

SAMOA AMENDMENT BILL

EXPLANATORY NOTE

PART I

THE GOVERNMENT OF WESTERN SAMOA

THIS Part of the Bill is a consolidation with some amendments of the provisions of the Samoa Act 1921 and its amendments relating to the executive and legislative government of Western Samoa. The most important changes relate to the constitution of the Legislative Assembly of Western Samoa and the creation of Samoan constituencies for the election of Samoan members of the Assembly.

References to the existing legislation are shown as footnotes to the clauses in the Bill, and a table at the end of this note indicates where the existing provisions are to be found in the Bill, either in the same form or in a modified form.

Clause 4 re-enacts the existing provision declaring that the executive government of Western Samoa is vested in the Crown.

Clause 5 re-enacts the existing law providing for the appointment of a High Commissioner of Western Samoa, and includes new provisions declaring that the High Commissioner is the representative in Western Samoa of the Government of New Zealand and is the head of the executive government in Western Samoa. *Subclause (4)* is new, and defines in general terms the powers and functions of the High Commissioner.

Clauses 6 to 8 re-enact without material change the existing provisions relating to the appointment of a Deputy High Commissioner to act while the office of High Commissioner is vacant, the appointment and authority of an Acting High Commissioner to act during the incapacity or absence of the High Commissioner, and the authority of the Deputy High Commissioner to act in cases where the High Commissioner is incapacitated by illness from appointing an Acting High Commissioner.

Clause 9 re-enacts the existing provisions for the appointment of *Fautua*, and contains a new provision that it is competent for an Ordinance to prescribe the manner of recommending Samoans for appointment as *Fautua* and the terms and conditions of their appointment and the number of *Fautua*.

Clause 10 re-enacts the existing provisions for the establishment and constitution of the Council of State of Western Samoa. *Subclause (5)* modifies the existing provisions as to the matters on which the High Commissioner must consult the Council of State. He must consult the Council in the

exercise of any of his powers except powers in the exercise of which he must consult the Executive Council and powers exercised by him as the representative of the Government of New Zealand. He need not consult the Council of State in trivial matters or in matters which are too urgent to permit of consultation.

Clause 11 re-enacts without substantial change the existing provisions relating to the establishment and functions of the Executive Council of Western Samoa.

Clause 12 re-enacts the existing provisions relating to the membership of the Executive Council, but substitutes the official members of the Legislative Assembly instead of naming the Secretary to the Government, the Financial Secretary of Western Samoa, and the Attorney-General of Western Samoa, and increases the number of Samoan members from four to five. The clause also includes a new provision that the members of the Executive Council who are not also members of the Council of State are to be known as Ministers.

Clause 13 re-enacts the existing provisions that, with certain exceptions, the High Commissioner must consult with the Executive Council in the exercise of his powers, and must act in accordance with the advice of the Executive Council in any matter in which he is obliged to consult with the Executive Council. The clause contains new provisions that the High Commissioner need not consult with the Executive Council in the exercise of any powers as the representative of the Government of New Zealand or in the exercise of powers conferred on him by this Part of the Bill, except those conferred by *clause 41* (which relates to the publication of Ordinances, etc.).

Clause 14 re-enacts the existing provisions that the High Commissioner shall as far as practicable attend and preside at all meetings of the Executive Council. In his absence a member nominated by the High Commissioner is to preside. Subject to these provisions, the procedure of the Executive Council is to be prescribed by regulations or, while there are no such regulations or so far as the regulations do not provide, is to be determined by the High Commissioner.

Clause 15 re-enacts the existing provisions that the High Commissioner may charge any Minister with the responsibility for any Department or subject, and for that purpose may delegate powers to that Minister. The clause also makes provision for temporary appointments where any Minister so charged is temporarily unable to administer his Department or subject.

Clauses 16 to 19 re-enact without substantial change the existing provisions relating to the appointment of the Secretary to the Government, the Financial Secretary, the Attorney-General, and the Clerk of the Executive Council.

Clause 20 re-enacts the existing provisions authorising the making of regulations relating to the procedure of the Executive Council. The clause includes power to prescribe the procedure of the Executive Council, and to provide for the settlement of disagreements between the Minister charged with the responsibility for any department and the administrative head of that department.

Clause 21 provides for the establishment and membership of the Legislative Assembly of Western Samoa. The Assembly is to consist of—

- (a) One Samoan elected member for each Samoan constituency:
- (b) Five European elected members:

(c) Not more than three official members, as the High Commissioner decides. Subject to the provisions of this part of the Bill, the mode of electing members, the qualifications of candidates, and the terms and conditions of their membership are to be prescribed by Order in Council or by Ordinance.

Clause 22 provides that there shall be not fewer than forty-one nor more than forty-five Samoan constituencies for the election of the Samoan elected members of the Legislative Assembly, their names and boundaries being defined by Ordinance. Until an Ordinance in that behalf comes into force, the Samoan constituencies shall be the existing *faipule* constituencies.

Clause 23 provides that the European elected members are to be elected by a system of universal adult suffrage by the persons whose names appear on the European electoral roll. The Samoan elected member for each Samoan constituency is to be elected by the persons whose names appear on the Samoan electoral roll for that constituency. The qualification of electors and the manner of establishing and keeping the polls are to be prescribed by Order in Council or by Ordinance.

Clause 24 declares that all questions as to the membership of the Legislative Assembly are to be determined by the High Court of Western Samoa.

Clause 25 empowers the High Commissioner to prorogue or dissolve the Legislative Assembly. The Assembly is to be dissolved at the expiration of three years after the last preceding general election, and a general election must be held within three months after a dissolution.

Clause 26 provides for the election by the Legislative Assembly of a Speaker and a Deputy Speaker of the Assembly. They need not be members of the Assembly. The powers, duties, and functions of the Speaker and the Deputy Speaker are to be as prescribed by the Standing Orders of the Assembly.

Clause 27 authorises the High Commissioner to appoint a member of the Legislative Assembly who is also a member of the Executive Council to be Leader of Government Business.

Clause 28 re-enacts the existing provisions for the appointment of a Clerk of the Legislative Assembly.

Clause 29 re-enacts with some amendments the existing provisions relating to the procedure of the Legislative Assembly. The clause contains new provisions that the Assembly must meet at least once a year, and provides that the Speaker or, in his absence, the Deputy Speaker is to preside over meetings of the Assembly. The existing provisions require the High Commissioner to preside. The clause also provides that every member present when any question is put must vote thereon, and cannot abstain.

Clause 30 defines the privileges of the Legislative Assembly and its members as follows:

- (a) The validity of proceedings of the Assembly or of any committee thereof cannot be questioned in any Court;
- (b) No officer or member of the Assembly will be subject to the jurisdiction of any Court in relation to the exercise by him of any powers vested in him for the regulation of the procedure and the conduct of the business of the Assembly;
- (c) No member of the Assembly and no person entitled to speak therein will be liable to proceedings in any Court for anything said or any vote given by him in the Assembly or in any committee thereof:

- (d) No person will be liable to any proceedings in any Court in respect of the publication by or under the authority of the Assembly of any report, paper, vote, or proceeding:
- (e) Subject to this clause, the privileges of the Assembly and its members and committees are to be determined by Ordinance, but no Ordinance may provide for the imposition of a fine or imprisonment for contempt or otherwise unless the Ordinance provides for the trial and punishment thereof by the High Court.

Clause 31 re-enacts the existing provisions that the Legislative Assembly may make Ordinances for the peace, order, and good government of Western Samoa. This power includes the imposition of tolls, rates, dues, fees, fines, taxes and other charges, the imposition of conditions, restrictions, and prohibitions upon the export or import of goods from or into Western Samoa, and the establishment of inferior Courts of Justice, but does not include the making of laws relating to defence (except in relation to the taking of land for defence purposes or the recruitment and maintenance of a volunteer force for local defence) or relating to external affairs or affecting the title of the Crown to land vested in the Crown in right of the Government of New Zealand. This clause does not change the existing law.

