



ANALYSIS

<p>Title.</p> <p>1. Short Title and commencement.</p> <p><i>Alteration of Term "Native" to "Samoan"</i></p> <p>2. Alteration of term "Native" to "Samoan".</p> <p>3. Alteration of title of regulations.</p> <p>4. General provisions relating to changes of description.</p> <p><i>The Western Samoan Public Service</i></p> <p>5. Amending provisions as to termination or suspension of appointments.</p> <p>6. Board of Appeal.</p> <p>7. Election of member by officers of Western Samoan Public Service.</p>	<p>8. Deputies of appointed or elected members of Board of Appeal.</p> <p>9. Member of Board of Appeal not to act in appeal affecting himself or an officer of same Department.</p> <p>10. Offence to attempt to influence Board of Appeal.</p> <p>11. Appeals in respect of appointments and grading to be to Board of Appeal.</p> <p style="text-align: center;"><i>Miscellaneous</i></p> <p>12. Alteration of title of Chief Medical Officer for Western Samoa.</p> <p>13. Qualification of Medical Officers and medical practitioners.</p> <p>14. Compensation where land taken for public purposes.</p> <p>15. This Act a reserved enactment. Schedule.</p>
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1951, No. 74

AN ACT to provide for the alteration of the statutory description of land held by Samoans in accordance with the customs and usages of the Samoan race from Native to Samoan, and for the alteration of the statutory description of certain Judges of the High Court of Western Samoa from Native to Samoan, and also to amend the Samoa Act 1921. Title.

[6 December 1951

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title and commencement.

See Reprint of Statutes, Vol. II, p. 791

1. (1) This Act may be cited as the Samoa Amendment Act 1951, and shall be read together with and deemed part of the Samoa Act 1921 (hereinafter referred to as the principal Act).

(2) Sections six to eleven of this Act shall come into force on a date to be fixed by the Governor-General by Proclamation.

Alteration of Term "Native" to "Samoa"

Alteration of term "Native" to "Samoa".

2. (1) Wherever the expression "Native land", in relation to land in Western Samoa, appears in any Act, or in any regulation, rule, Order in Council, or other enactment, or in any contract, agreement, deed, instrument, application, order, licence, notice, or other document, that expression shall hereafter be read as the expression "Samoa land".

(2) Wherever the expression "Native title", in relation to land in Western Samoa, appears in any Act, or in any regulation, rule, Order in Council, or other enactment, or in any contract, agreement, deed, instrument, application, order, licence, or notice, or other document, that expression shall hereafter be read as the expression "Samoa title".

(3) Wherever the expression "Native Judge", in relation to a Judge of the High Court, appears in any Act, or in any regulation, rule, Order in Council, or other enactment, or in any contract, agreement, instrument, application, order, licence, notice, or other document, that expression shall hereafter be read as the expression "Samoa Judge".

(4) Except as otherwise provided in this Act, wherever in any case not provided for in the foregoing provisions of this section the term "Native", in relation to Western Samoa, appears in any Act, or in any regulation, rule, Order in Council, or other enactment, or in any contract, agreement, deed, instrument, application, order, licence, notice, or other

document, as descriptive of any person, body, corporation, office, purpose, land, building, reserve, or place, that term shall, unless inconsistent with the context, be hereafter read as the term "Samoaan".

(5) The enactments specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

3. (1) The Samoa Native Regulations 1938 may hereafter be cited as the Samoa Village Regulations 1938.

Alteration of title of regulations.

Serial number 1938/87

Serial number 1940/58

(2) The Samoa Native Regulations 1938, Amendment No. 1, may hereafter be cited as the Samoa Village Regulations 1938, Amendment No. 1.

(3) All references in the last mentioned regulations to the Samoa Native Regulations 1938 shall hereafter be read as references to the Samoa Village Regulations 1938.

4. Where the name of any Court, office, Department, functionary, Board, or corporation has been changed by virtue of this Act,—

General provisions relating to changes of description.

(a) All references to any such Court, office, Department, functionary, Board, or corporation in any Act, regulation, Order in Council, or other enactment, or in any contract, agreement, deed, instrument, application, licence, notice, or other document whatsoever, shall, unless inconsistent with the context, hereafter be read as references to the particular Court, office, Department, functionary, Board, or corporation as it or he will be called after the passing of this Act:

(b) Any such change of name shall not affect any of the rights, powers, jurisdiction, functions, duties, or obligations of any such Court, office, Department, functionary, Board, or corporation.

