding tax on any such income.

(5) Subsection (4) applies only:

- (a) to dividends paid by the Corporation during the tax free period or within 1 year after the expiration of the tax free period; and
- (b) to the extent that the total amount of dividends paid to a shareholder as therein mentioned does not exceed an amount equivalent to twice the amount of the total paid up capital of the shares held by such shareholder at the commencement date or issued to him or her during the tax free period.

(6) Subsection (4) does not apply to any shareholder who would become liable by any law of his or her country of residence to pay additional income tax owing to the fact that the dividend he or she received from the profits of the Corporation was not subject to income tax in Samoa.

(7) Subject to subsection (9), upon the expiration of the tax free period, the Corporation is entitled to write off against taxable income the capital costs of the project by 20 equal annual instalments.

(8) In subsection (7), “capital costs” includes:

- (a) costs incurred by the Corporation prior to 31 May 1984 with respect to the reclamation of the proposed site of the Hotel and development of the proposed site which is taken to amount to \$5,000,000 United States of American dollars;
- (b) costs incurred by the Corporation prior to 31 May 1984 with respect to architectural fees, legal fees, feasibility studies and costs of promoting the project which is taken to amount to \$400,000 United States of American dollars;
- (c) costs incurred by the Corporation subsequent to 31 May 1984 with respect to the construction, equipping and furnishing of the Hotel, including costs of further reclamation and development of the site;
- (d) such amount as the Corporation satisfies Cabinet is reasonably incurred in enabling the Hotel to commence operations; and
- (e) such amount as the Corporation satisfies Cabinet is a reasonable provision for initial working capital for the operation of the Hotel.

(9) The Corporation is not entitled to write off against taxable income the amounts under subsection (8)(d) and (e) if the Corporation claims either or both such amounts as a deduction for income tax purposes.

**6. Restriction upon disposal of articles imported free of customs duty and excise tax** – No article imported by the Corporation free of customs duty and excise tax under this Act is to be sold, given away or otherwise disposed of by the Corporation except:

- (a) for an assignment of the project, to the assignee of the project;
- (b) upon the Corporation paying to the Comptroller the customs duty and excise tax on the value of the article sold, given away or otherwise disposed of, as assessed by the Comptroller at the date of the sale, gift or other disposal; or
- (c) after the expiration of 5 years from the date of the acquisition of such article.

**7. Annual reports – (1)** The Corporation shall submit to the Director and the Commissioner within 6 months of the close of each financial year of the Corporation during the tax free period, a report in writing on the conduct and progress of the project or the operations of the Hotel as the case may be during the past financial year together with the annual accounts for that year duly audited by an auditor approved by the Director.

**(2)** The Corporation shall answer all questions put to it by the Director or the Commissioner relevant to the accounts referred to in subsection (1) and shall permit the Director or the Commissioner or any persons authorised by them at all reasonable times to enter the business premises of the Corporation and inspect the books of account and records of the Corporation and take extracts therefrom.

**8. Revocation of concessions – (1)** If Cabinet is satisfied that the construction of the Hotel has not been substantially commenced by 31 May 1986 it may by notice in writing to the Corporation revoke the concessions granted by this Act.

**(2)** If Cabinet revokes the concessions granted under this Act, the Corporation shall within 3 months of the date of the notice of revocation pay to the Comptroller in respect of all articles imported free of customs duty and excise tax under this Act, customs duty and excise tax calculated as if the articles had been disposed of under section 6 on the date of revocation.

**(3)** Any customs duty or excise tax payable to the Comptroller under subsection (2) may be recovered by the Comptroller in a Court of competent jurisdiction as a debt due to the Government.

**9. Commencement date** – The Corporation shall, within one month of the date that the Hotel accommodates its first paying guest, notify the Director in writing of such date.

**10. Offences** – (1) If the Corporation contravenes section 4(3) or 6, it commits an offence and is liable on conviction to a fine not exceeding 10 penalty units and in addition in the case of an offence under section 6 is liable to a penalty not exceeding 3 times the amount of customs duty and excise tax payable upon the article sold, given away or otherwise disposed in contravention of section 6.

(2) If the Corporation contravenes section 7, it commits an offence and is liable upon conviction to a fine not exceeding 10 penalty units.

**11. Conversion of currency** – (1) For the purposes of converting the amounts specified in section 4(1)(b) to Samoan Tala, the telegraphic transfer buying rate prevailing on the respective days that such articles are imported into Samoa is to be adopted.

(2) For the purposes of converting the amounts specified in section 5(5) (a) and (b) to Samoan Tala, the mid-bank buying rate prevailing as at 31 December 1983 is to be adopted.

---

#### REVISION NOTES 2008 – 2019

This is the official version of this Act as at 31 December 2019.

This Act has been revised by the Legislative Drafting Division from 2008 – 2019 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:

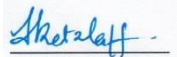
- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Amendments have been made to up-date references to offices, officers and statutes.
- (c) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
  - (i) “Every” and “any” changed to “a/an” or “each” where appropriate

***Royal Samoan Hotel Act 1984***

**7**

- (ii) Income Tax Act 1974 and Income Tax Rate Act 1974 changed to Income Tax Act 2012
- (iii) Present tense drafting style where appropriate:
  - “shall be” and “has been” changed to “is/are” or “is/are to be”
  - “in the event” changed to “if”
  - “shall be deemed” changed to “is taken”
- (iv) Use of plain language: “in the case of” changed to “for”
- (v) Removal of superfluous terms
  - “the provisions of”

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



Lemalu Hermann P. Retzlaff  
Attorney General of Samoa

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

---