



## SAMOA

# LAND AND TITLES ACT 1981

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**LAND AND TITLES ACT 1981****1981****No.8**

**AN ACT** to consolidate and amend the law relating to customary land and titles, and to the Land and Titles Court.

*[Assent and commencement date: 4 March 1981]*

**PART 1  
PRELIMINARY**

**1. Short title** – (1) This Act may be cited as the Land and Titles Act 1981.

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

“Court” means the Land and Titles Court continued under this Act;

“custom and usage” or “Samoan custom and usage” means the customs and usages of Samoa accepted as being in force at the relevant time and includes:

- (a) the principles of custom usage accepted by the people of Samoa in general; and
- (b) the customs and usages accepted as being in force in respect of a particular place or matter;

“Department” means the Department of Land and Titles;

“Deputy President” means a Deputy President of the Court appointed under this Act;

“document” includes any notice, petition, objection, summons, judgment, order, declaration, or other form of communication in writing;

“Judicial Service Commission” means the Judicial Service Commission constituted by Article 72 of the Constitution;

“land” means customary land;

“Land Registrar” means the Registrar defined in section 2 of the Land Titles Registration Act 2008;

“matai” means a person whose title has been registered under this Act;

“member of the Court” includes the President or Deputy President and every Samoan Judge and Assessor who constitute the Court in respect of any matter;

- “Minister” means the Minister responsible for Justice;
- “Ministry” means the Ministry responsible for Justice and Courts Administration;
- “officer” in relation to the Court includes any Registrar, clerk, bailiff, usher or messenger in the service of the Court, and “Staff” in relation to the Court includes all officers of the Court;
- “party” includes every person who takes part as claimant, objector, petitioner, respondent or applicant in any proceedings under this Act (other than as a witness) whether or not named as a party to any such proceedings, and, in any proceedings to appoint a matai, includes the pule and the proposed appointee;
- “President” means the President of the Court;
- “record of customary land” has the meaning given in the Land Titles Registration Act 2008;
- “Registrar” means the Registrar of the Court;
- “rules” means any rules of Court made pursuant to this Act;
- “Samoan” has the same meaning given to that term under the Samoan Status Act 1963;
- “Samoan conciliation” means the process by which the parties to a dispute, with the assistance of the Registrar and in accordance with Samoan custom and usage, identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement and in which the Registrar may make suggestions for terms of settlement and may actively encourage the participants to reach an agreement which accords with Samoan custom and usage and the requirements of this Act;
- “solicitor” includes a barrister;
- “Supreme Court” means the Supreme Court.

## **PART 2**

### **DEPARTMENT OF LAND AND TITLES**

**3. Constitution of Department** – (1) There is by this section constituted and established a Department of Government to be known as the Department of Land and Titles.

(2) The Department is charged with the administration of this Act.

**4. Minister** – The Minister is responsible for the Department.

**5. Registrar** – (1) There shall be appointed pursuant to the Public Service Act 2004 a person who is a matai and otherwise qualified to be Registrar.

(2) The Registrar is the administrative head of the Department.

**6. Deputy Registrars and Assistant Registrars** – (1) The Public Service Commission shall appoint persons qualified to be Deputy Registrars and Assistant Registrars.

(2) In respect of the Court and subject to the control of the Registrar, each Deputy Registrar and Assistant Registrar shall possess, exercise and perform the same powers, functions and duties as the Registrar, and every reference in this Act to the Registrar, unless the context otherwise requires, includes a reference to each Deputy Registrar and Assistant Registrar.

**7. Appointment of other officers and employees** – The Public Service Commission may appoint such other officers and employees of the Department as may be necessary.

### **PART 3 CUSTOMARY LAND**

**8. Land deemed customary land** – In this Act, and in every other Act, unless inconsistent with the context, the following land is deemed customary land, and any interest in the following land is deemed interest in customary land:

- (a) any Samoan freehold land within the meaning of section 13 of the Samoan Land and Titles Protection Ordinance 1934 (as that section and Ordinance had existed prior to this Act coming into force) in respect of which the Court has made a declaration, pursuant to section 16 of the Ordinance, that such land or interest in such land be held in accordance with the customs and usages of the Samoan people;

- (b) any Samoan freehold land within the meaning of section 13 of the Samoan Land and Titles Protection Ordinance 1934 (as that section and Ordinance had existed prior to this Act coming into force) in respect of which, in terms of section 17 of the Ordinance, there has been a recital or declaration made pursuant to a Government or other grant, will, conveyance, lease, assurance or other deed or document that such land or interest in such land be held in accordance with the customs and usages of the Samoan people;
- (c) any land ordered by the Court to be customary land under section 9;
- (d) any land conveyed by Government or any public body by way of deed which provides that the land is held in accordance with the customs and usages of the Samoan people.

**9. Declaration of certain land to be customary land – (1)**

A person or the alii and faipule of any village claiming an interest in any freehold land or any land in respect of which the customary or freehold status is claimed to be in doubt, may petition the Court for an order to be made with the consent of all parties, declaring such land to be customary land.

(2) The Registrar, on payment of the prescribed fee, shall publish the petition in the *Savali* in 2 consecutive issues, giving notice of the place, and the time or period (not being less than 3 months from the date of the first publication) for filing objections by any Samoan who may be affected by the petition.

(3) The Court shall not make an order under this section in respect of land which is registered as freehold land under the Samoan Land Registration Order 1920 unless:

- (a) a person having a registered interest in such land;
- (b) a trustee appointed to represent beneficial interests in respect of such registered interest;
- (c) a person who has filed an objection to the petition who claims any registered, beneficial or equitable interest; and
- (d) a person who has filed such an objection and who claims an interest in the land in accordance with custom and usage,—

has consented to such order in person before the Court, or by affidavit.

(4) The Court shall not make an order under this section in respect of any land which is not registered as freehold land under the Samoan Land Registration Order 1920 unless:

- (a) a person, not being a person to whom subsection (5) applies, who has filed an objection to the petition and who claims that the land should be so registered as freehold land; and
- (b) a person who has filed such an objection and who claims an interest in the land in accordance with custom and usage,—

has consented to such order in person before the Court, or by affidavit.

(5) For the purpose of subsection (4), the Court may make an order under this section without the consent of any person who has claimed a freehold interest in the land if that person's claim has been rejected by the Commission under the provisions of the Land Titles Investigation Act 1966.

(6) If in the course of any proceedings begun under this section, it appears to the Court that any person who has objected to the making of an order under this section claims a freehold interest in the land in question, the Court may adjourn the proceedings to enable that person to make a claim in respect of the said land under the Land Titles Investigation Act 1966 and, if such application is made, the Court may further adjourn the proceedings as it thinks fit to await the decision of the Land Titles Investigation Commission in respect of the claim.

(7) Despite any provision in this section to the contrary, if the Court would have made an order but for the failure of the persons referred to in subsection (3) or (4) to agree as to the matai title or the pule by which the land should be held, the Court may, with the consent of such persons, order the land to be customary land by consent and shall thereupon, or at an adjourned hearing, proceed to hear and determine the question of the matai title or the pule.