The Western Samoan Public Service

5. (1) Section fourteen of the Samoa Amendment Act 1949 is hereby amended by omitting from subsection two the words "if in the opinion of that Commissioner as a result of the conviction he is unfit to continue as an officer", and substituting the words "in accordance

Amending provisions as to termination or suspension of appointments. 1949, No. 47

with subsection two of section seventeen of this Act, in the case of a temporary employee, or, in the case of an officer, if in the opinion of the Public Service Commissioner he is unfit to continue as an officer ”.

1949, No. 47

(2) Section fourteen of the Samoa Amendment Act 1949 is hereby further amended by repealing subsection three, and substituting the following subsection:—

“(3) No person whose services have been suspended as aforesaid shall be entitled to receive any salary, wages, allowance, or payment in respect of the period of suspension unless the Public Service Commissioner otherwise directs:

“Provided that if the person is not dismissed as aforesaid he shall be entitled to receive in respect of the period of suspension all salary, wages, allowances, and payments (other than overtime) to which he would have been entitled had he not been suspended.”

Board of Appeal.

6. The Samoa Amendment Act 1949 is hereby amended by inserting, after section twenty-eight, the following section:—

“28A. There shall be a Public Service Board of Appeal for Western Samoa (in this Act referred to as the Board of Appeal), which shall consist of—

“(a) The person for the time being holding the office of Chief Judge of the High Court of Western Samoa, who shall be the Chairman of the Board:

“(b) One person to be appointed by the Minister upon the nomination of the High Commissioner, and to hold office for a term not exceeding three years:

“(c) One person, being an officer of the Western Samoan Public Service, to be elected by the officers of the Western Samoan Public Service in the manner prescribed by section twenty-eight B hereof, and to hold office for a term not exceeding three years.”

Election of member by officers of Western Samoan Public Service.

7. The Samoa Amendment Act 1949 is hereby further amended by inserting, after section twenty-eight A (as enacted by the last preceding section), the following section:—

“28B. With respect to the elected member of the Board of Appeal under paragraph (c) of section twenty-eight A hereof the following provisions shall apply:—

“(a) An election by ballot shall be held during the year nineteen hundred and fifty-two and during every third year thereafter to determine the officer who shall be the elected member of the Board of Appeal for each successive triennial period:

“(b) The Public Service Commissioner shall make regulations prescribing the manner in which ballots shall be taken, and if any question or dispute arises as to the regularity or validity of any ballot, or the voting thereat, that question or dispute shall be determined by the Public Service Commissioner in such manner as he thinks fit, and his decision shall be final:

“(c) Notice of the election of the member shall be published in the *Western Samoan Gazette*:

“(d) If any such member dies, or by notice in writing addressed to the Public Service Commissioner resigns his office, or ceases to be an officer of the Western Samoan Public Service, or refuses or neglects without sufficient cause to attend any duly appointed meeting of the Appeal Board, then and in any such case his office shall become vacant and another officer shall be elected by ballot in the prescribed manner, who shall hold office for the residue of the period during which his predecessor would have held office if he had remained a member of the Board of Appeal:

“(e) Until an election of the member is completed the member holding office at the time of the election shall continue to hold office.”

8. The Samoa Amendment Act 1949 is hereby further amended by inserting, after section twenty-eight B (as enacted by the last preceding section), the following section:—

“28c. (1) The Public Service Commissioner shall from time to time as occasion may arise appoint a fit person to be the deputy of any appointed or elected member of the Board of Appeal:

Deputies of
appointed or
elected
members of
Board of
Appeal.
1949, No. 47

“ Provided that in appointing a deputy of the elected member of the Board of Appeal the Public Service Commissioner shall give effect to any nomination of the recognized organization representing the officers of the Western Samoan Public Service.

“(2) Every deputy member shall act for the member whose place he takes whenever—

“(a) The member dies; or

“(b) By notice in writing addressed to the Public Service Commissioner resigns his office; or

“(c) Fails to attend a duly appointed sitting of the Board of Appeal; or

“(d) By notice in writing addressed to the Public Service Commissioner intimates that he is unable from any cause to act as a member of the Board of Appeal; or

“(e) From any cause whatever is not available or eligible to act as a member of the Board of Appeal.