Clause 32 declares that it shall not be competent for any Ordinance to make any provision repugnant to any provision of a reserved enactment or to any provision of the Trusteeship Agreement for the Territory of Western Samoa. The clause specifies the enactments which are reserved enactments, and makes no change in the existing law in this respect.

Clause 33 provides that no Ordinance may discriminate on the grounds of race, but this provision will not affect the validity of existing Ordinances or restrict the power of the Legislative Assembly to make Ordinances restricting or prohibiting persons other than Samoans from acquiring any interest in Samoan land.

Clause 34 re-enacts the existing provisions that if an Ordinance is in part invalid, the Ordinance will be valid as to the residue thereof if the residue is severable from the invalid part.

Clause 35 provides that any member of the Assembly may introduce any Bill or propose any motion, but the Assembly cannot pass a money Bill except on the recommendation or with the consent of the High Commissioner. The existing provisions require that money Bills must be recommended by the High Commissioner, and the alternative provision enabling money Bills to be passed with his consent is new.

Clause 36 re-enacts the existing provisions that the High Commissioner may assent to, refuse assent to, or amend Bills, and the provisions prescribing how his assent shall be testified.

Clause 37 provides that an Ordinance shall come into operation either on the date on which it is assented to or on any other date specified in the Ordinance, but no Ordinance may impose any retrospective liability or disability. The existing provisions do not authorise the making of an Ordinance having retrospective effect.

Clause 38 re-enacts the existing provisions that when the High Commissioner assents to an Ordinance he shall transmit a printed copy to the Minister of Island Territories.

Clause 39 re-enacts the existing provisions that the Governor-General may disallow an Ordinance wholly or in part at any time within one year after the High Commissioner has assented thereto.

Clause 40 re-enacts the existing provisions that an Ordinance may be passed in the English language or both in the English language and in the Samoan language.

Clause 41 modifies the existing provisions that all Ordinances together with such regulations and other instruments as the High Commissioner thinks fit are to be published in the *Western Samoa Gazette*. Publication in the *Western Samoa Gazette* will not be mandatory, but those Ordinances, regulations, and other instruments must be printed in both the English and the Samoan languages and copies made available for sale.

Clause 42 re-enacts the existing provisions that the collection, expenditure, and control of the public revenues of Western Samoa are to be regulated by Ordinance.

Clause 43 re-enacts the existing provisions that the audit of the accounts of the Samoan Treasury shall be in accordance with regulations in that behalf.

Clause 44 abolishes the *Fono of Faipule*, in consequence of the provisions of this Part of the Bill widening the constitution of the Legislative Assembly and providing for the establishment of Samoan constituencies and the election of members of the Assembly by the electors of those constituencies.

Clause 45 provides for repeals, revocations, savings, and consequential amendments. The effect of the revocation of the Samoa Reserved Enactments Order 1954 will be that the Western Samoa *Fautua* Appointment Regulations 1948 and the Western Samoa Legislative Assembly Regulations 1948 will no longer be reserved enactments, and it will be competent for the Legislative Assembly to make Ordinances containing provisions that are repugnant to those regulations. The enactments specified in Part I of the Schedule to that order which have not since been repealed appear in the *Second* Schedule to the Bill and are still reserved enactments, and the remaining regulations in Part II of the Schedule to the order have since been revoked.

PART II

MISCELLANEOUS AMENDMENTS

Clause 46: The effect of this clause is that the Public Service Commissioner of Western Samoa, when exercising his powers in relation to the appointment of officers of the Western Samoa Trust Estates Corporation, must have regard to the policies and objectives of the Corporation.

Clause 47 makes it clear that the same person may hold more than one position in the Western Samoan Public Service.

Clause 48: The effect of this clause is to prohibit the soliciting of any director of the Western Samoa Trust Estates Corporation with a view to obtaining promotion in or an appointment to the Western Samoan Public Service.

Clause 49 provides that all references to the New Zealand Reparation Estates in any enactment or document shall be read as references to the Western Samoa Trust Estates Corporation. By Part III of the Samoa Amendment Act (No. 2) 1956 all the assets of the New Zealand Reparation Estates were vested in that Corporation.

TABLE OF CORRESPONDING SECTIONS OF ENACTMENTS
REPEALED

THE SAMOA ACT 1921, NO. 16 (1931 REPRINT, VOL. II, P. 791)

Section of Act	Clause of Bill
4	4
6	6
7	7
8	8
53	28
54	36 (2) (3)
55	37
56	38
57	38
58	40
59	41
60	34
79A	31 (2) (c)

THE SAMOA AMENDMENT ACT 1923, NO. 24 (1931 REPRINT, VOL. II, P. 872)

Section of Act	Clause of Bill
3	16
4 .....	.....

THE SAMOA AMENDMENT ACT 1938, NO. 22

Section of Act	Clause of Bill
2

THE SAMOA AMENDMENT ACT 1947, NO. 48

Section or Schedule of Act	Clause or Schedule of Bill
2	3
3 (1), (1A)	5
3 (2)	6 (1)
3 (3)	45 (4)
3 (4) .....	.....
4	10
5	9
6	21
7	29
8	31
9	32
10	35
11	36 (1) (2)
12	42
13	43
14 (1)-(4) .....	.....
First Schedule	First Schedule
Second Schedule	Repeals

THE CIVIL AVIATION ACT 1948, NO. 12

Section of Act	Clause of Bill
12 (4)	32 (2) (a)

THE BRITISH NATIONALITY AND NEW ZEALAND CITIZENSHIP ACT 1948, NO. 15

Section of Act	Clause of Bill
33 (4)	32 (2) (a)

THE SAMOA AMENDMENT ACT 1949, No. 47			
Section of Act		Clause of Bill	
35	.....	.....	16
36	.....	.....	5 (5)
37	.....	.....	21
THE REPUBLIC OF IRELAND ACT 1950, No. 13			
Section of Act		Clause of Bill	
4 (2)	.....	.....	32 (2) (a)
THE REPUBLIC OF INDIA ACT 1950, No. 14			
Section of Act		Clause of Bill	
3 (2)	.....	.....	32 (2) (a)
THE SAMOA AMENDMENT ACT 1951, No. 74			
Section of Act		Clause of Bill	
15	.....	.....	32 (2) (a)
THE OFFICIAL SECRETS ACT 1951, No. 77			
Section of Act		Clause of Bill	
17 (2)	.....	.....	32 (2) (a)
THE SAMOA AMENDMENT ACT 1952, No. 31			
Section of Act		Clause of Bill	
3	.....	.....	21 (2) (c)
6	.....	.....	32 (2) (a)
THE SAMOA AMENDMENT ACT 1953, No. 52			
Section of Act		Clause of Bill	
3	.....	.....	31 (2) (c)
THE REPUBLIC OF PAKISTAN ACT 1956, No. 10			
Section of Act		Clause of Bill	
3 (2)	.....	.....	32 (2) (a)
THE SAMOA AMENDMENT ACT 1956, No. 11			
Section of Act		Clause of Bill	
2	.....	.....	32 (2) (a)
3	.....	.....	11
4	.....	.....	12
5	.....	.....	13
6	.....	.....	14
7	.....	.....	15
8	.....	.....	19
9	.....	.....	20
10	.....	.....	.....
15	.....	.....	17
16	.....	.....	18
THE SAMOA AMENDMENT ACT (No. 2) 1956, No. 46			
Section of Act		Clause of Bill	
2 (1)	.....	.....	31 (2) (3)
2 (2)	.....	.....	13
3	.....	.....	32 (2) (a)
4	.....	.....	13 (2)
6	.....	.....	32 (2) (a)
THE DIPLOMATIC IMMUNITIES AND PRIVILEGES ACT 1957, No.			
Section of Act		Clause of Bill	
21 (6)	.....	.....	32 (2) (a)

