

Right Hon. Mr. Fraser

SAMOA AMENDMENT

ANALYSIS

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A BILL INTITULED

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| Title. | AN ACT to Amend the Samoa Act, 1921. | |
| | BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— | 5 |
| Short Title and commencement. See Reprint of Statutes, Vol. II, p. 791 | <p>1. (1) This Act may be cited as the Samoa Amendment Act, 1949, and shall be read together with and deemed part of the Samoa Act, 1921 (hereinafter referred to as the principal Act).</p> <p>(2) The whole of this Act, except sections <i>thirty-six</i> and <i>thirty-seven</i> shall be deemed part of Part I of the principal Act.</p> <p>(3) This Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Proclamation.</p> | 15 |
| Interpretation. | <p>2. For the purposes of this Act and the principal Act, unless the context otherwise requires,—</p> <p>“ Appeal Authority ” means the Appeal Authority under section <i>twenty-eight</i> of this Act:</p> <p>“ Assistant Public Service Commissioner ” means an Assistant Public Service Commissioner of Western Samoa appointed under this Act:</p> <p>“ Employee ” means a person employed in the Western Samoan Public Service, whether as an officer, probationer, or temporary employee:</p> <p>“ New Zealand Government Service ” means the service of His Majesty in respect of the Government of New Zealand, not being honorary service; and includes the Cook Islands Public Service and service which is Education service within the meaning of the Superannuation Act, 1947:</p> <p>“ Officer ” means a person, other than a probationer or a temporary employee, who is employed in the Western Samoan Public Service:</p> <p>“ Permanent position ” means a position in the Western Samoan Public Service which was a permanent position for the purposes of the last grading or regrading of the service under section <i>twenty</i> of this Act or which the Public Service Commissioner has created as a per-</p> | 40 |
| 1947, No. 57 | | |

manent position after that grading or regrading:

“ Probationer ” means a person employed in the Western Samoan Public Service on probation under this Act:

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“ Public Service Commissioner ” means the Public Service Commissioner of Western Samoa appointed under this Act:

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“ Samoan Assistant Public Service Commissioner ” means the Samoan Assistant Public Service Commissioner appointed under this Act:

“ Temporary employee ” means a person who is employed in the Western Samoan Public Service in a temporary capacity under this Act:

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“ Western Samoan Public Service ” or “ Samoan Public Service ” means the service in any capacity of the Government of Western Samoa, and the service of His Majesty in respect of the New Zealand Reparation Estates; and includes service as Public Service Commissioner or as Samoan Assistant Public Service Commissioner; but does not include the service of the Secretary of Island Territories in his capacity as an Assistant Public Service Commissioner, or service remunerated by way of fees or commission only, honorary service, or service in any of the following capacities, namely as—

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(a) High Commissioner for Western Samoa; or

(b) Member of the Legislative Assembly. *Fautua, Faipule, Pulefa'atoaga, Pulenu'u, or Leoleo*, or

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(c) Chief Judge, Judge, *Fa'amasino*, Native Judge, assessor, or judicial officer of the High Court of Western Samoa or of any other Court in Western Samoa; or

(d) General Manager of the New Zealand Reparation Estates; or

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(e) A representative in Western Samoa of the Audit Office of New Zealand; or

(f) A member of any uniformed branch of any defence force in Western Samoa; or

(g) An officer of police or an officer of prisons in Western Samoa.

The Public Service Commissioner, Assistants, and Deputies

Public Service
Commissioner.

3. (1) There shall be a Public Service Commissioner 5
of Western Samoa, who shall be appointed by the
Governor-General and shall be an officer of the Western
Samoan Public Service.

(2) Subject to the provisions of the principal Act and
its amendments (including this Act), the Public Service 10
Commissioner shall control the Western Samoan Public
Service, and shall have all the powers necessary for the
proper performance of the duties and functions con-
ferred or imposed upon the Public Service Commissioner
by this Act or any other enactment. 15

(3) In matters which, in the opinion of the Minister,
affect the policy of the Government of New Zealand as
the administering authority under the trusteeship agree-
ment, the Public Service Commissioner shall be subject
to any directions which he may from time to time receive 20
from the Minister.

Assistant
Public Service
Commissioners.

4. (1) There shall be two Assistant Public Service
Commissioners of Western Samoa of whom one shall be
the Secretary of Island Territories and the other (in this
Act referred to as the Samoan Assistant Public Service 25
Commissioner) shall be a person appointed by the
Governor-General on the nomination of the Council of
State. The Samoan Assistant Public Service Commis-
sioner shall be an officer of the Western Samoan Public
Service. 30

(2) The Assistant Public Service Commissioners
shall assist the Public Service Commissioner in the per-
formance of his duties and functions and shall be under
his control when so doing.

