

FAX: (0685) 22118
TELEPHONE: 20295 - 20296 - 20297 - 22108 - 22109 - 31911, 31912
EMAIL: attorney.general@samoa.ws
P.O BOX 27
APIA, SAMOA



GOVERNMENT OF SAMOA

Office of the Attorney General

16 February 2020

Aufa'i Petaia Tausanimaianu
Acting Commissioner
Samoa Fire and Emergency Services Authority

Afioga e,

FIRE AND EMERGENCY (HOT WORKS) REGULATIONS 2020 "REGULATIONS"

1. I refer to the above subject matter and follow up on our letter dated 24 August 2020 (*attached for ease of reference*).
2. Please be advised that the Authority has not provided confirmation or approval to the substantive changes in the revised Regulations for our Office to subsequently make changes or issue the final documents for the Regulations.
3. We await your response. Please do not hesitate to contact me or Chief Legislative Drafter Galumalemana N. Loretta Teueli of my Office.

Sincerely,

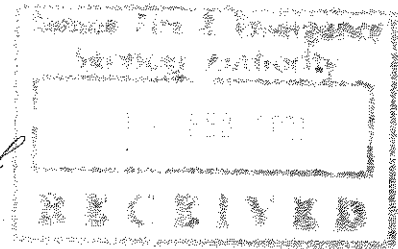
A handwritten signature in black ink, appearing to be 'MBA'.

(Savalenoa Mareva Betham- Annandale)
ATTORNEY GENERAL

Kuani / plz assist and advise

Please Address
all correspondence
to the Attorney-General

*Paul
(17/02)*



FAX: (0685) 22118
TELEPHONE: 20295 – 20296 – 20297 – 22108 – 22109
EMAIL: attorney.general@ag.gov.ws
APIA, SAMOA



Please Address
all correspondence
to the Attorney General

GOVERNMENT OF SAMOA

Office of the Attorney General

24 August 2020

Taueva Salā Lelevaga Faafouina Mupō
Commissioner
Samoa Fire and Emergency Services Authority

(Attention: Aufa'i Petaia Tausanimaiomanu- Assistant Commissioner)

Afioga e,

Fire and Emergency Service (Hot Works) Regulations 2020
"Regulations"

1. I refer to your letter dated 14 July 2020 requesting for the above mentioned Regulations to be finalised.
2. Prior to issuing the finalised Regulations, we respectfully advise the Authority that further substantive changes have been subsequently made to the Regulations following your letter and are provided for your consideration and approval as follows:
 - a. Clause 2: removal of the definitions namely "authorised person" and "competent person" as they are not definitions provided under the Fire and Emergency Service Act 2007;
 - b. Clause 7: this clause is revised as a result of the removal of the definitions in clause 2.
3. Upon the Authority's approval of the changes made in paragraph 2(a) – (b) above, our Office will then proceed with issuing the final documents for the Regulations.
4. Please do not hesitate to contact me or Chief Legislative Drafter Galumalemana N. Loretta Teueli of my Office for any further queries regarding this matter.

A handwritten signature in black ink, appearing to be 'MA'.

(Savalenoa Mareva Betham-Annandale)
ATTORNEY GENERAL



SAMOA

**FIRE AND EMERGENCY SERVICE (HOT WORKS)
REGULATIONS 2020**

SAMOA

Arrangement of Provisions

- | | |
|--|---|
| 1. Citation and commencement | 7. Criteria for issuance of permit |
| 2. Purpose | 8. Conditions of permit |
| 3. Prohibition to carry out hot works | 9. Duration of permit |
| 4. Notice to cease hot works activity | 10. Renewal, suspension and revocation. |
| 5. Power to grant or refuse hot works permit | 11. Appeal of Commissioner's decision |
| 6. Hot works application | |

PURSUANT to section 41(1) (c) of the Fire and Emergency Service Act 2007 (“the Act”), I, **TUIMALEALIIFANO VAALETOA SUALAUVI II**, Head of State, acting on the advice of Cabinet, **MAKE** these Regulations—

DATED this day of.....2020.

.....
 (Tuimalealiifano Vaaletoa Sualauvi II)
HEAD OF STATE

REGULATIONS

1. Citation and commencement – (1) These Regulations may be cited as the Fire and Emergency Service (Hot Works) Regulations 2020.

(2) These Regulations commence on the date they are signed by the Head of State.

2. Purpose – The purpose of these Regulations are to regulate:

- (a) hot works carried out for commercial purposes;
- (b) hot works carried out in an open space;
- (c) any other hot works carried out in other locations or areas as determined by the Authority for the purposes of these Regulations.

3. Prohibition to carry out hot works - (1) A person must not carry out any hot work except under a hot works permit.

(2) A person who contravenes sub-regulation (1) commits an offence and is liable on conviction:

- (a) for an individual-
 - (i) to a fine not exceeding 50 penalty units on a first offence; and
 - (ii) for subsequent offences, to a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months or both; and
- (b) for a corporation to a fine not exceeding 100 penalty units.

(3) Despite sub-regulation (2), a person convicted of a continuing offence, is liable to a further fine not exceeding 1 penalty unit for an individual and 5 penalty unit for a corporation for each day during which the offence continues.

4. Notice to cease hot works activity - (1) The Authority may by notice in writing, require a person to cease hot works, if the Authority is satisfied that:

- (a) a person has engaged, is engaging or is proposing to engage in a hot works activity without a permit and contravenes regulation 3; or
- (b) a permit holder has contravened a condition of the permit and is to be subsequently subject to suspension of a hot works permit under regulation 10(2).

