

Reporting formats

for Article 7 of the Convention on Cluster Munitions

Cover page¹ of the annual article 7 report

Name of State [Party]: The Independent State of Samoa

Reporting period: 01/04/2011 (INITIAL) to 31/12/2011
(dd/mm/yyyy) (dd/mm/yyyy)

Form A: National implementation measures: X changed unchanged (last reporting: INITIAL)	Form F: Contaminated areas and clearance: <input type="checkbox"/> changed X unchanged (last reporting: INITIAL) <input type="checkbox"/> non applicable
Form B: Stockpiles and destruction: <input type="checkbox"/> changed X unchanged (last reporting: INITIAL) <input type="checkbox"/> non applicable	Form G: Warning to the population and risk education: <input type="checkbox"/> changed X unchanged (last reporting: INITIAL) <input type="checkbox"/> non applicable
Form C: Technical characteristics of each type produced/owned or possessed: <input type="checkbox"/> changed X unchanged (last reporting: INITIAL) <input type="checkbox"/> non applicable	Form H: Victim assistance: <input type="checkbox"/> changed X unchanged (last reporting: INITIAL) <input type="checkbox"/> non applicable
Form D: Cluster munitions retained and transferred: <input type="checkbox"/> changed X unchanged (last reporting: INITIAL) <input type="checkbox"/> non applicable	Form I: National resources and international cooperation and Assistance: <input type="checkbox"/> changed X unchanged (last reporting: INITIAL) <input type="checkbox"/> non applicable
Form E: Status of conversion programmes: <input type="checkbox"/> changed X unchanged (last reporting: INITIAL) <input type="checkbox"/> non applicable	Form J: Other relevant matters: <input type="checkbox"/> changed X unchanged (last reporting: INITIAL) <input type="checkbox"/> non applicable

¹ Notes on using the cover page:

1. The cover page could be used as a complement to submitting detailed forms adopted at the Meetings of the States parties in instances when the information to be provided in some of the forms in an annual report is the same as in past reports. That is, when using the cover page, only forms within which there is new information would need to be submitted.
2. The cover page could be used as a substitute for submitting detailed forms adopted at the Meetings of the States parties only if all of the information to be provided in an annual report is the same as in past reports.
3. If an indication is made on the cover sheet that the information to be provided with respect to a particular form would be unchanged in relationship to a previous year's form, the date of submission of the previous form should be clearly indicated.
4. The cover page may be used for subsequent annual reports and is not to be used for the initial Article 7 report submission.

CONVENTION ON CLUSTER MUNITIONS

REPORTING FORMATS FOR ARTICLE 7 OF THE CONVENTION ON CLUSTER MUNITIONS

STATE [PARTY]: ***The Independent State of SAMOA***

NATIONAL POINT(S) OF CONTACT (Organization, telephones, fax, e-mail)²:

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DATE OF SUBMISSION : **07 September 2012**
[dd/mm/year]

REPORTING TIME PERIOD FROM ...**INITIAL REPORT**
[day/month] [day/month] [year]

NOTE : all data **shaded in grey** is provided on a VOLUNTARY basis but pertains to compliance and implementation not covered by the formal reporting requirements contained in Article 7.

² In accordance with Article 7.1 (l)

Form A National implementation measures

Article 7.1 "Each State Party shall report to the Secretary-General ... on:
a) The national implementation measures referred to in Article 9."

Remark: In accordance with Article 9, "Each State Party shall take all appropriate legal, administrative and other measures to implement this Convention, including the imposition of penal sanctions, to prevent and suppress any activity prohibited to a State Party under this Convention undertaken by persons or on territory under its jurisdiction or control."

State [Party]: SAMOA Reporting for time period: INITIAL REPORT

Legal, administrative and other measures taken to implement the CCM (including imposition of penal sanctions)	Supplementary information (e.g., text and effective date of implementation measures, including legislation, administrative measures, policies and directives, training of military forces).
<i>With respect to the national implementation measures referred to in Article 9 of the Convention on Cluster Munitions, Samoa is pleased to report that it has passed its 'Cluster Munitions Prohibition Act 2012'. The Act went into effect on 27 April 2012.</i>	<i>Please find attached to this report a copy of Samoa's Cluster Munitions Prohibition Act 2012.</i>

N/A								
Total:			Total:					