(3) The Secretary of Island Territories may, by 35
writing under his hand, appoint any officer of the
Western Samoan Public Service or (with the consent of
the Public Service Commission of New Zealand) any
officer of the New Zealand Public Service within the
meaning of the Public Service Act, 1912, to act as his 40
deputy; and any such deputy while so acting shall have
all the powers, duties, and functions which the Secre-
tary of Island Territories has in his capacity as
Assistant Public Service Commissioner.

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

5. (1) The Public Service Commissioner and the Samoan Assistant Public Service Commissioner shall each be appointed for a term of three years but may from time to time be reappointed for a like term.

Term of office and eligibility for appointment.

5 (2) No person shall be eligible for appointment or re-appointment as Public Service Commissioner or Samoan Assistant Public Service Commissioner if he has attained the age of sixty years.

10 6. There shall be paid to the Public Service Commissioner, and to the Samoan Assistant Public Service Commissioner, such salary and allowances as may from time to time be fixed by the Minister.

Salaries of Public Service Commissioner and Samoan Assistant Public Service Commissioner.

15 7. (1) There may from time to time be appointed by the Governor-General a deputy of the Public Service Commissioner, who shall act as Public Service Commissioner in the event of the non-appointment of any person to that office, or of any vacancy in that office, or when for any cause the person who for the time being holds that office is unable to act.

Deputies of Public Service Commissioner and Samoan Assistant Public Service Commissioner.

20 (2) There may from time to time be appointed by the Governor-General on the nomination of the Council of State a deputy of the Samoan Assistant Public Service Commissioner, who shall act as Samoan Assistant Public Service Commissioner in the event of the non-

25 appointment of any person to that office, or of any vacancy in that office, or when for any cause the person who for the time being holds that office is unable to act.

30 (3) Every such deputy, while he is acting in that capacity, shall have all the powers and shall perform all the duties and functions of the Public Service Commissioner or Samoan Assistant Public Service Commissioner for whom he is acting, and shall be paid a salary at the rate which he would have received if he had been appointed to that office under this Act.

35 (4) No such deputy shall be deemed to be an officer of the Western Samoan Public Service by reason only of his appointment as such deputy.

40 8. Where any person who is appointed to the office of Public Service Commissioner, Samoan Assistant Public Service Commissioner, or deputy of the Public Service Commissioner or of an Assistant Public Service Commissioner was employed in the Western Samoan Public Service or the New Zealand Government Service immediately before he was appointed to that office that

Protection of status.

person shall, unless he was removed from office under section *nine* of this Act, be eligible for any position in the service in which he is so employed as if his status in that service had remained unchanged.

Removal
from office.

9. (1) The Public Service Commissioner or the Samoan Assistant Public Service Commissioner or the deputy of either of them may be removed or suspended from office by the Governor-General for misbehaviour or incompetence, or for engaging during his term of office in any paid employment or any business or profession outside the duties of his said office or of any other office in the Western Samoan Public Service or the New Zealand Government Service held by him concurrently during his said term of office. 5 10

(2) Any person who is suspended from his office as aforesaid may be restored by the Governor-General to his office. 15

(3) No person who is suspended from his office as aforesaid shall be entitled to receive any salary, allowance, or payment in respect of the period while he is suspended unless the Governor-General otherwise directs. 20

Duties of
Public Service
Commissioner.

10. (1) The Public Service Commissioner shall from time to time take such action as he thinks necessary to ensure a proper standard of efficiency in the Western Samoan Public Service. 25

(2) The Public Service Commissioner shall furnish to the Minister and to the High Commissioner at least once in every year a report on the efficiency and condition of the Western Samoan Public Service; and a copy thereof shall be laid before both Houses of the New Zealand Parliament within twenty-eight days after the receipt of the same by the Minister, if Parliament is then in session, and, if not, shall be laid before both Houses of the New Zealand Parliament within twenty-eight days after the commencement of the next ensuing session; and a copy thereof shall be laid before the Council of State of Western Samoa and the Legislative Assembly of Western Samoa within twenty-eight days after the receipt of the same by the High Commissioner if (in each case) it is then meeting, and, if it is not then meeting, shall be laid before it during its next meeting. 30 35 40

(3) The Public Service Commissioner shall cause to be kept a record of all persons in the Western Samoan Public Service and shall in each financial year publish a list of persons permanently employed in that service 45

on the first day of that financial year together with particulars of the salaries payable to those persons in that financial year.

(4) In the exercise of his functions the Public Service Commissioner shall, consonant with the efficient conduct of the Government service of Western Samoa, have regard to the obligation of the administering authority under the trusteeship agreement to assure to the inhabitants of Western Samoa a progressively increasing share in the administrative and other services of the territory.