(8) Any order made pursuant to this section shall be forwarded to the Registrar of Lands who shall make such amendments in the Land Register as may be necessary.



**Division 1 – Surveys**

**10. Surveys – (1)** Whenever the Registrar is of the opinion that a survey is necessary to define any land or boundary the subject of a petition under this Act or in respect of which an application for a pulefaamau has been made, the Registrar may request the Chief Executive Officer of the Ministry responsible for Lands to survey such land or boundary at a time to be appointed by the Chief Executive Officer.

(2) Notice of the time and date appointed for the survey shall be served by the Registrar on all parties to the petition, and shall be of the heading and forms numbered 1 and 2 in Schedule 2.

(3) It is the duty of the person making the survey to define the land or boundary in dispute in accordance with the direction of the parties to the dispute present or represented at the survey.

(4) A plan prepared and certified by the person who made the survey shall be accepted in evidence in Court without further proof.

(5) Nothing in this section limits the power of the Court to order a survey to be made at any time in respect of any matter before it.

(6) The costs of the survey shall be paid as ordered by the Court.

**Division 2 – Record of Customary Land**

**11. Transmission of judgments, etc., concerning customary land** – The Registrar of the Court shall transmit to the Land Registrar every judgment of the Court concerning the title or status of any customary land or interest in such land, and an order or declaration made under sections 8 and 9.

**12. Duties of Land Registrar – (1)** It is the duty of the Land Registrar:

- (a) to enter in the record of customary land a judgment, order or declaration received under section 11; and
- (b) to enter in the record of customary land details showing that the land or interest to which the judgment, order or declaration relates is customary land or interest subject to this Act.

(2) The Land Registrar shall not accept for registration nor shall he or she register any instrument of title affecting any customary land unless every document affirming the Court's judgment, order or declaration is annexed or endorsed on the instrument.

**13. Trust instruments may be registered in respect of customary land** – Despite clause 14 of the Samoa Land Registration Order 1920, it is lawful for the Land Registrar to register an instrument operating merely by way of trust in respect of any customary land registered under this Act.

#### **PART 4 INTENTION TO APPOINT**

**14. Intention to appoint** – A Samoan who intends to appoint a person to be the holder of a matai name or title may give notice of such intention to the Registrar at the office of the Court in Savaii or Upolu.

**15. Publication of intention in Savali** – The Registrar, on being satisfied that the intention is *bona fide*, and upon receiving the prescribed fee shall publish particulars of the intention to make an appointment in 2 consecutive issues of the *Savali*.

**16. Form of publication** – (1) Publication of the particulars of the intention to make an appointment shall be in such form as the Registrar shall prescribe.

(2) Each publication shall contain a notice fixing the time or period (not being less than 3 months from the date of the first publication), and the place at which objections to the appointment may be lodged by a Samoan who may be affected by the appointment.

**17. Procedure if objection lodged** – (1) The Registrar, on receiving any objection shall, as soon as practicable, prepare, sign and file a petition to the Court for determination.

(2) The person objecting shall pay to the Registrar, on the day he or she files his objection, the prescribed fee.

**18. Procedure if no objection lodged** – If there is no objection to the proposed appointment, the Registrar shall, as soon as practicable after the time fixed for lodging objections, prepare, sign and file a petition to the Court for confirmation.

**19. Jurisdiction where there is no objection** – (1) The Court, sitting without Samoan Judges or Assessors, has jurisdiction, *ex parte*, to confirm wholly or in part, and with or without modification, any claim for the making of any appointment against which an objection has not been lodged, and for all purposes any confirmation is regarded as a final decision of the Court.

(2) A proposed appointment confirmed under this section may be set aside, in proceedings under this Act, for reason of error, misconduct or bad faith.

## **PART 5 TITLES**

**20. Definition of rightful holder** – In this Part, unless the context otherwise requires, “rightful holder” means a person who:

- (a) has been appointed the holder of a matai name or title by and in accordance with the customs and usages of the Samoan people, including appointment in pursuance of a judgment of the Court, or of an interim order made under the provisions of this Act; and
- (b) has had the traditional ceremony of appointment in the village to which that name or title belongs; and
- (c) has been recognised as the rightful holder of the matai name or title in question, by the Registrar under section 23(5) or by the Court under section 23(6) or (7).

**20A. Qualifications of a matai** – (1) A person is not qualified to hold a matai title or be registered as a matai unless:

- (a) the person is at least 25 years of age; and
- (b) the person is prepared to carry out the obligations of his or her matai title including properly serving

his or her family, village and community according to Samoan custom and usage.

(2) Despite subsection (1)(a) the Court may in special circumstances and in accordance with Samoan customs and usage upon petition by a Sa'o or a Suli, permit a person who is not yet 25 but is at least 21 years old to have the age qualification to be a matai title holder.

**20B. Removal of matai title** – The Court on petition by a Sa'o or a Suli may remove a matai title where the holder of that title:

- (a) has acted in a manner that brings disrepute to the family, village or community of the matai; or
- (b) otherwise has failed to properly perform the duties of a matai; or
- (c) has been convicted of a serious crime that is punishable by imprisonment for life.

**21. Wrongful user an offence** – A person other than the rightful holder who uses a matai name or title, or permits himself or herself to be addressed by a matai name or title, or otherwise acts as the holder of a matai or title, commits an offence and is liable upon conviction to imprisonment for 12 months.

**22. Register of Matais** – (1) There shall be kept in the Court by the Registrar a register to be called the Register of Matais, and no entry shall be made or deleted from the Register except by the Registrar, or by his or her direction.

(2) There shall be entered in the Register, under this Part, the names and titles of such persons as are the rightful holders of Samoan names or titles, together with such other particulars as may be prescribed by any rules, and if none, by the Registrar.

(3) The Registrar shall cause the name or names of any person to be deleted from the Register if:

- (a) it is proved to the satisfaction of the Registrar that that person has died, or has vacated the matai name or title in question, or that the entry was made pursuant to an incomplete or defective folio forwarded by a Sui-o-le-nuu under the provisions of section 23(2), or that the entry was otherwise made in error; or

- (b) the deletion is directed by an order of the Court; or
- (c) the deletion is requested in writing by the holder of the matai name or title.

(3A) Despite subsection 3(c), the Registrar must not grant the removal of a name of a person from the register, if the request is for the purpose of a matai registering for the purpose of elections, in a Constituency different from that to which the matai title belongs.

(4) Where the Registrar is satisfied that the appointment to a matai name or title has not been made in accordance with the customs and usages of the Samoan people the Registrar shall prepare sign and file a petition for the Court to determine whether or not the matai name or title in question should be deleted from the Register, and the petition is treated, with any necessary modification, as if it were a petition filed under section 42:

**PROVIDED THAT** no name or title entered on the Register on or before the first day of January 1977 is subject to petition pursuant to this subsection.

(5) Despite anything in this or any other Act, any matai name or title registered on or before the first day of January 1977 that has been deleted since that date from the Register pursuant to section 30(4) of the Samoa Land and Titles Protection Ordinance 1934 (as that provision had existed prior to its repeal on 14 November 1978) shall be restored to the Register and deemed for all purposes not to have been deleted.