3. Status and progress ... in separating all CM under its jurisdiction and control from other munitions retained for operational use and marking them for the purpose of destruction (ref. Art 3(1))

Cluster munition type	Quantity separated and marked for destruction	Lot numbers (if possible)	Explosive submunition type	Total quantity separated and marked for destruction	Lot numbers (if possible)	Supplementary information
N/A						<i>SAMOA has NO cluster munitions and explosive cluster munitions stockpiled</i>
Total:			Total:			

1 Reference to Form B (4).

2. Destruction of cluster munitions, including explosive submunitions, completed BEFORE the entry into force for the State Party (ONLY for initial reports)

Cluster munition type	Quantity destroyed	Lot number (if possible)	Explosive submunition type	Quantity destroyed	Lot number (if possible)	Date of Completion	Location of destruction sites	Supplementary information
N/A								SAMOA has NO cluster munitions and explosive cluster munitions stockpiled

3. Types and quantities of cluster munitions, including explosive submunitions, destroyed in accordance with Article 3

3. a. After entry into force

Cluster munition type	Quantity destroyed	Lot number (if possible)	Explosive submunition type	Quantity destroyed*	Lot number (if possible)	Date of completion	Location of destruction sites	Supplementary information
N/A								SAMOA has NO cluster munitions and explosive cluster munitions stockpiled
Total:			Total:					

3. b. Additional stockpiles destroyed after reported completion of the programme for destruction

Cluster munition type	Quantity destroyed	Lot number (if possible)	Explosive submunition type	Quantity destroyed *	Lot number (if possible)	Plans for destruction	Progress in destruction/ Date of completion
N/A							SAMOA has NO cluster munitions and explosive cluster munitions stockpiled
Total:			Total:				

* INCLUDING explosive submunitions which are not contained in a cluster munition.

4. **Methods of destruction used**

Cluster munition type	Details of the methods of destruction used
N/A	

Explosive submunition type	Details of the methods of destruction used
N/A	

5. **Applicable safety and environmental standards observed in destruction**

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6. Challenges and international assistance and cooperation needed for the implementation of Article 3

Activity	Description	Time period	Need
<i>N/A</i>			

Form C Cluster Munitions retained or transferred

Article 3.8. States Parties retaining, acquiring or transferring cluster munitions or explosive submunitions for the purposes described in paragraphs 6 and 7 of this Article shall submit a detailed report on the planned and actual use of these cluster munitions and explosive submunitions and their type, quantity and lot numbers. If cluster munitions or explosive submunitions are transferred to another State Party for these purposes, the report shall include reference to the receiving party. Such a report shall be prepared for each year during which a State Party retained, acquired or transferred cluster munitions or explosive submunitions and shall be submitted to the Secretary-General of the United Nations (...)."

State [Party]: SAMOA reporting for time period from INITIAL REPORT to _____

1. Type of cluster munitions or explosive submunitions RETAINED in accordance with Article 3(6)

Cluster munition type	Quantity	Lot number	Explosive submunition type	Quantity	Lot number	Planned use	Supplementary information
N/A							SAMOA does NOT retain cluster munitions and explosive cluster munitions
Total:			Total:				

2. Type of cluster munitions or explosive submunitions ACQUIRED in accordance with Article 3(6)

Cluster munition type	Quantity	Lot number	Explosive submunition type	Quantity	Lot number	Planned use	Supplementary information
N/A							SAMOA did NOT acquire cluster munitions and explosive

							cluster munitions
Total:			Total:				

3. Retained/acquired cluster munitions or explosive submunitions used during reporting period in accordance with Article 3(6)

Cluster munition type	Quantity used	Lot number	Explosive submunition type	Quantity used	Lot number	Description of actual use	Supplementary information (e.g. origin)
None	None	None	None	None	None	None	None
Total:			Total:				

4. Type of cluster munitions or explosive submunitions transferred in accordance with Article 3(7)

Cluster munition type	Quantity	Lot number	Explosive submunition type	Quantity	Lot number	Purpose of transfer	Receiving State Party	Supplementary information (e.g. steps taken to ensure destruction in receiving state)
N/A								SAMOA did NOT transfer cluster munitions and explosive cluster munitions
Total:			Total:					

Form D Technical characteristics of each type produced/owned or possessed

Article 7.1 "Each State Party shall report to the Secretary-General ... on:

(c) The technical characteristics of each type of cluster munition produced by that State Party prior to entry into force of this Convention for it, to the extent known, and those currently owned or possessed by it, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of cluster munitions; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, colour photographs and other information that may facilitate the clearance of cluster munition remnants;

State [Party]: **SAMOA** reporting for time period from **INITIAL REPORT**

Cluster munition type*	Dimensions of cluster munition	Cluster munition explosive content (type and weight)	Explosive submunition type and number*	Dimensions of explosive submunition	Submunition fusing	Submunition explosive content (type and weight)	Submunition metallic content (type and weight)	Other information that may facilitate clearance
N/A								<i>SAMOA has never produced cluster munitions or explosive submunitions</i>

* Please attach data sheets including colour photographs

Form E Status and progress of programs for conversion or de-commissioning of production facilities

Article 7.1 "Each State Party shall report to the Secretary-General ... on:

(d) The status and progress of programmes for the conversion or decommissioning of production facilities for cluster munitions.

State [Party]: SAMOA reporting for time period INITIAL REPORT

Name and location of production facility	Indicate if to "convert" or "decommission"	Status (indicate if "in process" or "completed") and progress of the programme	Supplementary information (e.g. plans and timetable for completion)
<i>N/A</i>			<i>SAMOA has never had production facilities</i>

Form F Contaminated areas and clearance

Article 7.1 "Each State Party shall report to the Secretary-General ... on:

h) To the extent possible, the size and location of all cluster munition contaminated areas under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of cluster munition remnant in each such area and when they were used."

i) The status and progress of programmes for the clearance and destruction of all types and quantities of cluster munition remnants cleared and destroyed in accordance with Article 4 of this Convention, to include the size and location of the cluster munition contaminated area cleared and a breakdown to the quantity of each type of cluster munition remnant cleared and destroyed."

State [Party]: SAMOA reporting for time period : INITIAL REPORT

1. Size and location of cluster munition contaminated area*

Location **	Size of contaminated area (m ²)	Cluster munition remnants		Estimated or known date of contamination	Method used to estimate suspected area	Supplementary information
		Type	Estimated quantity			
<i>N/A</i>						<i>SAMOA is not contaminated by cluster munitions nor explosive submunitions</i>
Total:		Total:				

Total:			Total:	
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* If necessary, a separate table for each area may be provided.

** Location can be defined by listing the province/district/village where contaminated areas are located as well as (where possible) map references and grid coordinates sufficient to define the contaminated area. Where possible, refer to the corresponding contaminated area described in [Form F, table 1].

Supplementary information

[narrative]

4. Status and progress of programme(s) for the destruction of cluster munition remnants(*) ()**

Location	Status of destruction programme (if possible, including plans, time table and completion date)	Cluster munition remnants		Destruction Method	Standards applied	
		Type	Quantity		Safety Standards	Environmental Standards
N/A						
		Total:				

* If necessary, a separate table for each area may be provided.

** This table is only for use for those cluster munitions remnants that were not destroyed during a clearance programme (for example cluster munition remnants cleared and subsequently destroyed elsewhere or abandoned cluster munitions).

Supplementary information

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5. Challenges and international assistance and cooperation needed for the implementation of Article 4

Activity	Description	Time period	Need
<i>N/A</i>			

Form G Measures to provide warning to the population and risk education

Article 7.1 "Each State Party shall report to the Secretary-General ... on:

j) The measures taken to provide risk reduction education and, in particular, an immediate and effective warning to civilians living in cluster munition contaminated areas under its jurisdiction or control."

State [Party]: SAMOA reporting for time period : INITIAL REPORT

1. Measures taken to provide risk reduction education

N/A; SAMOA is not contaminated by cluster munitions nor explosive submunitions.

2. Measures taken for effective warning of the population

N/A; SAMOA is not contaminated by cluster munitions nor explosive submunitions

Form H Victim assistance: status and progress of implementation of the obligations under Article 5

Article 7.1 "Each State Party shall report to the Secretary-General ... on:

(k) The status and progress of implementation of its obligations under Article 5 of this Convention to adequately provide age- and gender- sensitive assistance, including medical care, rehabilitation and psychological support, as well as provide for social and economic inclusion of cluster munition victims and to collect reliable relevant data with respect to cluster munition victims."