11. (1) The Public Service Commissioner may from time to time delegate any power which he is entitled to exercise as the holder of that office to an Assistant Public Service Commissioner or to the holder for the time being of any specified office in the Western Samoan Public Service or to any employee or to any fit person or persons.

Public Service Commissioner may delegate powers.

(2) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Public Service Commissioner.

(3) The fact that an Assistant Public Service Commissioner or the holder of any such office or any employee exercises any power of the Public Service Commissioner shall, in the absence of proof to the contrary, be sufficient evidence of his authority so to do.

12. (1) Where in or by any Act, Ordinance, Order in Council, rule, regulation, by-law, contract, or agreement any duty, obligation, right, or power is imposed or conferred upon the holder of any position under the control of the Public Service Commissioner, and where that position is for the time being vacant (whether by reason of death or resignation or otherwise), or the holder of the position is for the time being absent from duty, the duty, obligation, right, or power may be performed or exercised by any employee whom the Public Service Commissioner may have directed to perform or exercise the same while the position is vacant or the holder of the position is absent in the same manner and to the same extent in all respects as the same might have been performed or exercised by the holder of the position; and

General power to appoint deputies.

everything so done under the provisions of this section shall be as good and effectual for all purposes and against all persons as if it had been done by the holder of the position.

(2) The fact that any employee performs or exercises any such duty, obligation, right, or power shall be conclusive evidence of his authority so to do, and no person shall be concerned to inquire whether or not the occasion has arising authorizing or requiring him so to do. 5

The Western Samoan Public Service 10

Appointments
to the Western
Samoa Public
Service.

13. (1) No person shall be appointed to the Western Samoan Public Service otherwise than in accordance with this Act.

(2) No person shall be appointed to the Western Samoan Public Service by the Public Service Commissioner unless the Public Service Commissioner is satisfied that the appointment is necessary. 15

(3) Subject to the provisions of this Act, the Public Service Commissioner may appoint any person to, and employ the person in, the Western Samoan Public Service, in a permanent capacity, or on probation for a specified period, or in a temporary capacity: 20

Provided that no such person may be appointed to, or employed in, the Western Samoan Public Service otherwise than in a temporary capacity unless the person is more suitable and capable than any officer who is available for the position. 25

(4) An appointment to any position in the Western Samoan Public Service may be made to take effect as from a date to be specified by the Public Service Commissioner notwithstanding that the position is not vacant at the date of the appointment. 30

Termination or
suspension of
appointments.

14. (1) Every officer who is appointed by the Public Service Commissioner shall be deemed to be a three-monthly servant, and shall be removable by the Public Service Commissioner at any time after three months' notice, or may resign by giving three months' notice in writing to the Public Service Commissioner. 35

(2) Where any employee who has been appointed by the Public Service Commissioner has been charged with committing any crime or offence punishable either on indictment or on summary conviction in any Court of competent jurisdiction, his services may be suspended by the Public Service Commissioner for such period as 40

that Commissioner thinks fit while the charge is pending; and if the employee is convicted (whether his services have been suspended or not) he may be dismissed by the Public Service Commissioner without
 5 notice if in the opinion of that Commissioner as a result of the conviction he is unfit to continue as an officer.

(3) No person who is suspended from his office as aforesaid shall be entitled to receive any salary, wages, allowance, or payment in respect of the period while he is suspended unless the Public Service Commissioner otherwise directs:

Provided that if the person is not dismissed as aforesaid he shall be entitled during the period of his
 15 suspension to all salary, wages, allowances, and payments to which he is normally entitled.

15. (1) No person shall be appointed in a permanent capacity to the Western Samoan Public Service whose age at the time of his appointment is less than sixteen
 20 years or more than sixty years.

Permanent appointments.

(2) No person (other than a person to whom section *twenty-five* of this Act applies) shall be appointed to the Western Samoan Public Service in a permanent capacity unless he has been employed on probation in
 25 that service for a period of not less than one year.

16. (1) The Public Service Commissioner may from time to time extend the period of probation of any probationer by notice in writing to that probationer.

Appointments on probation.

30 (2) Where any person is appointed to the Western Samoan Public Service on probation, he shall, while he remains in that service, be deemed to be employed on probation, notwithstanding that his term of probation may have expired, until he is notified by the Public Service Commissioner in writing that he is appointed to the
 35 Western Samoan Public Service in a permanent capacity or in a temporary capacity:

Provided that if, at the end of one year after the termination of the period for which he was appointed
 40 and every extension thereof under the *last preceding* subsection, he is still deemed under the foregoing provisions of this subsection to be employed on probation he shall thereupon be deemed to be appointed to the Western Samoan Public Service in a permanent
 45 capacity.

(3) While any person is employed on probation in the Western Samoan Public Service, his services may be terminated by the Public Service Commissioner at any time.

Temporary appointments.