Hon. Mr Macdonald

SAMOA AMENDMENT

ANALYSIS

Title	<i>The Legislative Government of Western Samoa</i>
1. Short Title	21. Legislative Assembly of Western Samoa
	22. Samoan constituencies
	23. Suffrage
	24. Decision of questions as to membership
	25. Prorogation and dissolution of Legislative Assembly
	26. Speaker and Deputy Speaker
	27. Leader of Government Business
	28. Clerk of Legislative Assembly
	29. Procedure
	30. Privileges of Legislative Assembly and of its members
	31. Legislative Assembly may make Ordinances
	32. Ordinances repugnant to New Zealand Acts and regulations or to trusteeship agreement
	33. Ordinances not to discriminate on grounds of race
	34. Partial validity of Ordinances
	35. Introduction of Bills, etc., into Legislative Assembly
	36. High Commissioner may assent to, refuse assent to, or amend Bills
	37. Commencement of Ordinances
	38. Transmission to Minister of Ordinances assented to
	39. Disallowance of Ordinances
	40. Language of Ordinances
	41. Publication of Ordinances, etc.
	<i>Financial Provisions</i>
	42. Ordinances as to revenue and expenditure
	43. Regulations as to audit

<p style="text-align: center;"><i>Miscellaneous</i></p> <p>44. <i>Fono</i> of <i>Faipule</i> abolished</p> <p>45. Repeals, savings, and amendments</p> <p style="text-align: center;">PART II</p> <p style="text-align: center;">MISCELLANEOUS AMENDMENTS</p> <p>46. Functions of Public Service Commissioner</p>	<p>47. Appointments to Western Samoan Public Service</p> <p>48. Political influence</p> <p>49. References to New Zealand Reparation Estates deemed references to Western Samoa Trust Estates Corporation Schedules</p>
---	--

A BILL INTITULED

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

1. Short Title—This Act may be cited as the Samoa Amendment Act 1957, and shall be read together with and deemed part of the Samoa Act 1921 (hereinafter referred to as the principal Act).

PART I

10

THE GOVERNMENT OF WESTERN SAMOA

2. Commencement—This Part of this Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Proclamation.

3. Interpretation—For the purposes of this Act and the principal Act, unless the context otherwise requires,—

15

“Council of State” means the Council of State of Western Samoa established under this Act:

“Defence” means the defence of Western Samoa and the defence of New Zealand; and includes the matters referred to in Article X of the trusteeship agreement:

20

“External affairs” includes the relations of Western Samoa with other countries and with international organisations, and the representation of other countries in Western Samoa:

25

“High Commissioner” means the High Commissioner of Western Samoa appointed under this Part of this Act:

“Legislative Assembly” means the Legislative Assembly of Western Samoa established under this Part of this Act:

30

“Ordinance” means an Ordinance passed by the Legislative Assembly and assented to by the High Commissioner under the authority of this Part of this Act:

5 “Reserved enactment” means any enactment that is a reserved enactment for the purposes of section thirty-two of this Act:

“Trusteeship agreement” means the trusteeship agreement of which the text is set out in the First Schedule to this Act:

10 “Western Samoa” means the Territory of Western Samoa as defined in the Second Schedule to the principal Act.

Cf. 1947, No. 48, s. 2

The Executive Government of Western Samoa

15 **4. Executive government vested in the Crown**—The executive government of Western Samoa is hereby declared to be vested in Her Majesty the Queen in right of the Government of New Zealand.

Cf. 1921, No. 16, s. 4; 1947, No. 48, s. 14 (4)

20 **5. High Commissioner of Western Samoa**—(1) There shall be a High Commissioner of Western Samoa, who shall be appointed by the Governor-General, and shall in the exercise of his powers and the discharge of his functions be subject to the general control of the Minister of Island Territories.

25 (2) The High Commissioner shall be the representative in Western Samoa of the Government of New Zealand.

(3) The High Commissioner shall be the head of the executive government of Western Samoa.

30 (4) The High Commissioner shall have all such powers as may be reasonably necessary for the efficient performance of his functions and such other powers as may from time to time be conferred on him by the principal Act and its amendments (including this Act) or any regulations thereunder or by any Ordinance or by any other enactment or law in force in
35 Western Samoa.

(5) The High Commissioner shall be stationed at Apia.

(6) 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 of Island Territories.

40 Cf. 1947, No. 48, s. 3 (1), (1A); 1949, No. 47, s. 36

6. Deputy High Commissioner of Western Samoa—

(1) The Governor-General may from time to time appoint a fit person to be the Deputy High Commissioner of Western Samoa.

(2) While the office of High Commissioner is vacant, the Deputy shall, without further authority or appointment, assume and exercise all the powers of the High Commissioner, and all the provisions of the principal Act and its amendments (including this Act) and any regulations thereunder or of any other enactment with respect to the High Commissioner shall extend and apply to the Deputy accordingly.

(3) The authority of the Deputy so to act as aforesaid shall continue until a new High Commissioner has been appointed and has assumed the duties of his office in Samoa.

Cf. 1921, No. 16, s. 6; 1947, No. 48, ss. 3 (2), 14 (1) 15

7. Acting High Commissioner—(1) If at any time the High Commissioner is incapable by reason of sickness or otherwise of performing the duties of his office, or is or proposes to be absent from Western Samoa, or is or proposes to be absent from Apia, he may, by warrant under the Seal of Samoa, authorise the Deputy High Commissioner to act as Acting High Commissioner during the period of that incapacity or absence.

(2) Any such warrant may limit, in such manner as the High Commissioner thinks fit, the authority of the Deputy with respect to the matters to which that authority extends.

(3) Subject to any limitations so expressed in the warrant, the Deputy so authorised may exercise all the powers and discharge all the functions of the High Commissioner both in respect of his office as such and in respect of any other offices held by him concurrently with his office as High Commissioner.

(4) Any such authority may be at any time revoked by the High Commissioner.

(5) No such warrant of authority, and no act done in pursuance thereof by the Deputy, shall be questioned or invalidated on the ground that the occasion for the warrant or for the exercise of the powers of the Deputy had not arisen or had ceased, and no act done by the High Commissioner shall be questioned or invalidated on the ground that any such warrant of authority was still in force.

Cf. 1921, No. 16, s. 7; 1947, No. 48, s. 3 (3) 35
40

8. **Incapacity of High Commissioner**—(1) If at any time a certificate in writing that the High Commissioner is incapacitated by illness from executing any such warrant of authority is made and delivered to the Deputy High Commissioner by an authorised officer, the Deputy High Commissioner may, without further authority or appointment, assume and exercise all the powers and discharge all the functions of the High Commissioner (both in respect of his office as such and in respect of any other offices held by him concurrently with his office as High Commissioner) until a certificate in writing to the effect that that incapacity has ceased is made by an authorised officer and delivered to the Deputy High Commissioner.

(2) The Director of Health appointed under section thirty-four of the principal Act is hereby declared to be an authorised officer for the purposes of this section. If the Director of Health is absent from Western Samoa or is himself incapacitated in any manner from making and delivering any certificate under this section, any Medical Officer who is an officer of the Western Samoan Public Service shall be an authorised officer for the purposes of this section. In any such case the fact that a Medical Officer other than the Director of Health makes and delivers a certificate shall be sufficient evidence of his authority so to do.

25 Cf. 1921, No. 16, s. 8; 1947, No. 48, s. 3 (3)

9. **Fautua**—(1) The Governor-General may from time to time, by Order in Council, appoint Samoans to be *Fautua*.

(2) The manner of recommending Samoans for appointment as *Fautua*, and the terms and conditions of their appointment, and the number of *Fautua* that may from time to time be appointed may be prescribed by the Governor-General in Council or, where there is no such Order in Council or so far as any such Order in Council does not extend, by Ordinance.

35 (3) The *Fautua* shall receive from the Samoan Treasury such remuneration and allowances as may be prescribed by Ordinance.

Cf. 1947, No. 48, s. 5

10. **Council of State of Western Samoa**—(1) There shall be a Council of State in and for Western Samoa, to be called the Council of State of Western Samoa.

(2) The Council of State shall consist of the High Commissioner and of the Samoans for the time being holding office as *Fautua*.

(3) The Council of State shall meet at such times and at such places as the High Commissioner from time to time appoints in that behalf. 5

(4) The High Commissioner shall preside at any meeting of the Council of State at which he is present.