State [Party]: SAMOA reporting for time period : INITIAL REPORT

- 1. National focal point and coordination mechanism for the implementation of Article 5 (specify name and contact information of government body responsible)**

N/A; SAMOA has NO cluster munitions victims

- 2. Data collection and assessment of the needs of cluster munitions victims (please indicate gender and age of survivors as well as information on affected families and communities)**

N/A

- 3. Development and implementation of national laws and policies for implementation of Article 5**

N/A

4. National plan and budget, including timeframes to carry out these activities

N/A

Note : If necessary, plans/budgets may be provides separately.

5. Efforts to closely consult with and actively involve cluster munition victims and their representative organisations in victim assistance planning and implementation

N/A

6. Assistance services (including medical care, physical rehabilitation, psychological support, and social and economic inclusion).

Type of service (medical care, physical rehabilitation, psychological support, social and economic inclusion)	Implementing agency	Description of service (progress made, activities, number of persons assisted, time period)
N/A		

7. Steps taken to mobilize national and international resources

N/A

8. Needs for international assistance and cooperation

Activity	Description	Time period	Need
N/A			

9. Efforts undertaken to raise awareness of the rights of cluster munition victims and persons with other disabilities

Form I National resources and international cooperation and assistance

Article 7.1 "Each State Party shall report to the Secretary-General ... on:

(m) The amount of national resources, including financial, material or in kind, allocated to the implementation of Articles 3, 4 and 5 of this Convention; and

(n) The amounts, types and destinations of international cooperation and assistance provided under Article 6 of this Convention.

State [Party]: SAMOA reporting for time period: INITIAL REPORT

1. National resources allocated

Activity	Sector (stockpile destruction, clearance, risk education, victim assistance, advocacy)	Amount of national resources (list currency)	Type of resources (e.g. financial, material, in kind)
N/A			

2. International cooperation and assistance provided

Destination	Sector (stockpile destruction, clearance, risk education, victim assistance, advocacy)	Amount (list currency)	Type of cooperation or assistance (financial, material or in kind)	Details (including date allocated, intermediary destinations such as trust funds, project details, timeframes)
<i>N/A</i>				

3. International assistance and cooperation needed

a. For the implementation of **Article 3** : Stockpile destruction

Activity	Description	Time period	Need
<i>N/A</i>			

b. For the implementation of **Article 4** : Clearance and risk education

Activity	Description	Time period	Need
<i>N/A</i>			

c. For the implementation of **Article 5** : Victim assistance

Activity	Description	Time period	Need
N/A			

4. Assistance provided by State Parties to another State for cluster munitions used/abandoned prior to entry into force, as outlined in Article 4 paragraph 4 –

State Parties that have used our abandoned cluster munitions which have become cluster munition remnants located in areas under jurisdiction or under control of another State Party are **STRONGLY ENCOURAGED** to provide assistance to the latter State Party to facilitate the marking, clearance and destruction of such cluster munition remnants.

Not Applicable

Form J: Other relevant matters

Remark: States Parties may use this form to report voluntarily on other relevant matters, including matters pertaining to compliance and implementation not covered by the formal reporting requirements contained in Article 7.

State [Party]: _____ **SAMOA** _____ reporting for time period : **INITIAL REPORT**

Narrative / reference to other reports

Note : Form J can be used to report, on a **VOLUNTARY** basis, on the efforts to encourage states not parties to join the Convention on Cluster Munitions, and to notify such states of convention obligations as outlined in Article 21

CLUSTER MUNITIONS PROHIBITION ACT 2012

SAMOA

Arrangement of Provisions

PART I PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Meaning of cluster munition
4. Application
5. Purpose

PART II ACTIVITIES RELATED TO CLUSTER MUNITIONS

Division 1 – Offences and exceptions to offences

6. Offences
7. Exceptions to offences in section 6(1)
8. Liability of an officer of a corporation
9. Application of this Division to certain explosive bomblets

Division 2 – Actions in relation to cluster munitions

10. Seizure, forfeiture, and destruction of cluster munitions
11. Application of Customs Act 1977
12. Minister may authorise cluster munitions for certain purposes

Division 3 – Information

13. Purpose of this Division
14. Supply of information

PART III MISCELLANEOUS

15. Regulations
16. Consequential amendment

2012, No. 11

AN ACT to give effect to the 2008 Convention on Cluster Munitions, and for related matters.