(6) Despite anything in this or any other Act, any matai name or title registered since 1 January 1977 that has been deleted from the Register but in respect of which a petition filed under section 30(4) of the Samoa Land and Titles Protection Ordinance 1934 (as that provision had existed prior to its repeal on 14 November 1978) has not been determined by the Court, shall be restored to the Register and is taken for all purposes not to have been deleted.

(7) Subsection (3)(a) and (b) applies whether the name or names were entered in the Register before or after the coming into force of this Act.

(8) Where the Registrar causes the name or names of any person to be deleted from the Register under subsection (3)(a) or (b), and that person is still alive, the Registrar shall notify that person in writing of the deletion and of the reason for the deletion.

(9) A person may, within one month after receiving a notice in writing under subsection (8), petition the Court against the deletion of his name or names by signing and filing with the Registrar a petition stating reasons, and the petition is treated, with any necessary modifications, as if it were a petition filed under section 42, and any petition under this subsection shall be heard and determined by the President sitting alone.

(10) The Registrar shall obey and give effect to any order of the Court made under this section.

(11) Where the matai name or title is deleted from the Register pursuant to subsection(3)(c), that matai name or title must not be registered again in respect of the person who has requested the deletion unless:

- (a) a period of 5 years has passed from the date of deletion; and
- (b) the person has again been appointed the holder of such matai name or title in accordance with the customs and usage of the Samoan people and pursuant to Part 5.

**23. Duties of appointee, Sui-o-le-nuu and Registrar – (1)**

A Samoan who is, after the coming into force of this Act, appointed to be the holder of a matai name or title (in this section referred to as “the new appointee”), shall, within 7 days of the holding of the traditional ceremony of appointment, give notice in writing to the Sui-o-le-nuu of the village in which that ceremony was held, and to the Registrar.

(2) Within 14 days after the Sui-o-le-nuu of any village learns that a traditional ceremony of appointment to a Samoan name or title has been held in the Sui-o-le-nuu’svillage (whether by receipt of a notice in writing pursuant to subsection (1) or otherwise), the Sui-o-le-nuushall take the following action:

- (a) ascertain whether or not that village is the village to which that name or title belongs;
- (b) enter and sign in triplicate in a book to be kept by him for the purpose, in such form as the Registrar shall prescribe, the particulars of the traditional ceremony of appointment to the name or title, including whether or not the village in which it has been held is the village to which that name or title belongs;

- (c) forward to the Registrar from the book the original folio containing those particulars;
- (d) hand or forward to the new appointee from the book the duplicate folio containing those particulars; and
- (e) retain in the book the triplicate folio containing those particulars for at least 10 years from the date of the entry.

(3) The Registrar may, by notice in writing to the new appointee, requisition for any further information the Registrar may deem necessary.

(4) The Registrar, on receiving a notice in writing pursuant to subsection (1), or on receiving an original folio containing particulars pursuant to subsection (2), and on being satisfied that the notice or folio is bona fide, shall publish in 2 consecutive issues of the *Savali* particulars thereof as are sufficient to identify the matai name or title and the new appointee, as if the notice or folio were notice of a claim to a pulefaamau, and as if section 16 were applicable.

(5) If no objection is lodged within the time limited in the notice as required by section 16, then, if the Registrar is satisfied both that the traditional ceremony of appointment of the new appointee has been held in the village to which the name or title belongs, and that the appointment complies with the other customs and usages of the Samoan people, the Registrar shall, by issuing to the new appointee a certificate in a form prescribed by the Registrar, recognised the new appointee as the rightful holder of the matai name or title to which he or she has been appointed, and enter his or her name or names in the Register of matais accordingly.

(6) If the Registrar is not satisfied as to the matters specified in subsection (5), the Registrar shall, by notice in writing to the new appointee, refuse to recognise him or her as the rightful holder, and shall direct and ensure that the name or names of that appointee be not entered in the Register of Matais.

(7) The new appointee may, within 1 month after receiving a notice in writing from the Registrar declining to recognise him or her as the rightful holder, petition the Court, by signing and filing with the Registrar a petition in writing stating reasons, and the petition is treated, with any necessary modifications, as if it were a petition filed under section 42.

(8) The Registrar, on receiving any objection lodged within the time limited in the notice as required by section 16, shall require the objector, as soon as practicable, to prepare, sign and file his or her petition to the Court for determining the objection and deciding the rightful holder of the matai name or title in question.

(9) The Registrar shall make no entry in the Register of Matais in respect of any matter submitted to the Court under subsection (7) or (8) except by order or direction of the Court.

(10) No objection under this Part shall be made, or be accepted by the Court, in respect of any appointment to a matai name or title which has been confirmed by the Court under section 19.

**24. Offences – A person:**

- (a) who wilfully gives false information to the Registrar or any Sui-o-le-nuu; or
  - (b) who intentionally misleads the Registrar or Sui-o-le-nuu; and
  - (c) including any Sui-o-le-nuu, who, without lawful excuse, makes default in the performance of any duty imposed on the person by section 23, –
- commits an offence and is liable upon conviction to a fine not exceeding 1 penalty unit or to imprisonment for a term not exceeding 6 months.

**PART 6  
LAND AND TITLES COURT**

**25. Land and Titles Court continued – (1)** There shall continue to be a Court of record called the Land and Titles Court, which is the same Court as that existing under the same name prior to the commencement of this Act.

(2) In addition to the jurisdiction and powers expressly conferred on it by this Act, the Court shall have all the powers that are inherent in a Court of record.

**26. President, Judges and Assessors of the Court –** The Land and Titles Court shall consist of:

- (a) a President who is the Chief Justice or a Judge of the Supreme Court, or a person qualified to be



appointed a Judge of the Supreme Court under Article 65 of the Constitution or a Samoan Judge qualified under sections 26A and 28; and

- (b) Samoan Judges to be appointed in accordance with this Act; and
- (c) Assessors to be appointed in accordance with this Act.

**26A. Appointment of a person qualified to be a Judge or a Samoan Judge as President – (1)** The Head of State, acting on the advice of Cabinet, upon the recommendation of the Judicial Service Commission, may appoint as President a person qualified to be appointed a Judge of the Supreme Court under Article 65 of the Constitution or a Samoan Judge qualified under section 28 and this section.

(2) A Samoan Judge appointed under subsection (1) shall:

- (a) have at least 5 years of relevant work experience in a senior position in the administration of justice; and
- (b) hold such qualifications as may be determined by the Judicial Service Commission by Notice.

(3) The Judicial Service Commission shall cause any Notice issued under subsection (2)(b) to be published in Samoan and English in the *Savali* and one other newspaper circulating in Samoa.

(4) A Samoan Judge appointed as President under subsection (1) is solely responsible during the person's term of appointment for the performance of the duties and functions of the office of President unless such person is disqualified under section 28(c).

**26B. Oath of Office –** The person or Samoan Judge appointed as President under section 26A shall take and subscribe before the Head of State the same oath as a Judge of the Supreme Court before assuming the functions of the office of President.