(5) The Council of State shall be consulted by the High Commissioner in the exercise of any of his powers, except— 10

- (a) Powers in the exercise of which he is required to consult with the Executive Council; or
- (b) Powers exercised by him as the representative of the Government of New Zealand; or
- (c) In any case in which the matter to be decided is, in his judgment, too unimportant to require the advice of the Council of State; or 15
- (d) In any case in which the matter to be decided is, in his judgment, too urgent to admit of the advice of the Council of State being given by the time within which it may be necessary for him to act, but in such a case he shall, as soon as practicable, communicate to the Council of State the measures that he has adopted with the reasons therefor. 20

Cf. 1947, No. 48, s. 4

25

11. Executive Council of Western Samoa—(1) There shall be an Executive Council in and for Western Samoa, to be called the Executive Council of Western Samoa.

(2) The Executive Council shall be the principal instrument of policy of the executive government of Western Samoa, and shall perform such functions and exercise such powers as may from time to time be prescribed by this Part of this Act or any regulations thereunder or by any Ordinance or by any other enactment or law in force in Western Samoa. 30

Cf. 1956, No. 11, s. 3

35

12. Members of Executive Council—(1) The Executive Council shall consist of—

- (a) The High Commissioner;
- (b) The Samoans for the time being holding office as *Fautua*; 40
- (c) The official members for the time being of the Legislative Assembly;

(d) Five Samoan members, who shall be appointed by the High Commissioner from among the Samoan elected members of the Legislative Assembly on the nomination of the Samoan elected members of that Assembly, made in accordance with such procedure as they may from time to time adopt for that purpose:

5

(e) Two members, who shall be appointed by the High Commissioner from among the European elected members of the Legislative Assembly on the nomination of the European elected members of that Assembly, made in accordance with such procedure as they may from time to time adopt for that purpose.

10

(2) Each member of the Executive Council who is not also a member of the Council of State shall be styled a Minister (in this Part of this Act referred to as a Minister).

15

(3) The appointed members of the Executive Council shall hold office during the pleasure of the High Commissioner:

20

Provided that every appointed member of the Executive Council shall vacate his office within twenty-eight days if he ceases to be a member of the Legislative Assembly, but no person who is in office as an appointed member of the Council immediately before any dissolution of the Assembly shall be deemed on that dissolution to have vacated his office on the Council by reason of this proviso.

25

(4) Any vacancy in the office of an appointed member of the Executive Council shall be filled in the manner in which the appointment to the vacant office was originally made.

30

(5) The appointed members of the Executive Council may receive from the Samoan Treasury such remuneration and allowances as may from time to time be prescribed by Ordinance.

Cf. 1956, No. 11, s. 4

35 **13. Exercise of High Commissioner's powers**—(1) The High Commissioner shall consult with the Executive Council in the exercise of all powers conferred on him by the principal Act and its amendments or by any regulations or by any Ordinance or by any other Act or law in force in Western
40 Samoa:

Provided that he shall not be obliged to consult with the Executive Council—

- (a) In the exercise of any powers relating to defence (except in relation to the taking of land for defence purposes and to the recruitment and maintenance of a volunteer force for local defence) or relating to external affairs or affecting the title of the Crown to any land vested in the Crown in right of the Government of New Zealand: 5
- (b) In the exercise of any powers as the representative of the Government of New Zealand: 10
- (c) In the exercise of any powers conferred on him by this Part of this Act, not being powers conferred by any enactment referred to in paragraph (j) of subsection two of this section: 15
- (d) In the exercise of any powers conferred on him by any other reserved enactment (not being an enactment referred to in paragraphs (a) to (i) of subsection two of this section):
- (e) In any case in which the matter to be decided is, in his judgment, too unimportant to require the advice of the Executive Council: 20
- (f) In any case in which the matter to be decided is, in his judgment, too urgent to admit of the advice of the Executive Council being given by the time within which it may be necessary for him to act, but in such a case he shall, as soon as practicable, communicate to the Council the measures that he has adopted with the reasons therefor: 25
- (g) In the exercise of any powers conferred on him by any Act passed or regulations made on or after the first day of September, nineteen hundred and fifty-six (being the date of the commencement of Part I of the Samoa Amendment Act 1956) in which it is specifically provided that he may act at his discretion. 35
- (2) Notwithstanding anything in paragraph (c) or paragraph (d) of the proviso to subsection one of this section, but subject to the provisions of paragraphs (e) and (f) of that proviso, the High Commissioner shall consult with the Executive Council in the exercise of the powers conferred on him by the following reserved enactments: 40
- (a) Subsection two of section two hundred and twenty-four and subsections two, two A, and three of section two hundred and forty-four of the principal Act: 45

- (b) Section two hundred and sixty-four of the principal Act, so far as it relates to claims by or against the Crown in right of the Government of Western Samoa:
- 5 (c) Section two hundred and sixty-nine A and subsection two of section two hundred and seventy of the principal Act:
- (d) Section two hundred and seventy-one B of the principal Act, so far as it relates to the exercise of any power conferred by that section in respect of land vested in
10 the Crown in right of the Government of Western Samoa:
- (e) Subsection one A of section two hundred and seventy-two of the principal Act:
- 15 (f) Section two hundred and seventy-three of the principal Act, so far as it relates to the exercise of any power conferred by that section to purchase or acquire any land or interest in land intended to be vested in the Crown in right of the Government of Western Samoa:
- 20 (g) Sections two hundred and seventy-four and two hundred and eighty of the principal Act:
- (h) Subsection one A of section fifty-eight of the Statutes Amendment Act 1944:
- 25 (i) Sections eighteen, twenty-eight A, and thirty-three of the Samoa Amendment Act 1949:
- (j) Section forty-one of this Act.
- (3) The High Commissioner shall act in accordance with the advice of the Executive Council in any matter on which
30 he is by this section obliged to consult with the Executive Council.
- (4) No action by the High Commissioner may be challenged or called into question in any Court upon the ground that he has failed to comply with or has acted in
35 contravention of the provisions of this section.

Cf. 1956, No. 11, s. 5; 1956, No. 46, ss. 2 (2), 4

14. Procedure of Executive Council—(1) The High Commissioner shall, as far as practicable, attend and preside at all meetings of the Executive Council.

- 40 (2) In the absence of the High Commissioner from any meeting, such other member of the Executive Council as the High Commissioner appoints shall preside.

(3) The Executive Council shall not be disqualified for the transaction of business by reason of any vacancy among its members, and no proceedings may be challenged or called into question in any Court upon the ground that some person who sat and voted in the Executive Council or otherwise took part in its proceedings was not qualified to act as a member of the Council. 5

(4) Subject to the provisions of this section, the procedure of the Executive Council shall be as prescribed by regulations made under section twenty of this Act or, while there are no such regulations or so far as the regulations do not provide, shall be determined from time to time by the High Commissioner. 10

Cf. 1956, No. 11, s. 6

15. Assignment of Departments to Ministers—(1) The High Commissioner may from time to time, by directions in writing,— 15

(a) Charge any Minister with the responsibility for any Department or subject:

(b) Delegate to that Minister such of the powers of the High Commissioner as the High Commissioner considers necessary or convenient for the exercise of that responsibility: 20

(c) Revoke or vary any directions under this subsection.

(2) Where the High Commissioner considers that any Minister is for any cause temporarily unable to administer any Department or subject with the responsibility for which he is charged, the High Commissioner may from time to time, by directions in writing,— 25

(a) Charge any other Minister with the responsibility for that Department or subject until such time as the first-mentioned Minister is declared by the High Commissioner again to be able to administer that Department or subject: 30

(b) Delegate to that other Minister such of the powers of the High Commissioner as the High Commissioner considers necessary or convenient for the exercise of that responsibility: 35

(c) Revoke or vary any directions under this subsection.

Cf. 1956, No. 11, s. 7

16. **Secretary to the Government**—There shall be an officer of the Western Samoan Public Service to be called the Secretary to the Government of Western Samoa, who shall be the administrative head of the Secretariat Department
5 (including the office of the Leader of Government Business).