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

**PART I
PRELIMINARY**

1. Short title and commencement-(1) This Act may be cited as the Cluster Munitions Prohibition Act 2012.

(2) This Act commences on a date to be nominated by the Minister.

2. Interpretation-(1) In this Act, unless the context otherwise requires:

“Attorney-General” means the Attorney-General of Samoa;

“authorised cluster munition” means a cluster munition authorised under section 12;

“Chief Executive Officer” means the Chief Executive Officer of the Ministry;

“cluster munition” has the meaning given to it by section 3;

“Convention” means the Convention on Cluster Munitions, done at Dublin on 30 May 2008, which Samoa signed on 3 December 2009, and any amendments to, or substitutions of, the Convention that are, or will become, binding on Samoa from time to time, but does not include any amendments or substitutions that have been objected to by Samoa;

“corporation” means a body corporate formed or incorporated whether in Samoa or outside Samoa;

“Court” means the Supreme Court of Samoa;

“explosive submunition” means a conventional munition:

(a) that is designed to function by detonating an explosive charge prior to, on, or after impact; and

(b) that, in order to perform its task, is dispersed or released by a cluster munition.

“funds”:

(a) means assets of every kind, whether tangible or intangible, moveable or immoveable, however acquired; and

(b) includes legal documents or instruments in any form evidencing title to, or an interest in, assets of any kind.

“mine” means a munition designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle;

“Minister” means the Minister responsible for Foreign Affairs;

“Ministry” means the Ministry responsible for Foreign Affairs;

“officer” means a member of the Police Service, or an officer of Customs;

“Police Service” means the Samoa Police Service;

“Samoa registered aircraft” means an aircraft registered or required to be registered in accordance with the Civil Aviation Act 1998 as a Samoa registered aircraft;

“Samoa ship or vessel” means, in accordance with the Shipping Act 1998:

(a) a ship or vessel registered or licensed in Samoa; or

(b) an unregistered ship or vessel for which a person has assumed Samoan nationality.

“self-deactivating” means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component of the munition that is essential to the munition’s operation;

“self-destruction mechanism” means a mechanism, incorporated into a munition, that:

(a) secures the destruction of that munition; and

(b) functions automatically; and

(c) is in addition to the munition’s primary initiating mechanism.

“transfer”:

(a) includes -

(i) importation into, and exportation from, Samoa; and

(ii) the transfer of title to, and control over, cluster munitions; but

(b) does not include the transfer of territory containing cluster munition remnants.

“unexploded submunition” means an explosive submunition that has been dispersed or released by, or otherwise separated from, a cluster munition and has failed to explode as intended.

(2) Unless the context otherwise requires, any other term or expression used in this Act which is not defined shall have the same meaning as in the Convention.

3. Meaning of cluster munition-(1) A cluster munition means a conventional munition that is designed to disperse or release explosive submunitions each weighing less than 20 kilograms and includes those explosive submunitions.

- (2) A cluster munition does not include:
- (a) a mine; or
 - (b) a munition or submunition that is designed -
 - (i) to dispense flares, smoke, pyrotechnics, or chaff; or
 - (ii) to produce electrical or electronic effects; or
 - (c) a munition that is designed exclusively for an air defence role; or
 - (d) a munition that, in order to avoid indiscriminate area effects and the risks posed by unexploded submunitions, has all of the following characteristics -
 - (i) each munition contains fewer than 10 explosive submunitions;
 - (ii) each explosive submunition weighs more than 4 kilograms;
 - (iii) each explosive submunition is designed to detect and engage a single target object;
 - (iv) each explosive submunition is equipped with an electronic self-destruction mechanism;
 - (v) each explosive submunition is equipped with an electronic self-deactivating feature.

4. Application-(1) This Act binds the Government.

(2) This Act extends to every Samoa registered aircraft, and Samoan ship or vessel.

(3) This Act extends to acts done or omitted to be done outside Samoa by -

- (i) a Samoan citizen; or
- (ii) a person ordinarily resident in Samoa; or
- (iii) a member of the Police Service; or
- (iv) a corporation.

(4) Subject to subsection (5), proceedings in respect of a contravention of this Act in Samoa or anywhere outside Samoa shall not be instituted in Court unless the consent of the Attorney-General has been obtained and the Attorney-General has certified that it is expedient that the proceedings should be instituted.

(5) Despite subsection (4), a person may be arrested, or a warrant for a person's arrest may be issued and executed, and the person may be remanded in custody or on bail, but no further or other proceedings shall be taken until the Attorney-General's consent has been obtained under subsection (4).

