

Foreshore and tidal
lands and waters.

266. The foreshore—that is to say, all land lying between high- and low-water mark—and all tidal lands and waters within the limits of the Territory are hereby declared to be vested in His Majesty as Crown land free from any right, title, or interest in any other person, and subject only to the public right of fishery and navigation.

European Land.

Ownership in
European land.

267. All land in Samoa which at the commencement of this Order is owned by any person or body corporate (other than land owned by Samoans by Native title) shall on the commencement of this Order be deemed to be held by that person or body corporate for an estate in fee-simple as by grant from the Crown, subject, however, to all encumbrances or other interests less than ownership which are at the commencement of this Order vested in any other person or body corporate, and all such land is hereby declared to be European land accordingly.

Native Land.

Ownership in
Native land.

268. All land in Samoa which at the commencement of this Order is held by Samoans by Native title is hereby vested in the Crown subject to such Native title, and shall continue to be so held under the customs and usages of the Samoan race, and all such land is hereby declared to be Native land accordingly, but shall remain subject to any rights which may have been lawfully acquired in respect thereof before the commencement of this Order otherwise than in accordance with such customs and usages.

Saving of existing
interests in Native
land.

269. Where at the commencement of this Order any Native land is subject to any valid and subsisting leasehold or other interest vested in any person or body corporate otherwise than by way of Native title, such leasehold or other interest shall be deemed to be held by grant from the Crown.

Alienation of land
by Samoans.

270. (1.) Save so far as may be otherwise provided by regulation or Ordinance, it shall not be lawful or competent for a Samoan to make any alienation or disposition of Native land, or of any interest in Native land, whether by way of sale, lease, license, mortgage, or otherwise howsoever, other than an alienation or disposition in favour of the Crown, nor shall Native land or any interest therein be capable of being taken in execution or be assets for the payment of the debts of a Samoan on his decease or insolvency.

(2.) For the purposes of this clause a contract of sale of crops, timber, minerals, or other valuable thing attached to or forming part of any Native land shall be deemed to be a contract for the alienation of an interest in such Native land, unless the thing so sold or agreed to be sold has been severed from the land before the making of the contract.

(3.) For the purposes of this clause all rent and other moneys receivable by a Samoan in respect of his interest in any Native land shall be deemed to be an interest in such Native land.

(4.) The Administrator may, under the seal of Samoa and in the name of His Majesty, grant a lease of any Native land for a period not exceeding forty years, and on such terms as he thinks fit, if he is satisfied that the grant of such a lease is in accordance with the desires and interests of the owners of the land and with the public interest; and he may on the like conditions accept a surrender of any lease so granted by him.

(5.) Every such lease shall operate as if it was a lease of Crown land, but the rents or other revenues derived therefrom shall be received by the Crown in trust for the owners of the land.

(6.) Subject to the foregoing provisions of this clause, the ownership of Native land shall be determined in accordance with the customs and usages of the Samoan race, notwithstanding anything to the contrary in this Order.

Native title not to
avail against the
Crown.

271. Save as to the rights of Samoans to have their claims to Native land investigated and adjudicated upon in any manner which may be provided by regulation or Ordinance in that behalf, the Native title to Native land shall not be available or enforceable as against His Majesty the King by way of proceedings in any Court or in any other manner.