**26C. Disqualification from performance of functions –** Despite the other provisions of this Act, where a person or a Samoan Judge is appointed as President under section 26A and is for any reason disqualified from hearing an application for leave to appeal or an appeal under Part 9, the Chief

Justice or any other Judge of the Supreme Court shall act or preside as President, as the case may require.

**26D. Appointment, suspension and removal** – (1) Save for section 29(4), section 29 applies to a person or a Samoan Judge who is appointed President under section 26A.

(2) A person or a Samoan Judge appointed as President may be suspended or removed in the same manner as provided for a Judge of the Supreme Court under Article 68 of the Constitution.

**26E. Salary, allowances and benefits** – (1) The salary, allowances and other benefits paid or given to a person or a Samoan Judge appointed as President shall be the same as the salary, allowances and benefits paid or given to a Judge of the Supreme Court.

(2) Article 69 of the Constitution applies to a person or a Samoan Judge appointed as President as if the person or the Samoan Judge is a Judge of the Supreme Court.

**27. Deputy Presidents** – (1) The Head of State, acting on the advice of the Judicial Service Commission, shall appoint such Samoan Judges as the Head of State thinks fit, to be Deputy Presidents.

(2) The appointment may, in like manner, be revoked by the Head of State.

(3) Subject to the direction of the President, a Deputy President may preside over sittings of the Court, and exercise such other functions of the President as may in respect of a particular case or matter be directed by the President.

**28. Qualifications of Samoan Judges and Assessors** – No person shall be appointed a Samoan Judge or an Assessor of the Court unless:

- (a) the person is a matai; and
- (b) the person is considered by the Judicial Service Commission to be qualified for appointment by reason of character, ability, standing and reputation;
- (c) except where the provisos to section 29(2) apply, the person has not attained the age of 65 years.

**29. Appointment of Samoan Judges** – (1) The Head of State, acting on the advice of the Judicial Service Commission, shall appoint Samoan Judges.

(2) Each Samoan Judge holds office until he or she attains the age of 65 years:

**PROVIDED THAT** the Head of State acting on the advice of the Judicial Service Commission may extend for not more than 12 months or for successive period each of not more than 12 months the period or periods of office of a Judge who has reached the age of 65 years:

**PROVIDED FURTHER THAT** no such extension is granted except after receipt by the Judicial Service Commission of a satisfactory medical certificate under the hand of a senior medical officer designated by the Chief Executive Officer of the Ministry of Justice and Courts Administration.

(2A) An order extending the period of office pursuant to subsection (2) may be made before or after the Judge has attained the age of 65 years.

(2B) Nothing done by a Samoan Judge in the performance of the Samoan Judge's functions is deemed to be invalid by reason only that the Samoan Judge has reached the age at which he or she is required by this section to retire or that his or her term of office has expired.

(3) The office of Samoan Judge may be held in conjunction with any other judicial office in Samoa.

(4) The Head of State, acting on the advice of the Judicial Service Commission, may at any time by order remove a Samoan Judge for inability or misbehaviour.

(5) A Samoan Judge may resign from office by writing under his or her hand addressed to the Head of State.

**30. Role of Samoan Judges** – Samoan Judges are entitled to be heard on all questions before the Court, and to examine any party or witness in the proceedings, and shall also advise the Court on any question referred by the Court to them.

**31. Appointment of Assessors** – (1) The Head of State, acting on the advice of the Judicial Service Commission, shall appoint not less than 10 persons to be Assessors of the Court.

(2) The Registrar shall keep a list of Assessors and administer their appointments.

(3) The President, or Deputy President, shall select from the list of Assessors, not more than 2 Assessors for each sitting of the Court.

(4) The Head of State, acting on the advice of the Judicial Service Commission, may at any time revoke the appointment of any Assessor.

(5) An Assessor may resign from office by writing under his or her hand addressed to the Head of State.

**31A. Oath of Office** – (1) An oath in the form appearing in subsection (3) shall be taken by every Samoan Judge and Assessor as soon as may be after his or her acceptance of office, or as the case may be after the commencement of this section and no Judge or Assessor shall enter on his or her office or as the case may be continue in office until he or she has taken the same.

(2) The oath to be taken under this section shall be administered in the case of a Samoan Judge, by the President, and in the case of an Assessor by the President or by a Deputy President.

(3) The oath referred to in subsection (1) is in the following form:

*“I, ....., swear by Almighty God that I will well and truly serve the Independent State of Samoa in the office of ....., in accordance with the Constitution and the law; and I will do right to all manner of people, without fear or favour, affection or ill will.”*

### **Division 1 – Remuneration**

**32. Salaries and allowances** – A Deputy President, Samoan Judge and Assessor shall be paid out of moneys appropriated by the Legislative Assembly such salary, allowance or other benefit, travelling expenses and other costs as may be fixed by the Head of State by order, acting on the advice of Cabinet, after Cabinet has received the recommendations of the Judicial Service Commission.

### **Division 2 – Seal**

**33. Seal of the Court** – (1) The Court shall have in the custody of the Registrar and each Deputy Registrar the seal of the Court.

(2) The seal in use at the commencement of this Act shall continue to be the seal of the Court.

(3) The form of the seal may be determined by the Registrar, with the approval of the Minister.

### **Division 3 – Jurisdiction**

**34. Jurisdiction of the Court** – (1) The Court shall continue to have all the jurisdiction it exercised prior to this Act coming into force.

(2) In particular the Court shall have exclusive jurisdiction:

- (a) in all matters relating to Samoan names and titles;
- (b) to make orders or declarations in respect of Samoan names and titles as may be necessary to preserve or define the same, or the rights or obligations attaching to those names and titles in accordance with the customs and usages of the Samoan race and all laws in force in Samoa with reference to customs and usages;
- (c) in all claims and disputes between Samoans relating to customary land, and the right of succession to property held in accordance with the customs and usages of the Samoan race.

(2A) Despite, subsection (2), any disputes relating to or arising from a lease agreement over customary land made under the Leasing and Licensing of Customary Land Act 1965, must be determined by the Supreme Court.

(3) The Court also has the jurisdiction conferred by this Act.

**34A. Genuine effort to resolve the dispute** – Each party to a matter in the Court is required to make a genuine effort to resolve the dispute before starting a case by:

- (a) participating in dispute resolution, such as Samoan conciliation; and
- (b) exchanging a notice of intention to claim and exploring options for settlement by correspondence.

**34B. Registrar's powers in connection with resolution of dispute** – (1) The Registrar may conduct Samoan conciliation in relation to any proceedings at any stage in those proceedings or in relation to any dispute prior to a petition being filed under this Act in relation to that dispute with a view to resolving that dispute.

(2) The Registrar may make suggestions and provide advice and assistance to parties to a dispute concerning customary land or titles with a view to resolving that dispute notwithstanding that no petition has been filed in respect of that dispute.

(3) The Registrar may charge a prescribed fee when carrying out the power under this section.

**34C. Samoan conciliation and mediation** – (1) The Court shall refuse to hear a matter if the parties to that matter have not undertaken Samoan conciliation.