17. (1) Whenever, in the opinion of the Public Service Commissioner, the prompt despatch of the business of any branch of the Western Samoan Public Service renders temporary assistance necessary, and the Public Service Commissioner is unable to provide such assistance from other branches, or where the work to be performed does not, in the opinion of the Public Service Commissioner, warrant the appointment of persons in a permanent capacity, the Public Service Commissioner may appoint in a temporary capacity such persons as he thinks fit on such conditions as he from time to time determines. 5 10 15

(2) The services of any temporary employee may be terminated by the Public Service Commissioner at any time.

Salaries of employees.

18. (1) Except as otherwise provided in this Act, officers, probationers, and temporary employees shall be paid salaries, wages, and allowances at such rates or in accordance with such scales as the Public Service Commissioner from time to time determines: 20

Provided that the remuneration by way of salary and wages paid to any employee shall not exceed the rate of one thousand and sixty pounds a year without the prior approval of the Minister. 25

(2) The salaries, wages, and allowances payable to employees under this Act shall be paid out of the Samoan Treasury, and shall be a first charge thereon: 30

Provided that the salaries of employees of the New Zealand Reparation Estates shall be recouped to the Samoan Treasury out of moneys from time to time appropriated by the Parliament of New Zealand for the purpose. 35

Rent of premises used by employee.

19. Subject to the provisions of any enactment for the time being in force, where any employee is allowed to use any premises made available by the Government of Western Samoa and that employee is not entitled to free quarters, the Public Service Commissioner may deduct from the salary of that employee such rent as he may fix in respect of the premises. 40

20. (1) Subject to section *six* of this Act, the Public Service Commissioner shall, on or before the first day of the financial year next following the commencement of this Act, grade and thereafter, at intervals of not more than three years, regrade all permanent positions in the Western Samoan Public Service, and shall assign to each such position a fixed salary or scale of salaries.
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- (2) The decision of the Public Service Commissioner as to whether any position in the Western Samoan Public Service is a permanent position shall be final and conclusive.
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- (3) In grading or regrading any position as aforesaid the Public Service Commissioner shall take into consideration the special merit or special qualifications of the employee for the time being occupying the position, and may specially grade or regrade the position while it is occupied by that employee.
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- (4) The Public Service Commissioner may direct that any grading or regrading under this section shall take effect retrospectively as from such date (either before or after the commencement of this Act) as he thinks fit, and his decision in respect of the date of the grading or regrading shall be final.
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- (5) If at any such grading or regrading the Public Service Commissioner alters the grading of any permanent position he shall immediately thereafter either assign the position to the employee previously employed therein or treat the position as vacant and proceed to fill the vacancy.
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- (6) If at any such grading or regrading the Public Service Commissioner alters the grading of any permanent position and assigns the position to the employee previously employed therein, for the purposes of any appeal under paragraph (b) of subsection *one* of section *twenty-nine* of this Act the assignment shall be deemed to be an appointment of the employee to the position without notice of the vacancy being published.
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21. (1) If at any time after the last grading or regrading under section *twenty* of this Act any permanent position has become of greater importance or the duties thereof more onerous or extensive than at the date of that grading or regrading the Public Service Commissioner may, if he thinks fit, alter the grading of the position and either assign the position to the employee previously employed therein or treat the position as vacant and proceed to fill the vacancy.
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Periodical regrading of permanent positions.

Interim gradings.

(2) If at any time any new permanent position is created after the last grading or regrading of the Western Samoan Public Service under section *twenty* of this Act, the Public Service Commissioner shall forthwith grade the position. 5

(3) If the Public Service Commissioner alters the grading of any permanent position under the provisions of subsection *one* of this section and assigns the position to the employee previously employed therein, for the purposes of any appeal under paragraph *(b)* of subsection *one* of section *twenty-nine* of this Act the assignment shall be deemed to be an appointment of the employee to the position without notice of the vacancy being published. 10

Vacancies in
Western
Samoan
Public Service.

22. (1) Notice of every vacancy in a permanent position in the Western Samoan Public Service which the Public Service Commissioner considers should be filled shall be published in such manner as the Public Service Commissioner may determine: 15

Provided that the Public Service Commissioner may fill any such vacancy without publishing notice thereof if he is of opinion that the vacancy should be filled forthwith. 20

(2) Whenever a vacancy occurs in any permanent position in the Western Samoan Public Service the Public Service Commissioner may transfer (whether by way of promotion or otherwise) an officer to that position from any other position in the Western Samoan Public Service. 25

(3) Notice of every appointment or promotion to a permanent position shall be published in such manner as is prescribed by regulations made under section *thirty-three* of this Act. 30

Appointments.