Cf. 1923, No. 24, s. 3; 1949, No. 47, s. 35

17. **Financial Secretary**—There shall be an officer of the Western Samoan Public Service to be called the Financial Secretary of Western Samoa, who shall be the principal financial
10 adviser to the Government of Western Samoa, and shall have such other functions in relation to financial matters as may from time to time be determined by the High Commissioner or prescribed by Ordinance.

Cf. 1956, No. 11, s. 15

15 18. **Attorney-General**—(1) There shall be an officer of the Western Samoan Public Service to be called the Attorney-General of Western Samoa, who shall be the principal legal adviser to the Government of Western Samoa, and shall have such legal and other functions as may from time to time be
20 determined by the High Commissioner or prescribed by Ordinance.

(2) Except as may otherwise be provided by Ordinance, the Attorney-General shall perform the duties of Crown Solicitor.

Cf. 1956, No. 11, s. 16

25 19. **Clerk of the Executive Council**—There shall be an officer of the Western Samoan Public Service to be called the Clerk of the Executive Council of Western Samoa, who shall be responsible for arranging the business for, and keeping the minutes of, meetings of the Executive Council, and for
30 conveying decisions of the High Commissioner in Executive Council to the appropriate person or authority, and shall have such other functions and duties as the High Commissioner from time to time directs.

Cf. 1956, No. 11, s. 8

35 20. **Regulations as to procedure, etc., of Executive Council**—The Governor-General may from time to time, by Order in Council, make regulations—

(a) Prescribing the procedure for summoning and holding
40 meetings of the Executive Council for the conduct of the business of the Council:

- (b) Providing for the settlement of disagreements between the Minister charged with the responsibility for any Department and the administrative head of that Department on questions relating to the administration of that Department: 5
- (c) Providing for such other matters as the Governor-General considers necessary or advisable to give full effect to the provisions of sections eleven to fifteen of this Act and for the due performance by the Executive Council of its functions and the exercise 10 of its powers.

Cf. 1956, No. 11, s. 9

The Legislative Government of Western Samoa

21. Legislative Assembly of Western Samoa—(1) There is hereby established in and for Western Samoa a Legislative Assembly to be called the Legislative Assembly of Western Samoa. 15

(2) The Legislative Assembly shall consist of—

(a) One Samoan elected member for each Samoan constituency established under section twenty-two of this Act: 20

(b) Five European elected members:

(c) Not more than three official members as the High Commissioner determines, who shall be officers of the Western Samoan Public Service, to be appointed by the High Commissioner and to hold office as members of the Assembly during his pleasure. 25

(3) Subject to the provisions of this Part of this Act, the mode of electing members of the Legislative Assembly, the qualifications of candidates, and the terms and conditions of their membership may be prescribed by the Governor-General in Council or, where there is no such Order in Council or so far as any such Order in Council does not extend, by Ordinance. 30

(4) The elected members of the Legislative Assembly shall receive from the Samoan Treasury such remuneration and allowances as may be prescribed by Ordinance. 35

(5) The powers of the Legislative Assembly shall not be affected by any vacancy in the membership thereof.

(6) Where the office in the Western Samoan Public Service of an official member of the Legislative Assembly is vacant or an official member is absent or incapacitated, the High Commissioner may appoint an officer of the Western Samoan Public Service to be an official member of the Assembly in 40

place of the member whose office is vacant or who is absent or incapacitated. Every member so appointed shall be entitled to sit and act as a member of the Assembly until the vacancy is filled or the absence or incapacity ceases.

5 Cf. 1947, No. 48, s. 6; 1949, No. 47, s. 37; 1952, No. 31, s. 3

22. Samoan constituencies—There shall be not fewer than forty-one nor more than forty-five constituencies for the election of the Samoan elected members of the Legislative
10 Assembly (in this Part of this Act referred to as Samoan constituencies) having the names and boundaries assigned to them from time to time by Ordinance:

Provided that, until an Ordinance in that behalf comes into force, the Samoan constituencies shall be the *faipule* constituencies as defined in the Faipule Election Ordinance 1939
15 of the Legislative Council of Western Samoa.

23. Suffrage—(1) The European elected members of the Legislative Assembly shall be elected by those persons whose names appear on the European electoral roll compiled in
20 accordance with a system of universal adult suffrage.

(2) The Samoan elected member of the Legislative Assembly for each Samoan constituency shall be elected by the persons whose names appear on the Samoan electoral roll for that constituency.

25 (3) Subject to the foregoing provisions of this section, the qualifications of electors and the manner in which the European electoral roll and each Samoan electoral roll shall be established and kept shall be as prescribed by the Governor-General in Council or, where there is no such Order
30 in Council or so far as any such Order in Council does not extend, by Ordinance.

24. Decision of questions as to membership—All questions that may arise as to the right of any person to be or to remain a member of the Legislative Assembly shall be referred to and
35 determined by the High Court of Western Samoa.

25. Prorogation and dissolution of Legislative Assembly—
(1) The High Commissioner may at any time, by notice published in the *Western Samoa Gazette*, prorogue or dissolve the Legislative Assembly.

(2) The High Commissioner shall dissolve the Legislative Assembly at the expiration of three years from the date of the last preceding general election, if it has not been sooner dissolved.

(3) There shall be a general election of the Samoan elected members and the European elected members of the Legislative Assembly at such time within three months after every dissolution of the Assembly as the High Commissioner appoints by notice published in the *Western Samoa Gazette*. 5

26. Speaker and Deputy Speaker—(1) The Legislative Assembly shall, immediately on its first meeting after the general election of its elected members and immediately on its first meeting after any vacancy occurs in the office of Speaker (whether by death, resignation, or otherwise), choose any person (whether a member of the Assembly or not) as its Speaker, and every such choice, on being confirmed by the High Commissioner, shall be valid and effectual. 15

(2) The Legislative Assembly may choose any person (whether a member of the Assembly or not) to be the Deputy Speaker, and every such choice, on being confirmed by the High Commissioner, shall be valid and effectual. 20

(3) The Speaker or Deputy Speaker, unless he sooner vacates his office for any other cause, shall vacate his office on the dissolution of the Legislative Assembly.

(4) The High Commissioner may, with the concurrence of the Legislative Assembly, appoint a Speaker (whether a member of the Assembly or not) to preside over meetings of the Assembly until the first Speaker is chosen by the Assembly after the date of the commencement of this Part of this Act. 30

(5) The powers, functions, and duties of the Speaker and the Deputy Speaker shall be such as are prescribed from time to time by the Standing Orders of the Legislative Assembly.

(6) The Speaker and the Deputy Speaker shall receive from the Samoan Treasury such remuneration and allowances as may be prescribed by Ordinance. 35

27. Leader of Government Business—The High Commissioner shall from time to time appoint a member of the Legislative Assembly who is also a member of the Executive Council of Western Samoa to be Leader of Government Business, to hold office as such at the pleasure of the High Commissioner. 40

28. Clerk of Legislative Assembly—There shall be an officer of the Western Samoan Public Service, to be called the Clerk of the Legislative Assembly of Western Samoa, who shall keep the records of the Assembly and perform with
5 respect to the Assembly such secretarial and other functions as may be required.

Cf. 1921, No. 16, s. 53

29. Procedure—(1) The Legislative Assembly shall meet at such times and at such places as the High Commissioner
10 appoints from time to time in that behalf:

Provided that the Assembly shall meet at least once in every year, so that a period of twelve months shall not intervene between the last sitting of the Assembly in one session and the first sitting thereof in the next session.

15 (2) The Speaker, or in his absence the Deputy Speaker, shall preside over meetings of the Legislative Assembly. In the absence from any meeting of both the Speaker and the Deputy Speaker, the members present shall choose one of their number to preside over that meeting.

20 (3) Every question before the Legislative Assembly shall be decided by a majority of the votes of the members present.

(4) Every member present when any question is put to the Legislative Assembly shall vote thereon.