5. Purpose-(1) The purpose of this Act is to implement Samoa's obligations under the Convention.

(2) A person exercising a power conferred under this Act shall do so in compliance with Samoa's obligations under the Convention.

PART II ACTIVITIES RELATED TO CLUSTER MUNITIONS

Division 1 – Offences and exceptions to offences

6. Offences-(1) Subject to section 7, a person who directly or indirectly does one (1) or more of the following commits an offence:

- (a) uses a cluster munition;
- (b) develops, produces, or otherwise acquires, a cluster munition;
- (c) possesses, retains, or stockpiles a cluster munition;
- (d) transfers a cluster munition to another person;
- (e) assists, encourages or induces another person to engage in any conduct under paragraphs (a) to (d);
- (f) invests funds with the intention that the funds be used, or knowing that they are to be used, in the development or production of cluster munitions.

(2) A member of the Police Service also commits an offence if he or she expressly requests the use of cluster munitions when:

- (a) he or she is engaged in operations, exercises, or other military activities with the armed forces of a State that is not a party to the Convention; and
- (b) the choice of munitions used is within the exclusive control of the Police Service.

(3) A person who commits an offence under subsections (1) and (2) shall be punishable, upon conviction, by:

- (a) in the case of a corporation, a fine not exceeding 100,000 penalty units; or
- (b) in the case of a natural person, a fine not exceeding 10,000 penalty units or imprisonment for a term not exceeding seven (7) years, or both.

(4) This section does not limit the provisions of the Arms Ordinance 1960 relating to explosives.

7. **Exceptions to offences in section 6(1)-(1)** Despite section 6(1), an officer does not commit an offence by using, acquiring, possessing, retaining, or transferring an authorised cluster munition if he or she is doing so:

- (a) in the course of his or her employment or duties; and
- (b) for the purposes of developing, or training persons in, techniques of cluster munition detection, clearance, or destruction; and
- (c) in compliance with any notice given under section 12.

(2) Despite section 6(1), an officer does not commit an offence by seizing, receiving, or acquiring a cluster munition if he or she is doing so:

- (a) in the course of his or her employment or duties; and
- (b) for the purposes of destroying it, retaining it pending its destruction or transferring it so that it can be destroyed.

(3) Despite section 6(1), a person does not commit an offence in the circumstances set out in subsection (4) by:

- (a) possessing a cluster munition until an officer collects it from him or her or destroys it; or
- (b) giving the cluster munition to an officer who is to collect it from him or her or destroy it.

(4) The circumstances referred to under subsection (3) are:

- (a) that the person complies with section 14; and
- (b) that, as soon as practicable after becoming aware that he or she possesses the cluster munition, the person takes all reasonable steps to ensure that it is not used before an officer can collect or destroy it.

(5) Despite section 6(1), a person does not commit an offence by his, her, or its conduct outside Samoa in relation to a cluster munition that is:

- (a) for the purposes of -
 - (i) destroying it; or
 - (ii) enabling another person to destroy it; or
 - (iii) rendering it harmless; or
 - (iv) enabling another person to render it harmless; and

(b) in accordance with the Convention.

(6) A member of the Police Service does not commit an offence against section 6(1) merely by engaging, in the course of his or her duties, in operations, exercises, or other military

activities with the armed forces of a State that is not a party to the Convention and that has the capability to engage in conduct prohibited by section 6(1).

8. Liability of an officer of a corporation-(1) Subject to subsection (2), if an offence was committed by a corporation, the following, as well as the corporation, shall be deemed to be guilty of the offence:

- (a) a person who at the time of the commission of the offence was a director or was purporting to act in such capacity;
- (b) a person who at the time of the commission of the offence was a manager or was purporting to act in such capacity;
- (c) a person who at the time of the commission of the offence was a secretary or was purporting to act in such capacity;
- (d) a person who at the time of the commission of the offence was another similar officer of the corporation similar to those under paragraphs (a), (b) and (c) or was purporting to act in such capacity.

(2) A person stated under subsection (1)(a) – (d) shall not be deemed to be guilty of an offence if the person proves that:

- (a) the offence was committed without his or her consent, connivance, tacit or otherwise; and
- (b) he or she exercised all such diligence to prevent the commission of the offence as ought to have been exercised, having regard to the nature of his or her functions in that capacity and to all the circumstances.