(2) The Court may, by order, refer proceedings or any part of them or any matter arising out of them, to a mediator for mediation.

(3) Referrals under subsection (2) to a mediator may be made with or without the consent of the parties to the proceedings.

(4) Where the Court refers any proceedings to mediation under subsection (2), that mediation must be completed within a period of 45 days.

**34D. Dispute resolution processes** – (1) If the Court considers that a dispute resolution process may help the parties to a dispute before it to resolve that dispute, the Court may advise the parties to use that dispute resolution process.

(2) If the Court does so advise the parties, it may, if it considers it desirable to do so, adjourn any proceedings before it to enable attendance in connection with the dispute resolution process.

**35. Exercise of jurisdiction** – (1) Unless otherwise provided in this Act, the Court shall not exercise any jurisdiction conferred on it unless there is present:

- (a) the President, or a Deputy President;
- (b) at least 2 Samoan Judges; and
- (c) at least one Assessor.

(2) The number of Samoan Judges and Assessors shall not be less than 4 for the hearing of any case.

(3) If in respect of any hearing the President, or as the case may be, the Deputy President considers that the interests of justice or the importance of the case requires it, he or she may require any number of Samoan Judges or Assessors, in addition to those specified in subsection (1), to compose the Court.

(4) The composition of the Court for the hearing of any case shall not be changed until the Court has given its final decision.

**36. President or Deputy President to preside – (1)** The President shall decide in every case whether he or she or a Deputy President shall preside.

(2) When not presiding as Deputy President, a Deputy President shall sit as a Samoan Judge.

**37. Law to be applied – (1)**In all matters before it, the Court shall apply:

- (a) custom and usage;
- (b) the law relating to custom and usage;
- (c) this Act and any other enactment expressed to apply to the Court.

(2) Subject to subsection (1), the Court shall decide all matters in accordance with what it considers to be fair and just between the parties.

**38. Petitions for exercise of Court's jurisdiction –** Subject to any express provisions of this Act as to the making of applications or petitions, the jurisdiction of the Court in any matter may be exercised on the petition of any person claiming a bona fide interest, or on the petition of the Registrar.

#### **Division 4 – Sittings**

**39. Sittings of the Court – (1)**The time and places of sittings of the Court are determined by the Registrar after consulting the President.

(2) The Court itself, while sitting to hear any matter, may adjourn the hearing to any other time or place.

(3) Two or more Courts constituted in accordance with this Act may sit at the same time in the same or different districts, and

each Court shall have all the powers and jurisdiction of the Land and Titles Court.

**40. Notice of sittings to be published** – Notice of a sitting of the Court is to be published in the *Savali* at least 21 days before the commencement of each sitting.

**41. Form of notice** – A notice shall be in the form numbered 3 in Schedule 2 and shall state:

- (a) the time and place of the sitting; and
- (b) the names of the parties to each petition, application, appeal or other proceedings to be heard at the sitting, and the nature of the relief sought.

### **Division 5 – Proceedings before the Court**

**42. Institution of proceedings** – (1) All proceedings may be instituted in the Court written notice of the matter in dispute given by any interested Samoan to the Registrar.

(2) On receiving notice under subsection (1), the Registrar shall prepare a petition in the form numbered 4 in Schedule 2 showing:

- (a) the nature and particulars of the claim or dispute;
- (b) the relief sought; and
- (c) the name of the petitioner, the respondent and his or her village.

(3) A petition shall be signed by the petitioner and sworn before the Registrar.

(4) The petition, if filed in the office of the Court in Savaii, shall as soon as practicable be transmitted to the Registrar in Apia.

(5) Subject to subsection (6), upon the filing of a petition the Registrar shall set it down for hearing at the next available sitting of the Court.

(6) The Registrar can stay setting down a matter for hearing until the parties to that matter have undertaken Samoan conciliation or otherwise attempted reconciliation according to Samoan custom and usage.

**43. Commencement of proceedings** – Proceedings before the Court shall commence on the filing of the petition.



**43A. Discontinuance of proceedings** – The President or a Deputy President upon the recommendation of the Registrar and with the consent of all parties, may order that proceedings be discontinued.

**44. Preparation of petition by Solicitor** – A petition or other document in connection with any proceeding before the Court may be prepared on behalf of any party by a Solicitor.

**45. Service of petition** – (1) The petition shall be served by an officer of the Court on every party to the proceedings.

(2) There shall be attached to every copy of the petition for service a summons to the respondent in the form numbered 5 in Schedule 2 requiring the respondent to appear at the hearing of the petition.

**46. Unpublished petition** – A petition which has not been notified under section 41 shall not be heard except by leave of the Court given on terms and conditions which the Court may impose.

#### **Division 6 – Practice and Procedure**

**47. Practice and procedure of the Court** – (1) The Head of State, acting on the advice of Cabinet and with the concurrence of the Judicial Service Commission, may by Order make rules of the Court as are consistent with this Act for the purpose of regulating the practice and procedure of the Court in all matters within its jurisdiction.

(2) The rules of Court made under subsection (1) shall be referred to as the “Land and Title Court Procedure Rules”.

(3) Subject to subsection (4), where no rules of Court have been made under subsection (1) in relation to an issue of practice and procedure, the rules of the Supreme Court shall determine the practice and procedure of the Court unless inconsistent with or inapplicable to the provisions of this Act.

(4) Where there is any inconsistency between the rules of Court made under subsection (1) and the rules of the Supreme Court in their application to the Court, the rules of Court made under subsection (1) shall prevail.

(5) In any matter of practice or procedure not provided for, or where the strict compliance with any rule of practice or procedure may be inequitable or inconvenient, the Court may act in each case in such manner as it considers most consistent with Samoan custom and usage and natural justice and convenience.

**(6) Repealed.**

(7) In this section, “Judicial Services Commission” means the Commission established under Article 72 of the Constitution.

**47A. Rules of the Court** – The Rules of Court may make provision for or in relation to:

- (a) trial management; and
- (b) the adjournment of proceedings; and
- (c) mediation and preliminary conferences prior to a hearing; and
- (d) the prevention or termination of frivolous or vexatious proceedings; and
- (e) the summary disposal of proceedings; and
- (f) how a person makes a submission to the Court; and
- (g) dispute resolution processes and the procedure to be followed when any dispute resolution process ends; and
- (h) consent orders where parties have reached agreement about a matter in dispute in the proceedings; and
- (i) such other matters as the Court thinks appropriate.

**48. Registrar’s functions** – (1) The following functions of the Court may, if the President or a Deputy President so directs, be exercised by a Registrar:

- (a) in proceedings in the Court, the function of making an order adjourning the hearing of the proceedings; and
- (b) the function of making an order the terms of which have been agreed upon by all the parties to the proceedings; and
- (c) the function of Samoan conciliation; and
- (d) the function of making an order in relation to applications that need to be dealt with as a matter of urgency.

(2) An order made by the Registrar in relation to a function under this Act given to the Registrar, is deemed to be an order of the Court.