25 (5) The Speaker or the Deputy Speaker, while presiding over a meeting of the Legislative Assembly, or the member presiding over any meeting of the Assembly in the absence of the Speaker and the Deputy Speaker, shall not have a deliberative vote, but, in the case of an equality of votes, he shall, provided in the case of the Speaker or the Deputy
30 Speaker he is a member of the Assembly, have a casting vote.

(6) No business shall be transacted at any meeting of the Legislative Assembly if the number of members present is less than half of the total number for the time being of the members of the Assembly.

35 (7) Subject to the provisions of the principal Act and its amendments (including this Act), the Legislative Assembly may make standing orders regulating its procedure.

Cf. 1947, No. 48, s. 7

30. Privileges of Legislative Assembly and of its members—
40 (1) The validity of any proceedings in the Legislative Assembly or in any committee thereof shall not be questioned in any Court.

(2) No officer or member of the Legislative Assembly in whom powers are vested for the regulation of procedure or the conduct of business or the maintenance of order shall in relation to the exercise by him of any of those powers be subject to the jurisdiction of any Court.

5

(3) No member of the Legislative Assembly and no person entitled to speak therein shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in the Assembly or in any committee thereof.

(4) No person shall be liable to any proceedings in any Court in respect of the publication by or under the authority of the Legislative Assembly of any report, paper, vote, or proceeding.

10

(5) Subject to the provisions of this section, the privileges of the Legislative Assembly and of the committees thereof, and the privileges of members of the Assembly and of the persons entitled to speak therein, may be determined by Ordinance:

15

Provided that no such privilege may extend to the imposition of a fine or to committal to prison for contempt or otherwise, unless provision is made by Ordinance for the trial and punishment of the person concerned by the High Court.

20

31. Legislative Assembly may make Ordinances—(1) Subject to the provisions of the principal Act and its amendments (including this Act) and any regulations thereunder, the Legislative Assembly may make laws (to be known as Ordinances) for the peace, order, and good government of Western Samoa.

25

(2) Without limiting the generality of the power conferred by subsection one of this section to make laws for the peace, order, and good government of Western Samoa, that power shall, save as otherwise provided in the principal Act and its amendments (including this Act) and any regulations thereunder, include—

30

- (a) The imposition of tolls, rates, dues, fees, fines, taxes, and other charges: 35
- (b) The imposition of conditions, restrictions, and prohibitions upon the export or import of goods from or into Western Samoa:
- (c) The establishment of inferior Courts of Justice having jurisdiction, whether civil or criminal, in respect of such matters and in such areas as may be specified in the Ordinance. 40

(3) Notwithstanding anything in the foregoing provisions of this section, the power conferred by subsection one of this section to make laws for the peace, order, and good government of Western Samoa shall not include the making of laws—

- 5 (a) Relating to defence (except in relation to the taking of land for defence purposes and to the recruitment and maintenance of a volunteer force for local defence) :
- 10 (b) Relating to external affairs:
- (c) Affecting the title of the Crown to any land vested in the Crown in right of the Government of New Zealand.

(4) No Ordinance shall be deemed to be invalid solely on the ground that it confers on the High Commissioner authority to make rules or regulations or that it delegates to or confers on the High Commissioner or to or on any other person or body any discretionary authority.

(5) All Ordinances made under section forty-six of the principal Act or under section eight of the Samoa Amendment Act 1947 and in force at the commencement of this Part of this Act shall enure for the purposes of the principal Act and its amendments (including this Act) as if they had been made under this section, and accordingly shall, where necessary, be deemed to have been so made.

25 Cf. 1921, No. 16, s. 79A; 1947, No. 48, s. 8; 1953, No. 52, s. 3; 1956, No. 46, s. 2 (1)

32. Ordinances repugnant to New Zealand Acts and regulations or to trusteeship agreement—(1) It shall not be lawful or competent by any Ordinance—

- 30 (a) To make any provision repugnant to any provision of a reserved enactment:
- (b) To make any provision repugnant to any provision of the trusteeship agreement.

(2) For the purposes of this section the following shall be deemed to be reserved enactments:

- 35 (a) The enactments specified in the Second Schedule to this Act to the extent therein specified:

40 Provided that no regulations made under the principal Act and its amendments (including this Act) shall be deemed to be reserved enactments for the purposes of this section, unless those regulations expressly so provide:

(b) Any other enactment declared by any Act or by any regulations (whether made under this Part of this Act or otherwise) to be a reserved enactment for the purposes of this section.

(3) Subject to the foregoing provisions of this section, no Ordinance and no provision of any Ordinance shall be void or inoperative on the ground that it is repugnant to the principal Act or to any other Act of the Parliament of New Zealand or of the Parliament of the United Kingdom in force in Western Samoa, or to any regulations there in force (whether made under the principal Act or otherwise), and, subject as aforesaid, the power to make Ordinances shall include the power to repeal or amend any such Act or regulation in so far as the same is part of the law of Western Samoa.

Cf. 1947, No. 48, s. 9; 1956, No. 46, s. 3

33. Ordinances not to discriminate on grounds of race—It shall not be lawful or competent by any Ordinance to make persons of any specified race liable to disabilities to which persons of all other races are not also made liable or to impose liabilities or penalties upon persons of any specified race which are not also imposed upon persons of all other races:

Provided that nothing in this section shall—

- (a) Affect the validity of any Ordinance passed before the commencement of this Part of this Act; or
- (b) Restrict the power of the Legislative Assembly to make Ordinances restricting or prohibiting persons other than Samoans from acquiring any interest in Samoan land.

34. Partial validity of Ordinances—If any Ordinance is in part repugnant to any Act or regulation or is otherwise in part *ultra vires*, the Ordinance shall nevertheless be valid as to the residue thereof, if and so far as the residue is in substance and effect severable from the part which is so repugnant or *ultra vires*.

Cf. 1921, No. 16, s. 60

35. Introduction of Bills, etc., into Legislative Assembly—Subject to the provisions of this Part of this Act and of the Standing Orders of the Legislative Assembly, any member of the Assembly may introduce any Bill or propose any motion for debate in the Assembly or present any petition to the Assembly, and the same shall be considered and disposed of in accordance with the Standing Orders:

Provided that, except upon the recommendation or with the consent of the High Commissioner, the Assembly shall not pass any Bill which would dispose of or charge any of the public revenues or public funds of Western Samoa, or revoke or alter any disposition thereof or charge thereon, or impose or alter or abolish any rate, tax, or duty.

Cf. 1947, No. 48, s. 10

36. High Commissioner may assent to, refuse assent to, or amend Bills—(1) No Ordinance shall become law until it has been passed by the Legislative Assembly in the form of a Bill and has been assented to by the High Commissioner.

(2) Whenever any Bill which has been passed by the Legislative Assembly is presented to the High Commissioner for his assent, he shall, within twenty-one days thereafter, declare according to his discretion, but subject to the provisions of this Part of this Act and to such instructions as may from time to time be given in that behalf by the Minister of Island Territories, that he assents to the Bill, or that he refuses his assent to the Bill:

Provided that the High Commissioner, before making any such declaration in respect of any Bill so presented to him, may make such amendments in the Bill as he thinks fit, and by message return the Bill with the amendments to the Legislative Assembly for consideration by the Assembly.

(3) The assent of the High Commissioner to an Ordinance shall be testified by signing a printed copy of the Ordinance and sealing the same with the Seal of Samoa.

(4) The High Commissioner shall at the same time enter upon the copy so signed and sealed the date of his assent thereto.

Cf. 1921, No. 16, s. 54; 1947, No. 48, s. 11

37. Commencement of Ordinances—Every Ordinance assented to by the High Commissioner shall come into operation either on the day on which it is assented to, or at any date (whether earlier or later than the date on which it is assented to) specified in that behalf in the Ordinance:

Provided that no provision of any Ordinance imposing any liability or disability shall come into operation before the date on which the Ordinance is assented to.

Cf. 1921, No. 16, s. 55

38. Transmission to Minister of Ordinances assented to— When the High Commissioner assents to an Ordinance he shall forthwith transmit a printed copy thereof to the Minister of Island Territories.

