

**Words struck out by Committee are shown in roman enclosed in panel.**

*Hon. Mr. Webb*

**SAMOA AMENDMENT**

**ANALYSIS**

<p>Title.</p> <p>1. Short Title and commencement.</p> <p><i>Alteration of Term "Native" to "Samoa"</i></p> <p>2. Alteration of term "Native" to "Samoa".</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. Reciprocal provisions.</p> <p>7. Board of Appeal.</p> <p>8. Election of member by officers of Western Samoan Public Service.</p>	<p>9. Deputies of appointed or elected members of Board of Appeal.</p> <p>10. Member of Board of Appeal not to act in appeal affecting himself or an officer of same Department.</p> <p>11. Offence to attempt to influence Board of Appeal.</p> <p>12. Appeals in respect of appointments and grading to be to Board of Appeal.</p> <p style="text-align: center;"><i>Miscellaneous</i></p> <p>13. Alteration of title of Chief Medical Officer for Western Samoa.</p> <p>14. Qualification of Medical Officers and medical practitioners.</p> <p>15. Compensation where land taken for public purposes.</p> <p>16. This Act a reserved enactment. Schedule.</p>
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**A BILL INTITULED**

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.**

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). 5

(2) Sections *seven to twelve* of this Act shall come into force on a date to be fixed by the Governor-General by Proclamation. 10

*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". 15

(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". 20 25

(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". 30

(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 35

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 "Samoan".

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

10 3. (1) The Samoa Native Regulations 1938 may hereafter be cited as the Samoa Village Regulations 1938. Alteration of title of regulations.

(2) The Samoa Native Regulations 1938, Amendment No. 1, may hereafter be cited as the Samoa Village Regulations 1938, Amendment No. 1. Serial number 1938/87  
Serial number 1940/58

15 (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. Serial number 1938/87

20 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:

30 (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*

40 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 the 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: 10

“ 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.” 15

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Reciprocal provisions.

**6.** (1) The Samoa Amendment Act 1949 is hereby amended by repealing section twenty-five, and substituting the following section:— 20

“ 25. (1) For the purposes of this section the expression ‘ New Zealand controlling authority ’ means, in respect of a person employed in any branch of the New Zealand Government Service to which the Public Service Act 1912 applies or the Cook Islands Public Service, the New Zealand Public Service Commission, and, in respect of a person employed in any other branch of the New Zealand Government Service, the Minister in charge of that branch. 25 30

“ (2) Any person permanently employed in the New Zealand Government Service may, with the consent of the New Zealand controlling authority, be appointed to any position in the Western Samoan Public Service in all respects as if he were an officer thereof, and positions in both services may be held by him concurrently; but, until he is appointed to a position in the Western Samoan Public Service, no such person shall have any right of appeal against any determination of the Public Service Commissioner in relation to any appointment, promotion, or transfer in or to the Western Samoan Public Service. 35 40

“ (3) When any person so holds positions concurrently in both services, his status, rights, and liabilities in each service shall be unaffected by the fact that he

See Reprint of Statutes, Vol. VII, p. 522

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holds a position in the other service; and in respect of each position he shall be subject to the laws governing the service to which that position belongs irrespective of his tenure of a position in the other service; and he shall in respect of each service be qualified for promotion, increase of salary, and appointment to any other position as if he held no position in the other service.

“ (4) So long as any person so holds positions concurrently in both services he shall be deemed to be absent on leave without pay from the New Zealand Government Service unless the New Zealand controlling authority otherwise directs.

“ (5) When any person permanently employed in the New Zealand Government Service is appointed to a position in the Western Samoan Public Service, and then or thereafter ceases to hold a position in the New Zealand Government Service, he shall not be deemed for that reason to have retired from the New Zealand Government Service, but shall become a supernumerary employee of that service, and, unless he sooner resigns from the New Zealand Government Service, shall so remain until he ceases to be employed in the Western Samoan Public Service or until a period of six years has elapsed from the date of his appointment to that service, or, in the case of a person who at the date of the passing of this section holds a position in the Western Samoan Public Service, from the date of the commencement of his current engagement, whichever first occurs, and in either case for such further period as the New Zealand controlling authority may from time to time in any case allow. A supernumerary employee shall receive no pay in respect of the New Zealand Government Service, but shall for all other purposes be deemed to remain an employee of that service.

“ (6) While any person holds positions concurrently in both services, or is a supernumerary employee of the New Zealand Government Service in accordance with the provisions of the *last preceding* subsection, and is a contributor to the Government Superannuation Fund in respect of his employment in the New Zealand Government Service, the salary together

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1947, No. 57

with increments, if any, that in the opinion of the New Zealand controlling authority he would have been entitled to receive in respect of his employment in the New Zealand Government Service had he not been appointed to the Western Samoan Public Service shall be deemed to be his salary for the purposes of the Superannuation Act 1947: 5

“ Provided that where any such person ceases to hold positions concurrently in both services, or ceases to be a supernumerary employee of the New Zealand Government Service, and thereafter is a contributor to the Fund in respect of his employment in the Western Samoan Public Service, there shall be payable by him to the Fund in respect of the period from the date of his appointment to the last mentioned service or the first day of April, nineteen hundred and forty-eight, whichever is the later, until the date he ceased to hold concurrent positions or to be a supernumerary employee as aforesaid, within such time and in such manner as the Government Superannuation Board may allow in that behalf, such sum as the Board may fix in respect of the excess of his salary during that period as an employee of the Western Samoan Public Service over the amount deemed to be his salary during that period under the foregoing provisions of this subsection. 10 15 20 25