(2) The notice under sub-regulation (1) must:

- (a) specify whether sub-regulation 1(a) or (1)(b) applies to the person; and
- (b) state the material facts that the Authority relies on.

(3) Where a notice to cease hot works is issued under sub-regulation (1) (a), the person must make an application under regulation 6 to obtain a permit in order to proceed with a hot works activity.

(4) The Authority must not give a notice to cease under sub-regulation (1) (b) unless it has given the person a reasonable opportunity to make submission on the matter and the Authority has had regard to the submission made.

(5) The Authority may lift the suspension of the permit holder under sub-regulation (1) (b) upon being satisfied that the permit holder will carry out remedial work or corrective measures required and will comply with the terms and conditions of the permit.

5. Power to grant or refuse hot works permit - (1)

The Commissioner may:

- (a) grant a hot works permit subject to criteria for issuance under regulation 7 and conditions imposed by the Commissioner under regulation 8 or
- (b) refuse to grant a hot works permit.

(2) The Commissioner must as soon as practicable notify the applicant in writing, of his or her decision to grant or refuse an application for permit under sub-regulation (1).

(3) The notice must specify:

- (a) in the case where the permit is granted, the fact of such grant and the conditions imposed;
- (b) in the case of a refusal to grant a permit, the fact of such refusal and the reason for refusal.

6. Hot works application - (1) A person may apply to the Commissioner in the prescribed form.

(2) The application must include the following:

- (a) non-refundable fee calculated at 0.05 % of the total cost of the hot works;
- (b) a statement on the scope of the hot works to be carried out, including the nature of the work site used and its location and the type of hot works to be carried out;
- (d) a description of the equipment available at the work site;
- (e) the name of the authorised person to assess and supervise the hot works;

- (f) the name of the competent person who is trained and experienced to undertake the hot works;
- (g) description of fire safety precaution or prevention measures in place;
- (h) the duration of the hot works;
- (i) total cost of the hot works to be carried out.

(3) The Commissioner may require the applicant to provide additional information.

(4) A person who knowingly provides false information in an application commits an offence and is liable on conviction:

- (a) for an individual-
 - (i) to a fine not exceeding 50 penalty units on a first offence; and
 - (ii) for subsequent offences, to a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 6 months or both; and
- (b) for a corporation, to a fine not exceeding 100 penalty units.

7. Criteria for issuance of permit - (1) In determining whether to grant a hot works permit, the Commissioner must take into consideration the following criteria:

- (a) the location of the hot works activity;
- (b) the resources required for the hot works activity;
- (c) the risk associated with the applicant's proposed hot works;
- (d) qualifications and experience of the authorised person submitted by the applicant;
- (e) age, qualifications and experience of the competent person submitted by the applicant; and
- (f) other criteria necessary for the Commissioner's consideration.

(2) The Commissioner may conduct a site visit to assist in assessing the criteria in sub-regulation (1).

8. Conditions of permit - The following are taken to be conditions of a hot works permit:

- (a) the hot work permit holder must ensure a copy of the permit is to be kept on site and presented on request by an officer of the Authority or by the public
- (b) hot works activity is to be carried out only at the specified site, location or area in which it is granted under regulation 5;
- (c) hot works activity is to be carried out only for the purpose in which it is granted under regulation 5;
- (d) any hot works activity is to be supervised at all times by an authorised person;
- (e) any fire or open flame must be lit or maintained or permitted to prevent the escape of fire, sparks or incandescent or burning material from the equipment being used;
- (f) prior to an open flame, the hot work permit holder must obtain risk assessments for the specified location in which the activity is to be held;
- (g) the hot work permit holder must ensure that fire prevention measures are in place at all times;
- (h) other conditions as may be considered by the Commissioner.

9. Duration of permit - (1) A hot works permit granted by the Authority under Regulation 5 is valid from the day it is issued.

(2) A permit that authorises hot works must specify a day of expiration, subject to regulation 10.

10. Renewal, suspension and revocation - (1) The hot works permit holder may apply to the Commissioner for renewal of the hot works permit:

- (a) within 1 week from the expiry of the hot works permit; and
- (b) in the approved form.

(2) The Commissioner may suspend a hot works permit if the permit holder contravenes:

- (a) a condition of the permit;
- (b) a provision of the Act; or

- (c) a provision of these Regulations.
- (3) The Commissioner may revoke a hot works permit, if:
- (a) the permit holder is convicted of an offence against the Act or these Regulations;
 - (b) the Commissioner is satisfied that the permit holder has contravened a condition in the permit;
 - (c) it appears to the Commissioner that the permit has been granted-
 - (i) in error;
 - (ii) through misrepresentation;
 - (iii) fraud;
 - (iv) without proper approval; or
 - (v) the Commissioner is satisfied that the permit holder is no longer a fit and proper person to hold a permit.
- (4) Before the Commissioner suspends or revokes a permit, the Commissioner must serve a written notice on the holder of the permit requiring the holder to give written submissions within a period of at least 7 days to state any reason why the permit should not be suspended or revoked.

11. Appeal of Commissioner's decision - (1) A person who is refused an application under sub-regulation 5(1) (b) may appeal to the Minister in writing.

(2) Where the Minister receives an appeal under sub-regulation (1), the Minister shall review the decision of the Commissioner and may:

- (a) confirm the decision; or
- (b) override the decision and either;
 - (i) at his or her discretion deal with the matter and issue a decision; or
 - (ii) refer the matter to the Commissioner for a further re-consideration.

(3) All appeals must be made within 21 working days of the decision being notified to the applicant under sub-regulation 5(2).