### **Division 7 – Interim Orders**

**49. Interim orders by President** – Upon the commencement of any proceedings and pending the final determination of the petition by the Court, the President sitting alone may make, either *ex parte* or otherwise, such interim orders as the President thinks fit as to the possession of the land, or the using of the title, or the exercise of the right to which the petition relates.

**50. Interim orders by Registrar** – If the Registrar is satisfied that a dispute has arisen between Samoans which is within the jurisdiction of the Court, and is likely to be the Subject matter of proceedings under this Act, he may, with the concurrence of the President or 2 Samoan Judges before the commencement of proceedings, make an order as he thinks fit to restrain any Samoan from:

- (a) remaining in possession of or entering upon any land;
- (b) holding or using any Samoan name or title; or
- (c) exercising any right or doing any act matter or things concerning or affecting any land or any Samoan name or title.

**51. Duration of interim order by Registrar** – (1) An order under section 50 may be made *ex parte* or otherwise, and shall remain in full force and effect until the final judgment of the Court.

(2) The President may after the commencement of proceedings, upon the application of any party affected by an order made under section 50, modify, vary or rescind the order.

(3) The Registrar may before the commencement of proceedings, upon the application of any person affected by an order made under section 50, modify, vary or rescind the order.

**52. Effect and enforcement of interim orders** – An order made under section 49 or 50 is taken as an order of the Court, and is enforceable accordingly.

*Land and Titles Act 1981*  
*PART 7*  
*PRELIMINARY HEARINGS - Repealed*

*53 – 62. Repealed by section 2 of the Land and Titles Amendment Act 1983*  
*(No.8)*

**PART 8**  
**DECISIONS AND ORDERS**  
**OF THE COURT**

**63. Final decision of the Court** – (1) The final decision of the Court is in accordance with the opinion of the majority of the members present.

(2) In arriving at the final decision, a Samoan Judge and Assessor hearing the petition shall have an equal voice.

(3) The final decision of the Court is subject to appeal under Part 9.

**64. Concurrence of Samoan Judges and Assessors not necessary** – Subject to section 63, the concurrence of the Samoan Judges and Assessors shall not be necessary for any act of the Court, and the jurisdiction of the Court shall be exercised in the same manner as if it was sitting without Samoan Judges or Assessors.

**65. Delivery of decisions** – (1) A decision is to be delivered in open Court by the President or Deputy President presiding.

(2) The final decision is deemed complete upon delivery under subsection (1).

**66. Reasons for decisions** – A decision on a petition shall give the reasons of the Court, or the majority of its members, for the decision.

**67. Form of final decision** – The final decision of the Court shall be drawn up under the seal of the Court and the hand of the President or Deputy President, and the Samoan Judges and Assessors that concur in the decision, and shall be in the form numbered 6 in Schedule 2.

**68. Decision to be available to parties and the public** – Copies of all decisions entered in the records of the Court shall

be available to the parties and members of the public on payment of the prescribed fee.

**69.** *Repealed by s13 of the Land and Titles Amendment Act 2012, No.14*

**70. Effect of final decision** – Subject to an appeal under Part 9, every final decision of the Court on a petition is deemed to be judgment in rem and shall bind all Samoans who are affected by it, whether parties to the proceedings or not.

**71. Decisions and orders not reviewable by other Courts** – Subject to this Act, no decision or order of the Court shall be reviewed or questioned in any other Court by way of appeal, prerogative writ or otherwise howsoever.

### **Division 1 – Orders**

**72. Orders as to costs** – (1) In any proceedings the Court may make such order as it thinks just as to the payment of the costs of the proceedings, or of any matter incidental or preliminary to the proceedings, by or to any person who is a party to the proceedings.

(2) If the Court is of the opinion:

- (a) that any proceedings is frivolous or vexatious; or
- (b) that any petition, claim, action, application or objection in respect of the proceedings is frivolous or vexatious, –

it may, if it thinks fit, irrespective of the result of the proceedings, allow any party the whole or any part of his or her costs in defending or disputing the frivolous and vexatious proceedings.

(3) In any proceedings and at any stage of the hearing, the Court may require any party to deposit any sum of money as security for costs, and in default of making the deposit the Court may stay the proceedings either wholly or in respect of the party in default.

(4) The sum deposited is disposed of in such manner as the Court directs.

**73. Commencement of orders** – (1) An order made by the Court shall take effect on a date or dates to be specified in the order.

(2) In the absence of any specified date, an order takes effect on the date on which it is made.

### **Division 2 – Enforcement**

#### **74. Enforcement of decisions and orders of the Court – (1)**

A decision or order of the Court shall be enforced in and by the Supreme Court or, as the case may be, by the District Court.

(2) For the purposes of subsection (1):

- (a) a decision or order of the Court is taken to be a judgment or order of the Supreme Court or, as the case may be, of the District Court; and
- (b) a rule of procedure of the Supreme Court or the District Court, and an enactment, with the necessary modifications, apply to a decision or order of the Court, as if the decision or order were a judgment or order of the Supreme Court or, as the case may be, the District Court.

(3) A sealed copy of the decision or order to be enforced under this section is to be filed in the Supreme Court, or the District Court.

### **Division 3 – Offences**

**75. Offences – (1)** A person commits an offence and is liable upon conviction to a fine of 5 penalty units or to imprisonment for 6 months who:

- (a) disobeys any decision or order of the Court, or any order made under section 49 or 50;
- (b) uses any abusive, insulting, offensive or threatening words or behaviour in the presence of the Court, or writes any such words to a member or officer of the Court;
- (c) assaults, resists, obstructs, or incites any other person to assault, resist, or obstruct, any constable, surveyor, or officer of the Court in serving any process of the Court or executing any decision or order of the Court, or any order made under section 49 or 50;

- (d) by any words or behaviour obstructs in any manner the proper and orderly administration of justice in the Court;
- (e) fails to appear on a summons relating to the hearing of any proceedings before the Court;
- (f) being a party to a petition, fails to be present at the time and place appointed for a survey under section 10.

(2) Proceedings for an offence under this Act are to be taken in the District Court.

## **PART 9 APPEALS**

**76. Right to Appeal** – (1) Subject to subsection (2), a party to any proceedings may appeal against any final decision or order of the Court.

(2) There is no right of appeal against a decision or order made under section 49,50, 72(2), or 75.

**77. Constitution of Court to hear appeals** – (1) The Court to hear any appeal consists of:

- (a) the President; and
- (b) two Samoan Judges appointed by the President.

(2) The Samoan Judges shall be appointed in respect of each appeal, being Judges who had not been members of the Court at the hearing of the petition in the matter on appeal.

(3) So far as is practicable, the President shall be the Chief Justice or other Judge of the Supreme Court who had not been a member of the Court at the hearing of the petition in the matter on appeal.

(4) The Court hearing an appeal has all the powers and jurisdiction of the Land and Titles Court.

### **Division 1 – Leave to Appeal**

**78. Leave to appeal** – (1) No appeal shall be lodged without the leave of the President.

(2) In granting leave, the President may order a stay of proceedings under the final decision or order.