9. Application of this Division to certain explosive bomblets-(1) In this section, **explosive bomblet** means a conventional munition:

- (a) that is not self-propelled; and
- (b) that weighs less than 20 kilograms; and
- (c) that is designed to function by detonating an explosive charge prior to, on, or after impact; and
- (d) that, in order to perform its task, is dispersed or released by a dispenser.

(2) The provisions of this Division apply, with any necessary modifications, to explosive bomblets that are specifically designed to be dispersed or released from dispensers affixed to an aircraft, as if those explosive bomblets were cluster munitions.

Division 2 – Actions in relation to cluster munitions

10. Seizure, forfeiture, and destruction of cluster munitions-(1) A cluster munition in respect of which an offence against section 6 has been committed:

- (a) may be seized without warrant by an officer; and
- (b) if not owned by the Government, is forfeit to the Government; and
- (c) must be either -
 - (i) authorised under section 12; or
 - (ii) destroyed by an officer.

(2) A cluster munition to be destroyed under subsection (1)(c)(ii) must be retained, pending destruction, as the Minister thinks fit.

11. Application of Customs Act 1977 - The provisions of the Customs Act 1977 that apply with respect to prohibited imports and prohibited exports, except the penalties for offences under that Act, shall extend and apply with respect to cluster munitions whose importation and exportation is prohibited under this Act, in all respects as if the importation or exportation of the goods were prohibited under the Customs Act 1977.

12. Minister may authorise cluster munitions for certain purposes-(1) For the purposes of developing, or training persons in, techniques of cluster munition detection, clearance, or destruction, the Minister may, by notice in writing, authorise cluster munitions to be used, acquired, possessed, retained, or transferred.

(2) The Minister must not make a notice under subsection (1) if the making of the notice will result in the total number of cluster munitions authorised by all notices made under subsection (1) exceeding the number determined for the time being by the Minister under subsection (3).

(3) The Minister must specify, by notice in the Savali and in one other newspaper circulating in Samoa, the number of cluster munitions determined by the Minister to be the number that for the time being is the minimum number that is absolutely necessary for the purposes referred to in subsection (1).

Division 3 – Information

13. Purpose of this Division - The purpose of this Division is to ensure:

- (a) that the Chief Executive Officer has knowledge of dealings with cluster munitions that facilitates the making of Samoa's reports or clarifications under the Convention; and
- (b) that Samoa is otherwise able to fulfil its obligations under the Convention.

14. Supply of information-(1) A person who uses, develops, produces, otherwise acquires, possesses, retains, or transfers a cluster munition must:

- (a) notify the Minister of the cluster munition as soon as practicable; and
- (b) keep records in relation to the cluster munition and the purpose to which the cluster munition is put; and
- (c) prepare from those records, and send to the Chief Executive Officer, periodic reports relating to the cluster munition that are sufficient to enable the Minister to determine whether the Convention, this Act, and any regulations made under this Act are being complied with.

(2) A person commits an offence who:

- (a) without reasonable excuse, refuses or fails to comply with subsection (1); or
- (b) in any document prepared under subsection (1), makes a statement or omits any matter knowing that, or being reckless as to whether, the statement or omission makes the document false or misleading in a material particular.

(3) A person who commits an offence under subsection (2) shall be punishable, upon conviction, to:

- (a) if the offender is a corporation, a fine not exceeding 10,000 penalty units; or

(b) if the offender is a natural person, a fine not exceeding 1000 penalty units, or imprisonment for a term of one (1) year, or both.

(4) Nothing in this section applies to a person whose conduct in relation to a cluster munition is, by reason of section 7(5), not an offence against this Act.

PART III MISCELLANEOUS

15. Regulations - The Head of State, acting on the advice of Cabinet, may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular, making provision for, or with respect to the following:

- (a) providing for any matter that is necessary or desirable for the purpose of implementing the Convention;
- (b) prescribing offences in respect of the contravention of, or non-compliance with, any regulations made under this Act;
- (c) prescribing penalties not exceeding 100 penalty units for offences against regulations made under this Act;
- (d) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.

16. Consequential amendment - Section 14(1) of the Police Powers Act 2007 is amended by deleting the word "The" and replacing it with "Subject to the Cluster Munitions Prohibition Act 2012, the".