Cf. 1921, No. 16, s. 56

5

39. Disallowance of Ordinances—(1) At any time within one year after the assent of the High Commissioner has been given to an Ordinance, the Governor-General may, by notice published in the *New Zealand Gazette*, disallow that Ordinance either wholly or in part.

10

(2) On any such disallowance the Ordinance shall, to the extent to which it is so disallowed, become wholly void as if it had been then repealed.

(3) Any such disallowance shall take effect as aforesaid either on the day of the publication of the notice of disallowance in the *New Zealand Gazette* or at such later date as is specified in that behalf in the notice.

15

Cf. 1921, No. 16, s. 57

40. Language of Ordinances—Every Ordinance may be passed either in the English language alone, or both in the English language and in the Samoan language; but if, in the latter case, there is any conflict between the English and the Samoan version of the Ordinance the English version shall prevail.

20

Cf. 1921, No. 16, s. 58

25

41. Publication of Ordinances, etc.—Subject to the provisions of any Ordinance in that behalf, all Ordinances, together with such regulations, Orders in Council, Proclamations, warrants, appointments, and other instruments and acts relative to the government of Western Samoa as the High Commissioner thinks fit, shall be printed in the English language and also in the Samoan language and copies thereof made available for sale.

30

Cf. 1921, No. 16, s. 59

Financial Provisions

35

42. Ordinances as to revenue and expenditure—Subject to the provisions of the principal Act and its amendments (including this Act) and the regulations thereunder, the collection, expenditure, and control of the public revenues of Western Samoa shall be in accordance with such Ordinances as may be made in that behalf.

40

Cf. 1947, No. 48, s. 12

43. Regulations as to audit—The audit of the accounts of the Samoan Treasury shall be in accordance with such regulations in that behalf as may be made by the Governor-General in Council.

5 Cf. 1947, No. 48, s. 13

Miscellaneous

44. Fono of Faipule abolished—(1) The following enactments are hereby repealed, namely:

- (a) Section four of the Samoa Amendment Act 1923:
- 10 (b) Section two of the Samoa Amendment Act 1938.
- (2) Section thirty of the Samoa Amendment Act 1949 is hereby amended by omitting from subsection four the words “the Legislative Assembly, or the *Fono of Faipule*”, and substituting the words “or the Legislative Assembly”.

15 **45. Repeals, savings, and amendments**—(1) The enactments specified in the Third Schedule to this Act are hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any
 20 provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under
 25 this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

(3) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of section
 30 three of the Samoa Amendment Act 1923 and of section three of the Samoa Amendment Act 1947 shall not affect the amendments made by those sections.

(4) Section two hundred and sixty-four of the principal
 35 Act (as substituted by section thirty-three of the Crown Proceedings Act 1950) is hereby amended by omitting from subsection one the words “and shall be a reserved enactment within the meaning of section nine of the Samoa Amendment Act 1947”.

(5) Section eleven of the Enemy Property Act 1951 is hereby amended by omitting from subsection one the words “and shall be a reserved enactment for the purposes of section nine of the Samoa Amendment Act 1947”.

(6) The Samoa Reserved Enactments Order 1954 is hereby revoked. 5

PART II

MISCELLANEOUS AMENDMENTS

46. Functions of Public Service Commissioner—Section three of the Samoa Amendment Act 1949 is hereby amended 10 by adding to the proviso to subsection three (as substituted by section eleven of the Samoa Amendment Act 1956) the words “and also, in relation to appointments of officers of the Western Samoa Trust Estates Corporation, to the policy and objectives of the Corporation”. 15

47. Appointments to Western Samoan Public Service—Section thirteen of the Samoa Amendment Act 1949 is hereby amended by adding the following subsection:
“(5) The same person may be appointed to hold more than one position in the Western Samoan Public Service.” 20

48. Political influence—Section thirty of the Samoa Amendment Act 1949 (as amended by subsection two of section forty-four of this Act) is hereby further amended by inserting in subsection four, after the words “Legislative Assembly”, the words “or any director of the Western Samoa Trust Estates Corporation”. 25

49. References to New Zealand Reparation Estates deemed references to Western Samoa Trust Estates Corporation—Section twenty-seven of the Samoa Amendment Act (No. 2) 1956 is hereby amended as from the passing of that Act by 30 inserting, after subsection two, the following subsection:
“(2A) All references to the New Zealand Reparation Estates in any Act, regulation, Ordinance, order, or other enactment, or in any agreement, deed, instrument, application, licence, notice, or other document whatsoever shall, 35 unless inconsistent with the context or with the provisions of this Act, be read hereafter as references to the Western Samoa Trust Estates Corporation.”

SCHEDULES

Section 3

FIRST SCHEDULE

TRUSTEESHIP AGREEMENT FOR THE TERRITORY OF
WESTERN SAMOA

AS APPROVED BY THE GENERAL ASSEMBLY AT THE SIXTY-SECOND PLENARY
MEETING OF ITS FIRST SESSION ON 13 DECEMBER 1946

WHEREAS the Territory of Western Samoa has been administered in accordance with Article 22 of the Covenant of the League of Nations and pursuant to a mandate conferred upon His Britannic Majesty to be exercised on his behalf by the Government of New Zealand;

And whereas the Charter of the United Nations signed at San Francisco on 26 June 1945 provides for the establishment of an international trusteeship system for the administration and supervision of such territories as may be the subject of trusteeship agreements;

And whereas under the said Charter the international trusteeship system may be applied to territories now held under mandate;

And whereas the Government of New Zealand have indicated their willingness that the said international trusteeship system be applied to Western Samoa;

And whereas the said Charter provides further that the terms of trusteeship are to be approved by the United Nations;

Now, therefore, the General Assembly of the United Nations hereby resolves to approve the following terms of trusteeship for Western Samoa, in substitution for the terms of the aforesaid mandate:

Article I

The territory to which this Agreement applies is the territory known as Western Samoa comprising the islands of Upolu, Savai'i, Manono, and Apolima, together with all other islands and rocks adjacent thereto.

Article II

The Government of New Zealand are hereby designated as the administering authority for Western Samoa.

Article III

The administering authority shall have full powers of administration, legislation and jurisdiction over the territory, subject to the provisions of this agreement, and of the Charter of the United Nations, and may apply to the territory, subject to any modifications which the administering authority may consider desirable, such of the laws of New Zealand as may seem appropriate to local conditions and requirements.

Article IV

The administering authority undertakes to administer Western Samoa in such a manner as to achieve in that territory the basic objectives of the international trusteeship system, as expressed in Article 76 of the Charter of the United Nations, namely:

“(a) To further international peace and security;

FIRST SCHEDULE—*continued*

- “(b) To promote the political, economic, social and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
- “(c) To encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- “(d) To ensure equal treatment in social, economic, and commercial matters for all members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.”

Article V

The administering authority shall promote the development of free political institutions suited to Western Samoa. To this end and as may be appropriate to the particular circumstances of the territory and its peoples, the administering authority shall assure to the inhabitants of Western Samoa a progressively increasing share in the administrative and other services of the territory, shall develop the participation of the inhabitants of Western Samoa in advisory and legislative bodies and in the government of the territory, and shall take all other appropriate measures with a view to the political advancement of the inhabitants of Western Samoa in accordance with Article 76 (b) of the Charter of the United Nations.

Article VI

In pursuance of its undertaking to promote the social advancement of the inhabitants of the trust territory, and without in any way limiting its obligations thereunder, the administering authority shall:

1. Prohibit all forms of slavery and slave trading;
2. Prohibit all forms of forced or compulsory labour, except for essential public works and services as specifically authorised by the local administration and then only in times of public emergency, with adequate remuneration and adequate protection of the welfare of the workers;
3. Control the traffic in arms and ammunition;
4. Control, in the interest of the inhabitants, the manufacture, importation and distribution of intoxicating spirits and beverages; and
5. Control the production, importation, manufacture, and distribution of opium and narcotic drugs.

Article VII

The administering authority undertakes to apply in Western Samoa the provisions of any international conventions and recommendations as drawn up by the United Nations or its specialised agencies which are, in the opinion of the administering authority, appropriate to the needs and conditions of the trust territory, and conducive to the achievement of the basic objectives of the international trusteeship system.