“(3) When a deputy member is called on to act in consequence of either of the contingencies specified in paragraph (a) or paragraph (b) of the last preceding subsection, he shall continue to act until another member has been duly appointed or elected and has entered upon the duties of his office.

“(4) When a deputy member is called on to act in consequence of any other contingency specified in subsection two hereof he shall continue to act until such time as the member whose deputy he is becomes available or eligible to act as a member of the Board, as the case may be.”

Member of Board of Appeal not to act in appeal affecting himself or an officer of same Department.
1949, No. 47

9. The Samoa Amendment Act 1949 is hereby further amended by inserting, after section twenty-eight c (as enacted by the last preceding section), the following section:—

“28D. (1) No member shall act as a member of the Board of Appeal in any appeal affecting an officer of the Department in which that member is an officer.

“(2) No member shall act as a member of the Board of Appeal in an appeal affecting himself.”

10. The Samoa Amendment Act 1949 is hereby further amended by inserting, after section twenty-eight D (as enacted by the last preceding section), the following section:—

“28E. (1) No person shall in any way attempt to influence the Board of Appeal or any member of the Board in respect of the appeal of any officer.

“(2) Any person who commits a breach of the provisions of this section commits an offence, and shall be liable on summary conviction to a fine not exceeding fifty pounds.

“(3) Any employee on conviction of such an offence shall, in addition to any other penalty, be liable to immediate dismissal.

“(4) Nothing in this section shall be so construed as to prohibit any person from giving information or making representations in respect of any appeal at the request or invitation of the Public Service Commissioner or the Board of Appeal, or as a witness or the representative of an appellant before the Board of Appeal.”

11. Section twenty-nine of the Samoa Amendment Act 1949 is hereby amended by repealing subsections four to seven, and substituting the following subsections:—

“(4) The Board of Appeal shall have jurisdiction to hear and determine every such appeal, and for this purpose to summon witnesses and to examine such witnesses on oath or otherwise. On any such appeal the Board of Appeal may receive such evidence as it thinks fit and may act on any statement, document, information, or matter which in the opinion of the Board may assist in dealing with the matters before the Board, whether the same would be legally admissible in other proceedings or not.

“(5) If the Board of Appeal allows any appeal under paragraph (b) of subsection one of this section against the appointment or transfer of any person to any position, the Public Service Commissioner shall forthwith appoint or transfer the successful appellant to the position, and the appointment or transfer which is the subject of the appeal shall be deemed to be cancelled.

“(6) No appeal shall lie from any decision of the Board of Appeal under this section; and, except on the ground of lack of jurisdiction, no such decision shall be liable to be challenged, reviewed, quashed, or called in question in any Court.

Offence to attempt to influence Board of Appeal.

1949, No. 47

Appeals in respect of appointments and grading to be to Board of Appeal.

“(7) If in the opinion of the Board of Appeal any appeal under this section is frivolous or vexatious, the Board may order the appellant to pay the cost of the appeal in whole or in part, but not exceeding in any case the sum of ten pounds; and the sum so ordered to be paid shall be recoverable in the manner prescribed by regulations made under section thirty-three of this Act for the recovery of fines imposed by the Public Service Commissioner.”

Miscellaneous

Alteration of title of Chief Medical Officer for Western Samoa.

12. Section thirty-four of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:—

“(1) There shall be an officer of the Western Samoan Public Service, to be called the Director of Health for Western Samoa, who shall be the Chief Medical Officer for Western Samoa.”

Qualification of Medical Officers and medical practitioners.

13. The principal Act is hereby amended by repealing section thirty-six, and substituting the following section:—

“36. (1) No person shall be qualified for appointment as a Medical Officer or to practise medicine or surgery in Western Samoa, unless—

“(a) He is duly registered in New Zealand as a medical practitioner under the Medical Practitioners Act 1950; or

“(b) He is registered in accordance with the Acts regulating the registration of medical practitioners in the United Kingdom or the Republic of Ireland; or

“(c) He is the holder of a certificate issued under the hand of the Secretary to the Medical Council of New Zealand to the effect that, in the opinion of that Council, he has attained a standard of practice in medicine and surgery equivalent to the standard required for registration in New Zealand as a medical practitioner under the Medical Practitioners Act 1950:

“Provided that, notwithstanding anything in the foregoing provisions of this subsection, a Samoan medical practitioner (being a Samoan graduate of the Central

Medical School at Suva, Fiji) or any other graduate of that Medical School may practise medicine and surgery in Western Samoa under the direction and control of the Director of Health and not otherwise.