23. (1) In the event of two or more officers being applicants for any vacancy of which notice is published as aforesaid, or in the event of two or more officers being eligible for appointment to any vacancy of which notice is not so published, preference shall be given to that officer who, in the opinion of the Public Service Commissioner, is the most efficient and suitable for appointment to the position. 35 40

(2) In the event of two or more officers being equally efficient and suitable for appointment to the position which is vacant preference shall be given to the senior officer. 45

(3) For the purposes of this section the relative efficiency of two or more officers shall be determined by reference to their special qualifications and aptitude for the discharge of the duties of the position which is vacant, together with merit, diligence, and good conduct.

24. (1) For the purposes of the *last preceding* section seniority shall be determined by reference to the maximum salary of the class, sub-class, or occupational group or sub-group in which an officer is for the time being graded.

Seniority.

(2) On promotion officers shall be placed at the bottom of the class or group to which they are promoted.

(3) Where officers are promoted to the same class or group in the same financial year they shall, for the purpose of determining their relative seniority, be deemed to have been promoted to that class or group simultaneously, and, as between any two such officers, the officer with the longest continuous permanent service in the Western Samoan Public Service and the New Zealand Government Service shall be deemed to be the senior. For the purposes of this subsection no account shall be taken of previous service which has been terminated.

25. (1) Any person permanently employed in the New Zealand Government Service may be appointed to any position in the Western Samoan Public Service in all respects as if he were an officer thereof, and both offices may be held by him concurrently; but, unless he is already 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.

Reciprocal provisions.

(2) No person who is subject to the Public Service Act, 1912, may be first appointed to the Western Samoan Public Service except with the consent of the New Zealand Public Service Commission; and no person who is employed in any branch of the New Zealand Government Service to which the Public Service Act, 1912, does not apply shall be so appointed without the consent of the Minister in charge of that branch.

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

(3) When an employee so holds office concurrently in both services, his status, rights, and liabilities in each service shall be unaffected by the fact that he holds

office in the other service; and, in respect of each office, he shall be subject to the laws governing the service to which that office belongs irrespective of his tenure of an office in the other service; and he shall, in respect of each service, be qualified for promotion, increase of salary, and appointment to any other office in the same manner as if he held no office in the other service. 5

(4) So long as an employee so holds concurrent offices in both services he shall be deemed to be absent on leave without pay from the New Zealand Government Service unless the Public Service Commission of New Zealand otherwise directs. 10

(5) When an employee of the New Zealand Government Service is appointed to an office in the Western Samoan Public Service, and then or thereafter ceases to hold office 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 shall so remain so long as he continues to hold any office in the Western Samoan Public Service and for such further period not exceeding six months as the Public Service Commission of New Zealand may 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 the service. 15 20 25

(6) While an employee holds concurrent offices in both services, or has become a supernumerary employee in accordance with the provisions of the *last preceding* subsection, and is a contributor to the Government Superannuation Fund in respect of his office in the New Zealand Government Service, the salary received by him in respect of his office in the Western Samoan Public Service (exclusive of any tropical or other special allowance received by him in respect of his residence in Samoa) shall be deemed to be his salary for the purposes of the the Superannuation Act, 1947. 30 35

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(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 offices may be held by him concurrently; but, unless he is already in the New Zealand Government 40

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 sub-
 5 section the seniority of any such person shall be determined with reference to his grading (if any) in the New Zealand Government Service.

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

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

20 **26.** (1) Except with the express permission of the Public Service Commissioner, which permission may be at any time withdrawn, no employee shall—

Private
employment.

(a) Accept or continue to hold or discharge the duties of, or be employed in, any paid office in
 25 connection with any banking, insurance, mining, mercantile, or other commercial business, whether the same be carried on by any corporation, company, firm, or individual; or

(b) Engage in or undertake any such business,
 30 whether as principal or agent; or

(c) Engage in or continue in the private practice of any profession, trade, or calling.

(2) If any employee is the holder of any office or is engaged in any paid employment whatsoever other than
 35 in connection with the duties of his employment in the Western Samoan Public Service or the New Zealand Government Service he shall at once notify the fact to the Public Service Commissioner.

(3) If in the opinion of the Public Service Commissioner the office or employment first mentioned in the
 40 *last preceding* subsection interferes or may interfere with the due and proper discharged of the employee's public duties, the Public Service Commissioner may require the employee to resign the office or abstain from
 45 engaging in the employment.

(4) If any officer fails to comply with any such requirement, the Public Service Commissioner may institute an inquiry into the conduct of that officer under the *next succeeding* section.

Inquiries and Appeals

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Inquiries into
conduct of
officers.

27. (1) If in any case the Public Service Commissioner is of opinion that the conduct of any officer should be the subject of an inquiry he may hold such an inquiry.