FIRST SCHEDULE—*continued*

Article VIII

In framing the laws to be applied in Western Samoa, the administering authority shall take into consideration Samoan customs and usages and shall respect the rights and safeguard the interests, both present and future, of the Samoan population.

In particular, the laws relating to the holding or transfer of land shall ensure that no native land may be transferred save with the prior consent of the competent public authority and that no right over native land in favour of any person not a Samoan may be created except with the same consent.

Article IX

The administering authority shall ensure in the territory freedom of conscience and the free exercise of all forms of worship, and shall allow missionaries, nationals of any State member of the United Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling. The provisions of this Article shall not, however, affect the right and duty of the administering authority to exercise such control as it may consider necessary for the maintenance of peace, order and good government.

Article X

The administering authority shall ensure that the trust territory of Western Samoa shall play its part, in accordance with the Charter of the United Nations, in the maintenance of international peace and security. To this end the administering authority shall be entitled:

1. To establish naval, military and air bases and to erect fortifications in the trust territory;
2. To station and employ armed forces in the territory;
3. To make use of volunteer forces, facilities and assistance from the trust territory in carrying out the obligations toward the Security Council undertaken in this regard by the administering authority, as well as for local defence and the maintenance of law and order within the trust territory;
4. To take all such other measures in accordance with the Purposes and Principles of the Charter of the United Nations as are in the opinion of the administering authority necessary to the maintenance of international peace and security and the defence of Western Samoa.

Article XI

The administering authority shall, as may be appropriate to the circumstances of the trust territory, continue and extend a general system of education, including post-primary education and professional training.

Article XII

Subject only to the requirements of public order, the administering authority shall guarantee to the inhabitants of the trust territory, freedom of speech, of the press, of assembly and of petition.

FIRST SCHEDULE—*continued**Article XIII*

The administering authority may arrange for the co-operation of Western Samoa in any regional advisory commission, regional technical organisation or other voluntary association of states, any specialised international bodies, public or private, or other forms of international activity not inconsistent with the Charter of the United Nations.

Article XIV

The administering authority shall make to the General Assembly of the United Nations an annual report on the basis of a questionnaire drawn up by the Trusteeship Council in accordance with the Charter of the United Nations and shall otherwise collaborate fully with the Trusteeship Council in the discharge of all the Council's functions in accordance with Articles 87 and 88 of the Charter. The administering authority shall arrange to be represented at the sessions of the Trusteeship Council at which the reports of the administering authority with regard to Western Samoa are considered.

Article XV

The terms of this agreement shall not be altered or amended except as provided in Article 79 of the Charter of the United Nations.

Article XVI

If any dispute should arise between the administering authority and another member of the United Nations, relating to the interpretation or application of the provisions of this agreement, such dispute, if it cannot be settled by negotiation or similar means, shall be submitted to the International Court of Justice.

APPENDIX TO TRUSTEESHIP AGREEMENT FOR WESTERN SAMOA
TEXT OF CHAPTERS XII AND XIII OF THE CHARTER OF THE UNITED NATIONS
CHAPTER XII—INTERNATIONAL TRUSTEESHIP SYSTEM

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

Article 76

The basic objectives of the trusteeship system, in accordance with the purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

- (a) To further international peace and security;
- (b) To promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;

FIRST SCHEDULE—*continued*

- (c) To encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- (d) To ensure equal treatment in social, economic, and commercial matters for all members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

- (a) Territories now held under mandate;
- (b) Territories which may be detached from enemy states as a result of the Second World War; and
- (c) Territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78

The trusteeship system shall not apply to territories which have become members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

FIRST SCHEDULE—*continued**Article 81*

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states of the Organisation itself.

Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

Article 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defence and the maintenance of law and order within the trust territory.

Article 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendments, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII—THE TRUSTEESHIP COUNCIL

COMPOSITION

Article 86

1. The Trusteeship Council shall consist of the following members of the United Nations:

- (a) Those members administering trust territories;
- (b) Such of those members mentioned by name in Article 23 as are not administering trust territories; and

FIRST SCHEDULE--*continued*

- (c) As many other members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those members of the United Nations which administer trust territories and those which do not.
2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

FUNCTIONS AND POWERS

Article 87

The General Assembly, and under its authority, the Trusteeship Council, in carrying out their functions, may:

- (a) Consider reports submitted by the administering authority;
- (b) Accept petitions and examine them in consultation with the administering authority;
- (c) Provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and
- (d) Take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

VOTING

Article 89

1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

PROCEDURE

Article 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialised agencies in regard to matters with which they are respectively concerned.

SECOND SCHEDULESection 32 (2) (a)

RESERVED ENACTMENTS

Title of Enactment	Extent of Reservation
1921, No. 16— The Samoa Act 1921 (1931 Re-print, Vol. II, p. 791)	Sections 27 to 30, 33, 36, 44, and 45, Parts III, IV, VI, VII, VIII, and IX, and section 210.
1938, No. 22— The Samoa Amendment Act 1938	Section 5.
1943, No. 4— The Island Territories Act 1943	The whole Act.
1945, No. 41— The Atomic Energy Act 1945	The whole Act.
1948, No. 12— The Civil Aviation Act 1948	The whole Act.
1948, No. 15— The British Nationality and New Zealand Citizenship Act 1948	The whole Act.
1949, No. 47— The Samoa Amendment Act 1949	The whole Act.
1950, No. 13— The Republic of Ireland Act 1950	The whole Act.
1950, No. 14— The Republic of India Act 1950	The whole Act.
1950, No. 54— The Crown Proceedings Act 1950	The whole Act.
1951, No. 48— The Enemy Property Act 1951	The whole Act.
1951, No. 74— The Samoa Amendment Act 1951	The whole Act.
1951, No. 77— The Official Secrets Act 1951	The whole Act.
1952, No. 31— The Samoa Amendment Act 1952	The whole Act.
1956, No. 10— The Republic of Pakistan Act 1956	The whole Act.
1956, No. 11— The Samoa Amendment Act 1956	Part II.
1956, No. 46— The Samoa Amendment Act	Part II.
(No. 2) 1956	
1956, No. 47— The Superannuation Act 1956	The whole Act.
1957, No. — <u>The Diplomatic Immunities and Privileges Act 1957</u>	The whole Act.
1957, No. — The Samoa Amendment Act 1957	Part I and the Second Schedule.

Section 45 (1)

THIRD SCHEDULE

ENACTMENTS REPEALED

- 1921, No. 16—The Samoa Act 1921: Sections 4, 6, 7, 8, Part II, and section 79A. (1931 Reprint, Vol. II, p. 791.)
- 1923, No. 24—The Samoa Amendment Act 1923: Section 3. (1931 Reprint, Vol. II, p. 872.)
- 1947, No. 48—The Samoa Amendment Act 1947: Sections 2 to 13, subsections (1) to (4) of section 14, and the First and Second Schedules.
- 1948, No. 12—The Civil Aviation Act 1948: Subsection (4) of section 12.
- 1948, No. 15—The British Nationality and New Zealand Citizenship Act 1948: Subsection (4) of section 33.
- 1949, No. 47—The Samoa Amendment Act 1949: Sections 35 to 37.
- 1950, No. 13—The Republic of Ireland Act 1950: Subsection (2) of section 4.
- 1950, No. 14—The Republic of India Act 1950: Subsection (2) of section 3.
- 1951, No. 74—The Samoa Amendment Act 1951: Section 15.
- 1951, No. 77—The Official Secrets Act 1951: Subsection (2) of section 17.
- 1952, No. 31—The Samoa Amendment Act 1952: Sections 3 and 6.
- 1956, No. 10—The Republic of Pakistan Act 1956: Subsection (2) of section 3.
- 1956, No. 11—The Samoa Amendment Act 1956: Section 2, Part I, and sections 15 and 16.
- 1956, No. 46—The Samoa Amendment Act (No. 2) 1956: Part I and section 6.
- 1957, No. —The Diplomatic Immunities and Privileges Act 1957: Subsection (6) of section 21.