“(2) Every one commits an offence and shall be liable to a fine not exceeding ten pounds for every day on which the offence continues who, not being qualified or entitled to practise medicine or surgery as provided in subsection one of this section, practises medicine or surgery or any branch of medicine or surgery, under the style or title of a physician, surgeon, doctor, licentiate in medicine or surgery, bachelor of medicine, or medical practitioner, or under any name, title, addition, or description implying that he holds any diploma or degree in medicine or surgery or in any branch of medicine or surgery, or is otherwise specially qualified to practise medicine or surgery or any branch of medicine or surgery.”

14. Section two hundred and seventy-one of the principal Act is hereby amended by repealing subsection three, and substituting the following subsection:—

“(3) The High Commissioner may within sixty days after the date when the land taken has vested in His Majesty, offer to the persons entitled to share in the compensation such sum by way of compensation as he thinks fit, and, if the offer is not accepted by all such persons within thirty days after it has been communicated to them, or if no such offer is made within the sixty days aforesaid, the compensation shall be assessed and awarded by the High Court, either on the application of the High Commissioner or on the application of any person claiming the compensation or any share therein.”

15. This Act is hereby declared to be a reserved enactment for the purposes of section nine of the Samoa Amendment Act 1947.

Compensation where land taken for public purposes.

This Act a reserved enactment. 1947, No. 48

Schedule.

SCHEDULE

Section 2 (5)

CONSEQUENTIAL AMENDMENTS

Title of Act.	Number of Section Affected.	Nature of Amendment.
1921, No. 16— The Samoa Act 1921 ..	Section 64 (1) ..	By omitting the words "Native Judges", and substituting the words "Samoa Judges".
	Section 67 (1) ..	By omitting the words "Native Judges", and substituting the words "Samoa Judges".
	Section 67 (2) ..	By omitting the words "Native Judges", and substituting the words "Samoa Judges"; by omitting the words "Native Judge", and substituting the words "Samoa Judge".
	Section 215 (2) ..	By omitting the words "Native Judge", and substituting the words "Samoa Judge".
	Section 264 (2) (c) (as enacted by section 33 of the Crown Proceedings Act 1950)	By omitting the words "Native Land and Titles Court of Western Samoa", and substituting the words "Land and Titles Court of Western Samoa".
	Section 268 ..	By omitting from subsection (1) and also from subsection (4) the words "Native land", and substituting in each case the words "Samoa land"; by omitting from subsection (2) and also from subsection (4) and subsection (5) the words "Native title", and substituting in each case the words "Samoa title".
	Section 271 ..	By omitting from subsection (1) and also from subsection (5) the words "Native land", and substituting in each case the words "Samoa land".
	Section 277 ..	By omitting the words "Native title", and substituting the words "Samoa title".
	Section 278 ..	By omitting the words "Native title" wherever they occur, and substituting in each case the words "Samoa title"; by omitting the words "Native land", and substituting the words "Samoa land".
	Section 279 ..	By omitting the words "Native land", and substituting the words "Samoa land"; by omitting the words "Native title", and substituting the words "Samoa title".
	Section 280 ..	By omitting from subsection (1) and also from subsection (2), subsection (3), subsection (4), and subsection (6) the words "Native land" wherever they occur, and substituting in each case the words "Samoa land".
	Section 281 ..	By omitting the words "Native land" wherever they occur, and substituting in each case the words "Samoa land"; by omitting the words "Native title", and substituting the words "Samoa title".
	Section 282 ..	By omitting the words "Native title", and substituting the words "Samoa title".
	Section 283 ..	By omitting the words "Native title", and substituting the words "Samoa title".

SCHEDULE—*continued*
 CONSEQUENTIAL AMENDMENTS—*continued*

Title of Act.	Number of Section Affected.	Nature of Amendment.
1944, No. 25— The Statutes Amendment Act 1944	Section 58	..
	Section 59	..
1949, No. 47— The Samoa Amendment Act 1949	Section 2	..