(2) In any case where the Public Service Commissioner proposes to hold an inquiry under this section into the conduct of any officer he shall give to that officer, not less than seven days before the inquiry, written notice of the time and place of the inquiry, which notice shall contain sufficient particulars of the subject of the inquiry to enable the officer to prepare his defence, and shall invite the officer to submit to the Public Service Commissioner before the inquiry such written admission, denial, or explanation as he may wish to give. The failure of any such officer to furnish a written admission, denial, or explanation as aforesaid shall not prejudice his case.

(3) At any such inquiry the officer may appear in person or by any employee of the Western Samoan Public Service or by any other person.

(4) If the Public Service Commissioner, after holding such an inquiry, is of opinion that a penalty should be imposed he may impose one or more of the following penalties:—

(a) Caution or reprimand the officer: 30

(b) Order such sum as he thinks fit (not exceeding ten pounds) to be deducted by way of penalty from the salary of the officer:

(c) Reduce the rate of salary of the officer (with or without a consequent reduction in grading): 35

(d) Transfer the officer to some other office or locality:

(e) Dismiss the officer from the Western Samoan Public Service or require him to resign within a specified time, in which case the officer shall be deemed to be dismissed unless he so resigns. 40

(5) As soon as practicable after the conclusion of any inquiry under this section the Public Service Commissioner shall give written notice to the officer concerned informing him of the Public Service Commissioner's 45

decision in respect of the inquiry and of any penalty imposed on the officer.

(6) For the purpose of conducting any such inquiry the Commissioner may delegate any of his powers or
 5 functions to an Assistant Public Service Commissioner or to any fit person or persons.

(7) For the purpose of conducting any such inquiry the Public Service Commissioner, or any Assistant Public Service Commissioner or other person to whom
 10 the Public Service Commissioner has delegated any of his powers under the *last preceding* subsection, shall be deemed to be a Commission under the Commissions of Inquiry Act, 1908, and, subject to this Act, all the provisions of that Act shall apply accordingly.

See Reprint
 of Statutes,
 Vol. I, p. 1036

(8) Where the Public Service Commissioner has
 15 given notice to any officer of his intention to hold an inquiry into the conduct of that officer under this section, the Public Service Commissioner may suspend the services of that officer for such period as he thinks fit, but
 20 not after the Public Service Commissioner has given his decision in respect of the inquiry. No officer whose services are suspended as aforesaid shall be entitled to receive any salary, wages, allowance, or payment in respect of the period while his services are suspended
 25 unless the Public Service Commissioner otherwise directs:

Provided that if no penalty is imposed on the officer under this section he shall be entitled during the period of his suspension to all salary, wages, allowances, and
 30 payments to which he is normally entitled.

28. (1) Any officer aggrieved by the decision in respect of any such inquiry may appeal against the decision to the person for the time being holding the office of Chief Judge of the High Court of Western
 35 Samoa (in this Act called the Appeal Authority).

Appeal against
 decision in
 respect of
 inquiry.

(2) Notice of appeal under this section and of the grounds of the appeal shall be forwarded in writing to the Public Service Commissioner within twenty-one days after the decision of the Public Service Commissioner has
 40 been notified in writing to the officer concerned, or within such extended time as the Public Service Commissioner in his sole discretion may allow.

(3) Where the Public Service Commissioner receives any such notice of appeal he shall forthwith forward the
 45 same to the Appeal Authority together with his comments.

(4) The Appeal Authority shall have jurisdiction to hear the appeal and for that purpose to summon and examine witnesses on oath or otherwise and to receive such evidence as the Appeal Authority thinks fit whether such evidence would be legally admissible in other proceedings or not. 5

(5) The Appeal Authority may confirm or vary the decision which is the subject of the appeal, and may confirm, vary, or cancel any penalty imposed by that decision. 10

(6) No appeal shall lie from any decision of the Appeal Authority; 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. 15

(7) If in the opinion of the Appeal Authority any appeal under this section is frivolous or vexatious, the Appeal Authority 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. 20

Appeals in
respect of
appointments
and grading.

29. (1) Any officer of the Western Samoan Public Service shall have a right of appeal under this section against— 25

(a) The maximum salary assigned by the Public Service Commissioner at the last grading or regrading of the Western Samoan Public Service under section *twenty* of this Act to the position held by the officer at the date of that regrading; or 30

(b) The appointment of any person other than an officer to a permanent position in the Western Samoan Public Service or the transfer to such a position by way of promotion of any other officer if in either case the appointment or transfer of the appellant to the position would have involved his promotion: 35 40

Provided that if notice of the vacancy in respect of the position has been published in accordance with section *twenty-two* of this Act no officer shall have a right of appeal in respect of the appointment of any other person to the position unless he applied for the position. 45

(2) Notice of any appeal under this section shall be forwarded in writing to the Public Service Commissioner within *twenty-one* days after the publication of the grading or regrading or appointment in respect of which
5 the appeal arises, or within such extended time as the Public Service Commissioner in his discretion may in any case allow.