“ (7) Any officer employed in the Western Samoan Public Service shall be eligible for appointment to any position in the New Zealand Government Service in all respects as if he were permanently employed therein, and both positions may be held by him concurrently; but, until he is appointed to a position in the New Zealand Government Service, no such person shall have any right of appeal against any determination in relation to any employment, promotion, or transfer in the New Zealand Government Service. For the purposes of this subsection the seniority of any such person shall be determined with reference to his grading (if any) in the New Zealand Government Service. 30 35

“ (8) So long as any person holds positions concurrently in both services under the last preceding subsection he shall be deemed to be absent on leave without pay from the Western Samoan Public Service. 40

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5 “ (9) The Public Service Commissioner may, with the consent of the New Zealand controlling authority, second any employee of the Western Samoan Public Service to the New Zealand Government Service for training, and during the period of his service in New Zealand that employee shall be paid such salary and allowances as may be determined by the New Zealand controlling authority.

10 “ (10) While any person holds positions concurrently in both services under subsection *seven* of this section or is seconded to the New Zealand Government Service under subsection *nine* of this section, the salary together with increments, if any, that in the opinion of the Public Service Commissioner he would have been entitled to receive in respect of his employment in the Western Samoan Public Service had he not been appointed to a position in or been seconded to the New Zealand Government Service shall be deemed to be his salary for the purposes of the Superannuation Act 1947.”

20 (2) Subsections *six* and *ten* of section twenty-five of the Samoa Amendment Act 1949 (as enacted by subsection *one* of this section) shall be deemed to have come into force on the first day of April, nineteen hundred and forty-eight.

1949, No. 47

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

Board of Appeal.

30 “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—

35 “(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:

40 “(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:

45 “(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  
Samoa  
Public Service.  
1949, No. 47

8. 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:— 5

“(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: 10

“(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: 15 20

“(c) Notice of the election of the member shall be published in the *Western Samoan Gazette*: 25

“(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: 30 35

“(e) Until an election of the member is completed the member holding office at the time of the election shall continue to hold office.” 40



9. 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:—

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

5 “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:

10 “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.

15 “(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

20 “(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

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

30 “(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.

35 “(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

10. 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. 5

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

Offence to  
attempt to  
influence  
Board of  
Appeal.

11. 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:— 10

“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. 15

“(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. 20

“(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.” 25

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

12. Section twenty-nine of the Samoa Amendment Act 1949 is hereby amended by repealing subsections four to seven, and substituting the following subsections:— 30

“(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 35

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.

“ (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.”

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*Miscellaneous*

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

**Alteration of title of Chief Medical Officer for Western Samoa.**

“ (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.”

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

**Qualification of Medical Officers and medical practitioners.**

“ 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

1950, No. 50

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“(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: 5 10

“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. 15 20

“(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.” 25 30

Compensation  
where land  
taken for  
public  
purposes.

15. Section two hundred and seventy-one of the principal Act is hereby amended by repealing subsection three, and substituting the following subsection:— 35

“(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 40

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."

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

This Act a reserved enactment. 1947, No. 48

SCHEDULE

Schedule.

CONSEQUENTIAL AMENDMENTS

Section 2 (5)

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 " Samoan Judges ".
	Section 67 (1) ..	By omitting the words " Native Judges ", and substituting the words " Samoan Judges ".
	Section 67 (2) ..	By omitting the words " Native Judges ", and substituting the words " Samoan Judges "; by omitting the words " Native Judge ", and substituting the words " Samoan Judge ".
	Section 215 (2) ..	By omitting the words " Native Judge ", and substituting the words " Samoan 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 " Samoan 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 " Samoan title ".
	Section 271 ..	By omitting from subsection (1) and also from subsection (5) the words " Native land ", and substituting in each case the words " Samoan land ".
	Section 277 ..	By omitting the words " Native title ", and substituting the words " Samoan title ".
	Section 278 ..	By omitting the words " Native title " wherever they occur, and substituting in each case the words " Samoan title "; by omitting the words " Native land ", and substituting the words " Samoan land ".

SCHEDULE—*continued*  
CONSEQUENTIAL AMENDMENTS—*continued*

Title of Act.	Number of Section Affected.	Nature of Amendment.
1921, No. 16— <i>continued</i> The Samoa Act 1921— <i>ctd.</i>	Section 279 ..	By omitting the words "Native land", and substituting the words "Samoan land"; by omitting the words "Native title", and substituting the words "Samoan 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 "Samoan land".
	Section 281 ..	By omitting the words "Native land" wherever they occur, and substituting in each case the words "Samoan land"; by omitting the words "Native title", and substituting the words "Samoan title".
	Section 282 ..	By omitting the words "Native title", and substituting the words "Samoan title".
	Section 283 ..	By omitting the words "Native title", and substituting the words "Samoan title".
1944, No. 25— The Statutes Amendment Act 1944	Section 58 ..	By omitting from subsection (1) and also from subsection (2) the words "Native land" wherever they occur, and substituting in each case the words "Samoan land".
	Section 59 ..	By omitting the words "Native land", and substituting the words "Samoan land".
1949, No. 47— The Samoa Amendment Act 1949	Section 2 ..	By omitting from paragraph (c) of the definition of the expression "Western Samoan Public Service" the words "Native Judge", and substituting the words "Samoan Judge".