

Serial Number 1951/3

THE SAMOA HIGH COURT AMENDMENT RULES 1951

B. C. FREYBERG, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington, this 17th day of
January, 1951

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Samoa Act, 1921, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby make the following rules.

RULES

1. These rules may be cited as the Samoa High Court Amendment Rules 1951, and shall be read together with and deemed part of the Rules of the High Court of Western Samoa Consolidation 1924* (hereinafter referred to as the principal rules).

2. The Samoa High Court Amendment Rules 1934 are hereby revoked.

3. The principal rules are hereby amended by inserting, after rule 111, the following new rules :—

“ Jurisdiction of Commissioners

“ 112. In rules 113 to 119 hereof, unless the context otherwise requires, ‘ Commissioner ’ means a Commissioner of the High Court of Western Samoa duly appointed in accordance with the provisions of the Samoa Act, 1921.

“ 113. The jurisdiction of a Commissioner shall include and shall, subject to the provisions of rule 114 hereof, be restricted to the following cases, namely :—

“ (a) Breach of contract or tort where the amount claimed does not exceed £100 :

“ (b) Debt where the sum claimed does not exceed £100, whether that sum is the original amount of the debt or a balance after allowing payment on account or credit for goods supplied or the amount of any other admitted set-off :

* *Gazette*, 3rd July, 1924, Vol. II, page 1587.

Amended : *Gazette*, 26th July, 1928, Vol. II, page 2274.

Gazette, 26th September, 1930, Vol. III, page 2836.

Gazette, 6th November, 1930, Vol. III, page 3626.

Gazette, 8th November, 1934, Vol. III, page 3503.

Statutory Regulations 1936-37, Serial number 45/1936, page 159.

Statutory Regulations 1936-37, Serial number 211/1937, page 785.

Statutory Regulations 1938, Serial number 1938/180, page 763.

- “(e) The enforcement of claims upon and recovery of possession of some specific movable property the value whereof does not exceed £100 :
- “(d) Where the parties agree by writing signed by them or their solicitors that, whatever the amount or value of the subject matter (if the case is otherwise within his jurisdiction), the Commissioner shall have jurisdiction :
- “(e) Proceedings under the Samoa Imprisonment for Debt Limitation Order 1939 where the sum of money due under any judgment or order of the Court does not exceed £100 :
- “(f) Grant in common form of probate of a will, or letters of administration with will annexed, or letters of administration of the estate of an intestate person, or any step to be taken by the High Court under clause 8 of the Samoa Reciprocal Administration Order 1930 :
- “(g) Applications for charging orders under rules 78 to 82 hereof where the amount of the judgment exclusive of costs does not exceed £100 :
- “(h) Criminal proceedings in respect of offences punishable only by a fine :
- “(i) Criminal proceedings in respect of offences punishable by imprisonment for not longer than one year or by both imprisonment as aforesaid and a fine :
- “Provided that if a Commissioner of his own motion directs that the Court shall sit with assessors, or if an application is made by the prosecutor or the accused that the Court shall so sit, the jurisdiction of the Commissioner to hear and determine the case shall cease :
- “(j) Proceedings under Part XIII of the Samoa Act, 1921 :
- “(k) Proceedings under the Samoa Maintenance and Affiliation Order 1920.

“114. Notwithstanding anything hereinbefore contained, where there is no Judge of the High Court available to act, whether by reason of absence or incapacity, or for any other reason, the High Commissioner may, by warrant under his hand and for a period to be specified in the warrant, appoint by name one or more Commissioners to exercise jurisdiction in the following cases, namely:—

- “(a) Proceedings specified in paragraphs (a), (b), (c), and (g) of rule 113 hereof, with an increase of the limit specified in those paragraphs to £200 :
- “(b) Criminal proceedings in respect of offences punishable by imprisonment for not longer than five years or by both imprisonment as aforesaid and a fine, but subject to the proviso to paragraph (i) of rule 113 hereof :
- “(c) Proceedings under section 295 of the Samoa Act, 1921 :
- “(d) Undefended proceedings under Part XI of the Samoa Act, 1921 :
- “(e) Proceedings for leave of the High Court under rule 22 or under rule 38 hereof :
- “(f) Proceedings under section 25 or section 26 of the General Laws Ordinance 1931 :
- “(g) Proceedings under the Samoa Status Ordinance 1934 and its amendments.

“ Certiorari, &c., Taken Away

“ 115. A Judge of the High Court shall not exercise control over any Commissioner by way of certiorari, mandamus, or prohibition save by way of rehearing in accordance with the rules hereinafter appearing.

“ Judge May Grant Rehearing

“ 116. A Judge of the High Court may grant a rehearing upon such terms as he thinks fit of any proceedings heard and determined by a Commissioner, and every such rehearing shall take place before a Judge.

“ Time for Making Application

“ 117. Every application for a rehearing shall be made by filing a notice of motion in the High Court Office at Apia within twenty-one days after the judgment, order, or conviction has been delivered, made, or entered, as the case may be :

“ Provided that a Judge of the High Court may extend the said period for so long as he thinks reasonable upon special cause being shown.

“ Stay of Execution

“ 118. An application for a rehearing shall operate as a stay of execution unless at any time a Judge of the High Court or the Commissioner who adjudicated in the first instance otherwise orders.

“ Release from Custody

“ 119. When any person sentenced to imprisonment by a Commissioner applies for a rehearing the convicting Commissioner or a Judge of the High Court may in his discretion release that person from custody on bail pending the determination of his application :

“ Provided that a Judge or any Commissioner may at any time and for any reason have that person arrested by warrant and committed to prison there to undergo his sentence.”

T. J. SHERRARD,
Clerk of the Executive Council.

Issued under the authority of the Regulations Act, 1936.
Date of notification in *Gazette* : 18th day of January, 1951.
These regulations are administered in the Department of Island Territories.