**79. Grounds for appeal – (1)** Leave to appeal may be granted on any of the following grounds:

- (a) that new and material evidence had been found since the hearing of the petition of which the applicant had no knowledge, or which could not reasonably have been adduced at the hearing of the petition;
- (b) that the successful party had been guilty of such misconduct in relation to the hearing of the petition as to affect the result of the case;
- (c) that a witness had been guilty of such misconduct in relation to the hearing of the petition as to affect the result of the case;
- (d) that a member or officer of the Court had made a mistake or misconducted himself or herself in relation to the hearing of the petition as to affect the result of the case;
- (e) that the Court did not have jurisdiction to make the final decision or order;
- (f) that the decision or order is wrong in law or not in accordance with custom and usage;
- (g) that the decision or order was manifestly against the weight of the evidence adduced at the hearing of the petition.

(2) Despite subsection (1), leave to appeal shall not be granted unless the President is of the opinion that some substantial wrong or miscarriage of justice has occurred.

**80. Application for leave to appeal – (1)** An application for leave to appeal shall be made to the Registrar in the form number 7 in Schedule 2.

(2) The application shall state whether the appeal is against the whole or any part of the final decision or order. The part complained of shall be specified.

**81. Time for appeal –** No appeal shall be brought:

- (a) after 21 days from the date of delivery of the Court's final decision or order; or
- (b) after the expiration of a further time, as may be allowed by the President on application made not later than 2 months after the date of delivery of the Court's final decision or order.



**82. Security for appeal** – The applicant on the day he or she files the application shall pay to the Registrar \$100 as security for the appeal.

**83. Service of application on other parties** – The Registrar shall prepare and serve on all other parties to the proceedings a copy of the application for leave to appeal.

**84. Opposition to application for leave** – (1) A party wishing to oppose the application shall, within 21 days after receiving a copy of the application under section 83, file with the Registrar an answer stating his or her opposition and the reasons for it.

(2) The Registrar shall, as soon as practicable, prepare and serve a copy of the answer on the applicant.

### **Division 2 – Hearing of Application**

**85. Hearing of application for leave** – (1) The application for leave to appeal shall be heard before the President on a date to be notified to each party by the Registrar in the form numbered 8 in Schedule 2.

(2) All parties may be heard and may make submissions.

(3) The hearing shall not be open to members of the public.

(4) The President may make such order on the application, and as to costs or otherwise, as the President thinks fit.

**86. Notice of hearing of appeal** – The Registrar shall give notice of the hearing of an appeal in accordance with sections 40 and 41.

### **Division 3 – Non-prosecution of Appeal**

**87. Non-prosecution of appeal** – (1) If the appellant does not prosecute the appeal with due diligence any other party may apply to the President to dismiss the appeal.

(2) If the appellant does not appear at the time appointed for hearing the appeal the Court as constituted under section 77 may dismiss the appeal.

(3) In respect of subsections (1) and (2), the President or the Court may order the appellant to pay costs to any party.

#### **Division 4 – Hearing of Appeal**

**88. Hearing of appeal – (1)** An appeal shall be by way of rehearing.

(2) The Registrar shall prepare and produce to the Court hearing the appeal the full record of the proceedings, and all evidence given at the preliminary hearing, the hearing of the petition and the hearing of the application for leave to appeal.

(3) The Court in its discretion may rehear the whole or any part of the evidence referred to in subsection (2).

**89. Powers of the Court on appeal –** In addition to the powers conferred under this Part, the Court hearing every appeal may, on completion of the hearing:

- (a) dismiss the appeal;
- (b) uphold the appeal;
- (c) set aside or vary the final decision or order appealed against;
- (d) make such order as to costs as it thinks proper.

**90. Decision on appeal to be final –** The decision of the Court under this Part is final.

### **PART 10 MISCELLANEOUS**

**91. Regulations – (1)** The Head of State may, acting on the advice of Cabinet, make regulations to give effect to or for the purposes of this Act, and in particular to prescribe fees and charges for the purposes of this Act.

(2) The amount of any fee or charge prescribed in subsection

(1):

- (a) shall be proposed by the Ministry in consultation with the President of the Court; and
- (b) is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

(3) The prescribed fees payable under this Act may be prepaid in cash, and the Registrar may refuse to take any action or accept any petition, objection or other document unless all fees have first been paid.

### **Division 1 – Solicitors**

**92. Solicitors not entitled to audience** – Except as referred to in section 44, no solicitor is entitled to appear or to be heard before the Court.

### **Division 2 – Records**

**93. Records of Department** – Subject to any direction from the Minister, the Registrar shall keep or cause to be kept proper records of and in relation to the Department.

**94. Records of the Court** – (1) The Registrar shall keep or cause to be kept records of or in relation to the Court, and of every proceeding before the Court, as required by this Act, or as may be prescribed by Rules, or by the President.

(2) No person shall have access to the records of the Court except with the permission of the President, or the Registrar.

### **Division 3 – Repeal and Savings**

**95. Repeal** – The Samoan Land and Titles Protection Ordinance 1934 is repealed.

**96. Savings and transitional** – (1) All proceedings commenced under the Samoan Land and Titles Protection Ordinance 1934 and pending at the coming into force of this Act may be continued and completed under the corresponding provisions of this Act.

(2) All records, instruments, nominations, appointments, warrants, decisions, orders and generally all documents and acts of authority originating under the Ordinance repealed, and which are subsisting and in force on the coming into force of this Act, shall ensure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of

this Act and accordingly shall, where necessary, be deemed to have so originated.

(3) The repeal of the Samoan Land and Titles Protection Ordinance 1934 does not affect any claim, title, right or interest created or vested under the Ordinance, nor any instrument or document in support, and every such claim, title, right, interest, instrument or document shall continue in force and have effect as if this Act had not been passed or as if made or done under the corresponding provisions of this Act.

(4) The repeal of the Ordinance does not affect the terms and conditions on and subject to which any person held office as a member or officer or staff of the Court immediately prior to the commencement of this Act.

**SCHEDULES**

**SCHEDULE 1**

*repealed*

**SCHEDULE 2**

**FORM NO.1**  
**(Section 10 (2))**

**GENERAL HEADING ON ALL FORMS**

**IN THE LAND AND TITLES COURT**

**HELD AT: .....**

land

**IN THE MATTER** of the

called 'Z' or the title 'Y'

**BETWEEN** (A.B.) Petitioner

**AND** (C.D.) Respondent

**FORM NO.2**  
**(Section 10(2))**

**(General Heading)**

**NOTICE OF INTENTION TO SURVEY**

**TAKE NOTICE** that a survey of the land in dispute in these proceedings has been ordered by the Court and that a surveyor will commence such survey on the.....day of .....20..... at .....o'clock in the .....noon.

**TAKE FURTHER NOTICE** that if you fail to be present at the said land on the arrival of the surveyor and to point out to him the boundaries thereof as known to you, you will be in contempt of Court and liable to imprisonment or to a fine.