(3) On any such appeal the appellant may himself appear or may be represented by any employee or by any
10 other person, and the branch of the Western Samoan Public Service in which the position was held, or the appointment made, may be represented by the Secretary to the Government or (in cases affecting employees of the New Zealand Reparation Estates) by the General
15 Manager of the New Zealand Reparation Estates, or by an employee appointed by the Secretary to the Government or the General Manager as the case may be.

(4) The Public Service Commissioner shall have jurisdiction to hear and determine every such appeal, and
20 for this purpose to summon witnesses and to examine such witnesses on oath or otherwise. On any such appeal the Public Service Commissioner may receive such evidence as he thinks fit and may act on any statement, document, information or matter which in his opinion
25 may assist him to deal with the matters before him, whether the same would be legally admissible in other proceedings or not.

(5) If the Public Service Commissioner allows any appeal under paragraph (b) of subsection *one* of this
30 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
35 deemed to be cancelled.

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

(7) If in the opinion of the Public Service Commissioner any appeal under this section is frivolous or vexatious, the Public Service Commissioner may order the appellant to pay the cost of the appeal in whole or in
45 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.

5

Miscellaneous

Political
influence.

30. (1) No person shall, directly or indirectly, solicit or endeavour to influence the Public Service Commissioner or an Assistant Public Service Commissioner with respect to the appointment of any other person to the Western Samoan Public Service, or with respect to the promotion of, or an increase of salary to, any employee in the Western Samoan Public Service.

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(2) Every person who does any act in contravention of the *last preceding* subsection commits an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds.

15

(3) Any employee who, directly or indirectly, solicits, or endeavours to influence the Public Service Commissioner or an Assistant Public Service Commissioner in contravention of this section for the purpose of obtaining promotion or increase of salary shall be deemed unfit for the promotion or increase, and it shall not be accorded him; and he shall be liable to immediate dismissal.

20

(4) Any employee or any person desirous of becoming an employee who, directly or indirectly, solicits any member of the Council of State, the Legislative Assembly, or the *Fono* of *Faipule* with a view to obtaining promotion in or appointment to the Western Samoan Public Service shall be deemed unfit for the promotion or appointment.

25

30

(5) Nothing in this section shall be so construed as to prohibit any person from giving information or advice or making representations in respect of any appointment, promotion, or increase of salary at the request or invitation of the Public Service Commissioner.

35

Act not to
apply to certain
officers.

31. Nothing in this Act shall apply to any officer or class of officer to whom or to which, on the recommendation of and for special reasons assigned by the Public Service Commissioner, the Governor-General in Council declares that this Act shall not apply. Any such declaration may at any time be revoked wholly or in part by the Governor-General in Council on the recommendation of and for special reasons assigned by the Commissioner.

40

5 **32.** (1) All notices, orders, or communications given by the Public Service Commissioner to any employee in connection with any inquiry under section *twenty-seven* of this Act may be posted to the last known address of the employee and compliance with this subsection shall be deemed a sufficient service on the employee of any such notice, order, or communication. Notices.

10 (2) Whenever any notice is required by this Act to be given to an employee in respect of any matter other than such an inquiry it shall be sufficient if notice thereof is sent to the employee by letter addressed to him at his usual place of employment, or if notice of the matter is published in such manner as may be prescribed by regulations under the *next succeeding* section.

15 **33.** (1) The Public Service Commissioner, with the approval of the Minister, may make regulations for the general control of the Western Samoan Public Service. Regulations.

20 (2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—

25 (a) Arranging the Western Samoan Public Service in divisions and classes and facilitating the working thereof; prescribing the number of offices in any division or class and classifying the work therein; providing for the grading of officers; determining the order and conditions of promotion; regulating the transfer or exchange of duties, work, or offices; determining the amounts or rates of salaries, wages, fees, or allowances appropriate to any work, duties, or offices, or classes thereof; and providing for the manner of payment of salaries, wages, fees, or allowances:

30 (b) Determining the nature and character and standard of examinations or tests which candidates for employment or promotion in the Western Samoan Public Service shall undergo, and for the recognition of examinations passed before the commencement of this Act:

40 (c) Facilitating and securing the better selection of suitable persons for appointment and promotion as officers employed in any branch of the Western Samoan Public Service, and the retention of the services of those found to be most fit for such employment:

45

- (d) Providing for those not so retained either being dispensed with or transferred to another branch of the Western Samoan Public Service:
- (e) Determining who are fit and proper persons to be employed in temporary employment, and providing for the names of persons desiring such employment to be enrolled in a register kept for the purpose: 5
- (f) Regulating the hours of attendance, and the conditions on which leave of absence and furlough may be granted, and the duration of the leave or furlough: 10
- (g) Regulating the performance of and payment for extra service:
- (h) Determining the dates, times, or periods of time at or within which shall be done all acts and things directed by this Act to be done, and in respect of which no dates, times, or periods of times may be specially provided in this Act: 15
- (i) Providing for the procedure on appeals to the Public Service Commissioner under section *twenty-nine* of this Act, and to the Appeal Authority: 20
- (j) Providing for fines not exceeding five pounds to be imposed and recovered by the Public Service Commissioner for breaches of any regulations under this section or for minor offences against discipline: 25
- (k) Generally to enable full effect to be given to the provisions of this Act and to provide for the due administration thereof. 30
- (3) Regulations made under this section may be so made as to apply generally to the Western Samoan Public Service or to any particular case or class of cases therein. 35
- (4) All regulations under this section shall come into force on a date to be specified therein (whether before or after the date on which they are made), and if no such date is specified, shall come into force on the day following the publication thereof in the *Western Samoa Gazette*. 40
- (5) All regulations made under this section shall be published in the *Western Samoa Gazette*.
- 34.** Section forty-two of the principal Act is hereby amended by omitting the word "Minister" and substituting the words "High Commissioner". 45

35. The Samoa Amendment Act, 1923, is hereby amended by repealing section three, and substituting the following section:—
- “ 3. (1) There shall be an officer of the Western Samoan Public Service to be called the Secretary to the Government who shall, under the control of the High Commissioner, be the principal administrative officer of the Government of Western Samoa.
- “ (2) The person holding office at the commencement of this Act as Secretary to the Administration shall be deemed to have been appointed as Secretary to the Government.
- “ (3) All references to the Secretary to the Administration in any Act, Ordinance, regulation, order, or other enactment, or in any deed, contract, agreement, instrument, or other document whatsoever shall, unless inconsistent with the context, be read hereafter as references to the Secretary to the Government.”
36. Section three of the Samoa Amendment Act, 1947, is hereby amended by inserting, after subsection one, the following subsection:—
- “ (1A) The High Commissioner shall be paid out of the Samoan Treasury such salary and allowances as may be fixed from time to time by the Minister.”
37. Section six of the Samoa Amendment Act, 1947, is hereby amended by adding to paragraph (b) of subsection two the following proviso:—
- “ Provided that the number of Samoan members to which this paragraph applies shall be increased by one for every one by which the number of Samoan members of the Council of State is less than three: ”.
38. (1) The Minister shall from time to time appoint a suitable person to be General Manager of the New Zealand Reparation Estates, and that person shall be an officer of the New Zealand Government Service.
- (2) Nothing in the Public Service Act, 1912, shall apply to the General Manager of the New Zealand Reparation Estates.
39. (1) Section fifty-five of the Finance Act, 1933 (No. 2), is hereby amended by omitting the words “ the Samoan Public Service or in ”
- (2) Section nineteen of the Finance Act, 1931 (No. 2), as amended by section thirty-two of the Finance Act, 1946, is hereby further amended as follows:—

Secretary to the Government.
See Reprint of Statutes, Vol. II, p. 872

Salary of High Commissioner.
1947, No. 48

Samoan members of Legislative Assembly.
1947, No. 48

General Manager of the New Zealand Reparation Estates.
See Reprint of Statutes, Vol. VII, p. 522

Consequential amendments.
1933, No. 41

See Reprint of Statutes, Vol. II, p. 880
1946, No. 16

- (a) By omitting from subsection one the words “and the Samoan Public Service”, and the word “each”:
- (b) By omitting from subsection one the words “and of the Samoan Public Service”, and the words “or the Samoa Act, 1921”:
- (c) By omitting from subsection two the words “and the Samoa Act, 1921”, and the words “and the Samoan Public Service respectively”:
- (d) By omitting from subsection three the words “either of such services”, and substituting the words “the Cook Islands Public Service”:
- (e) By omitting from subsection four the words “or of the Samoan Public Service”, and the words “or of the High Court of Samoa”, and the words “or in Samoa”.
- 40.** (1) The principal Act is hereby amended by repealing:—
- (a) Sections nine to twenty-six:
- (b) Section thirty-five:
- (c) Subsection two of section forty-three:
- (d) The definition of the term “Samoan Public Service” in section three.
- (2) Section nine of the Samoa Amendment Act, 1926, is hereby repealed.
- (3) All Orders in Council, orders, warrants, appointments, regulations, records, instruments, and, generally, all acts of authority which originated under any of the enactments hereby repealed and are subsisting or in force on the coming into operation of this Act, shall enure 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.
- (4) All matters and proceedings commenced under the enactments hereby repealed and pending or in progress on the coming into operation of this Act may be continued, completed, and enforced under this Act.

Repeals and savings.
See Reprint of Statutes, Vol. II, p. 877