**DATED** ..... this.....day of.....20.....

.....  
Registrar

Seal (This notice is to be served on all Parties)

**FORM NO.3**  
**(Section 41)**

**(General Heading)**

**NOTICE OF SITTING OF COURT**

Notice is given as follows:

1. The next sitting of the Land and Titles Court will commence at the Court House at ..... on ..... the .....day of ..... 20.....at .....o'clock in the noon.
2. The petitioners to be heard at the sitting and the dates fixed for the hearing of their petitions are as follows:

NO.	NAME OF PETITIONER	NAME OF RESPONDENT	SUBJECT MATTER	RELIEFS OUGHT	DATE OF HEARING
1	Siaki	Ioane	Title Tasi	That Siaki	1st January

				be declared the rightful holder of the title Tasi	1981
2	Siaki	Ioane	Land called Fanua	That Siaki be declared the pule of the land called Fanua	2nd January 1981

Notice is also given that any Samoan who is interested in any matter to be determined by the Court should attend at the hearing and claim to be made a party to the proceedings because every final decision of the Court will bind all Samoans whether they be named as parties or not.

**DATED** this ..... day of .....20 .....

.....

**Registrar.**

**FORM NO.4**  
**(Section 42(2))**

**(General Heading)**

**THE PETITION**

The Petition of (name of petitioner) informs this Court that (here state in paragraphs the nature of the claim or dispute) and the petitioner prays that this Court will order (here state relief sought) so that right will be done in this matter according to the laws and customs of Samoa.

**DATED** this ..... day of ..... 20 .....

**Petitioner**

Witness to Signature of Petitioner:

Name:

Address:

Occupation:

**FORM NO.5**  
**(Section 45(2))**

**(General Heading)**

**SUMMONS TO RESPONDENT**

**YOU ARE HEREBY** summoned to appear before this Court at the Court House at ..... on the ..... day of ..... 20 ..... at ..... o'clock in the ..... noon when the Court will hear and determine the matters referred to in the annexed petition.

**Take Notice**

1. Disobedience of this summons by you is a contempt of Court and is punishable by fine or imprisonment.
2. If you do not appear the Court will hear and determine the petition in your absence, and you will be bound by the decision of the Court.
3. You will be entitled to call such witnesses at the hearing as you consider necessary for the purpose of opposing the petition.
4. If you are in doubt as to any matter concerning this summons or the petition or any matter connected with these proceedings you should visit without delay the Registrar of the Court in Apia or Tuasivi either of whom will advise you fully on any matter which you may submit to them.

**FORM NO.6**  
**(Section 67)**

**(General Heading)**

**FINAL DECISION OF THE COURT**

The Land and Titles Court now gives its decision as follows:

**Seal of the Court:**

This decision is final in terms of the Land and Titles Act 1980. It may be appealed. Any one committing a breach of it is in contempt of the Court and liable to imprisonment or a fine.

40 *Land and Titles Act 1981*  
DATED this .....day of ..... 20 .....

President. Assessor.  
Assessor.  
Samoan  
Judge. Samoan  
Judge.

FORM NO.7  
(Section 80)

**(General Heading)**

**APPLICATION FOR LEAVE TO APPEAL**

1. I (here state name of part making application) here by apply for leave to appeal against the final decision the final decision of the Court given on the .....day of.....20.....
2. I wish to appeal against the whole (or part of the decision). (The part of the decision complained of must be specified)
3. The grounds upon which I make this application are as follows:

(here set out grounds)

DATED this ..... day of ..... 20 .....  
Signature of party applying:

.....  
**TO THE REGISTRAR**

FORM NO.8  
(Section 85)

**(General Heading)**

**NOTICE TO PARTIES ONAPPLICATION FOR LEAVE TO APPEAL**

1. Take notice that (here state name of party applying for leave) has applied for leave to appeal against the final decision of the Court given on the ..... day of ..... 20.....
2. Take further notice that this application will be heard before



the President at the Court House at ..... on the ..... day of ..... 20.....at ..... o'clock in the ..... noon and that you are entitled to appear to oppose the granting of the application.

**DATED** this ..... day of ..... 20 .....

.....  
Registrar

(This notice to be served on all parties affected).

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**REVISION NOTES 2008 – 2019**

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

This Act has been revised by the Legislative Drafting Division from 2008 – 2019 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Amendments have been made to up-date references to offices, officers and statutes.
- (c) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
  - (i) “Every” and “any” changed to “a”
  - (ii) “shall be” changed to “is” and “shall be deemed” changed to “is taken”
  - (iii) “shall have” changed to “has”
  - (iv) “shall be guilty” changed to “commits”
  - (v) “notwithstanding” changed to “despite”
  - (vi) “pursuant to” changed to “under”
  - (vii) “it shall be lawful” changed to “may”
  - (viii) “it shall be the duty” changed to “shall”
  - (ix) Numbers in words changed to figures
  - (x) “hereby” and “from time to time” (or “at any time” or “at all times”) removed
  - (xi) “under the hand of” changed to “signed by”

The following amendments were made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*:

*By the Land and Titles Amendment Act 2008 No. 19.*

**Section 8** - new paragraph (d) inserted

*By the Land and Titles Amendment Act 2012 No. 14:*

- Section 2** - definition of “pulefaamau” deleted.
- Inserted new definition “Samoan conciliation”
  
- Section 6** - substituted
- Part IV** - substituted
- Section 20A-20B** - new sections inserted
- Section 22** - in subsection (3) new paragraph (c) inserted and other reference changes
- a new subsection (11) inserted
- Sections 34A-34D** - new sections inserted
- Section 42** - new subsection (6) inserted and other reference Changes
- 43A** - new section inserted
- Sections 47, 47A, 48** - new sections substituted and inserted
- Section 65** - new subsection (2) added.
- Section 69** - repealed

*By the Land Titles Registration Amendment Act 2015 which commenced on 5 November 2015:*

- Section 2** for definition of “Land Register”, substitute new definition; Insert new definition for “record of customary land”;
- Heading of Division 2**
- Under Part 3** substituted “Registration” with “Record”;
  
- Section 11** for heading, delete “to Land Registrar”;
  
- Section 12(1)(a)** for “register” substituted “to enter in the record of customary land”;
  
- Section 12(1)(b)** for “Land Register a memorial”, substituted with “record of customary land details”.

*By the Fees and Charges (Miscellaneous Amendments) Act 2017, No 13 to reflect that fees charged under the Act are to be prescribed by Regulations. Amendments were made to sections 2, 9, 15, 17, 34B, 47, 68, 91, Schedule 1.*

*By the Leasing and Licensing of Customary Land Amendment Act 2019 No. 27, (commenced on 1 July 2019)*

- Section 34(2A)** - new subsection inserted.

*By Electoral Act 2019, No. 7 (commenced 31 January 2019)*

- Section 22(3A)** inserted new subsection, “Despite subsection (3)(c), the Registrar must not grant the removal of a name of a person from the register, if the request is for the purpose of a matai

registering for the purpose of elections, in a Constituency different from that to which the matai title belongs.”



Lemalu Hermann P. Retzlaff  
Attorney General of Samoa

*This Act is administered by  
the Ministry of Justice and Courts Administration.*

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