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WELLINGTON, THURSDAY, MAY 19, 1921.



Samoa Public Trust Office Order, 1921.

JELlicoe, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 18th day of May, 1921.

Present :

THE HONOURABLE SIR F. H. D. BELL, K.C.M.G., PRESIDING IN
 COUNCIL.

HIS Excellency the Governor-General of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, and in pursuance of the authority to make laws for the peace, order, and good government of the Territory of Western Samoa conferred upon him by the Western Samoa Order in Council, 1920, made by His Majesty on the eleventh day of March, one thousand nine hundred and twenty, under the Foreign Jurisdiction Act, 1890, and further in pursuance of the Treaties of Peace Act, 1919, and of all other powers and authorities enabling him in that behalf, doth hereby order as follows :—

1. This Order may be cited as the Samoa Public Trust Office Order, 1921.
2. This Order shall come into force in the Territory of Western Samoa on the fourteenth day of June, one thousand nine hundred and twenty-one.
3. In this Order "the Public Trustee" means the Samoan Public Trustee appointed under this Order, and "the Deputy Public Trustee" means the Deputy Public Trustee appointed under this Order.
4. There shall be an Office in Western Samoa called the Samoan Public Trust Office administered by an officer called the Samoan Public Trustee, who shall be appointed by the Minister of External Affairs, and shall hold office during the pleasure of the Minister.

5. (1.) The Public Trustee is hereby constituted a corporation sole, with perpetual succession and a seal of office.

(2.) The appointment of the Public Trustee and of the Deputy Public Trustee, and the seal of the Public Trustee, and the signature of the person for the time being holding the office of Public Trustee or of Deputy Public Trustee, shall be judicially taken notice of without further proof in all Courts in Samoa and in New Zealand.

6. The Minister of External Affairs may from time to time remove or suspend the Public Trustee or the Deputy Public Trustee, and in the case of the death, resignation, or removal of the Public Trustee or the Deputy Public Trustee appoint some other fit and proper person in his stead.

7. (1.) The Minister of External Affairs may appoint some person to act as the Deputy Public Trustee in case of the illness, death, removal, suspension, resignation, or absence from duty of the person for the time being holding the office of Public Trustee.

(2.) Such Deputy shall during the time he acts as such Deputy have all the powers and perform all the duties of the Public Trustee.

(3.) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorizing such Deputy Public Trustee to act as such Deputy, or as to the necessity or propriety of such appointment; and all acts or things done or omitted by such Deputy Public Trustee shall be as valid and effectual and shall have the same consequences as if the same had been done or omitted by the Public Trustee.

8. The Minister of External Affairs may appoint such other officers and servants as may be necessary for the purposes of this Order to hold office during the pleasure of the Minister.

9. The Public Trustee, the Deputy Public Trustee, and such other officers and servants shall be members of the Samoan Public Service.

10. (1.) There shall be an Investment Board to be called the Samoan Public Trust Office Investment Board (hereinafter referred to as "the Investment Board").

(2.) The Investment Board shall consist of—

- (i.) The Public Trustee;
- (ii.) The Treasurer of Western Samoa;
- (iii.) Three other persons (whether in the Samoan Public Service or not) to be appointed by the Minister of External Affairs.

(3.) The Investment Board shall control the investment of moneys from time to time in the Common Fund of the Public Trust Office or otherwise in the hands of the Public Trustee and available for investment, and shall have no other functions.

11. No act done by the Investment Board shall be invalid because of any vacancy in the membership of the Board, or because of any person continuing to act as a member of the Board after having vacated his seat thereon, or because of any defect or irregularity in the appointment of any member of the Board.

12. (1.) Meetings of the Investment Board shall be held at such times and places as the Board or the Chairman may from time to time appoint.

(2.) At all meetings of the Board three members shall form a quorum, and no business shall be transacted at any meeting of the Board unless a quorum is present thereat.

(3.) The Treasurer of Western Samoa shall be the Chairman of the Board, and shall preside at all meetings of the Board at which he is present.

(4.) In the event of the absence of the Chairman from any meeting of the Board the members present may elect one of their number to be chairman of the meeting.

(5. At any meeting of the Board the decision of a majority of the members present shall be the decision of the Board.

(6.) On all questions before the Board the Chairman shall have a deliberative vote, and, in case of an equality of votes, shall have a casting-vote also.

(7.) All proceedings and resolutions of the Board shall be recorded in a minute-book.

(8.) A resolution of the Board shall bind the Public Trustee.

(9.) All minutes or resolutions of any meeting of the Board, or a copy thereof purporting to be signed by the Chairman of the meeting, shall be *prima facie* evidence of such minutes or resolution.

(10.) Subject to the provisions of this Order, the Board may regulate its own procedure.

13. (1.) There is hereby established an account to be called the Samoan Public Trustee's Account (hereinafter referred to as "the Public Trustee's Account"), which shall be kept at the Bank of New Zealand at Apia.

(2.) The Public Trustee's Account shall be operated on only by cheque signed by the Public Trustee or the Deputy Public Trustee and by the Treasurer of Western Samoa.

(3.) There shall be paid into the Public Trustee's Account all moneys payable to the Public Trustee pursuant to any lawful authority.

14. (1.) Subject as is provided by the next succeeding clause, all capital moneys, however arising, whether after or before the coming into operation of this Order, and whether directed to be invested or not, shall, unless expressly forbidden to be invested, be one common fund, and shall be invested as provided by clause sixteen hereof; and any investments made from such common fund shall not be made on account of or belong to any particular estate.

(2.) The interest payable to the respective estates the moneys of which form the Common Fund shall be at a rate to be from time to time determined by the Administrator, acting with the advice and consent of the Legislative Council of Western Samoa, and such rate of interest shall be credited to the respective estates quarterly—namely, on the first day of January, on the first day of April, on the first day of July, and on the first day of October in each year.

(3.) On the moneys arising from one estate the rate of interest shall not exceed five pounds per centum per annum on the first three thousand pounds and four pounds per centum per annum on the excess.

(4.) Subject to the limitations aforesaid as to the rate of interest, the Administrator, acting with the advice and consent of the Legislative Council of Western Samoa, may from time to time make such regulations as he thinks proper as to the payment or non-payment of interest on moneys belonging to any estate, and as to the period from which interest, if allowed, is to be computed.

15. Moneys expressly directed to be invested otherwise than as mentioned in clause sixteen hereof shall not form part of the Common Fund, and the Public Trustee may invest such moneys in accordance with such direction; but such investments shall not be entitled to the protection afforded by clause seventeen of this Order, and any loss or deficiency in respect of any such investments, or of the money received therefrom or realized thereby, shall be borne by the estate to which such moneys belong, or if received and realized would belong.

16. Unless expressly prohibited by or under any instrument creating the trust the Public Trustee may invest all capital moneys—

(a.) In the Government securities of the United Kingdom, or of any colony or dependency thereof, issued under the authority of the Parliament or other legislative authority of the said Kingdom, colony, or dependency respectively, and secured upon the public revenues thereof:

- (b.) In debentures issued by any local authority in New Zealand (being the Council, Board, or other governing authority of a city, borough, county, town district, road district, drainage district, harbour district, or river district) under any law now or hereafter in force, secured upon general or special rates, or upon real estate held in fee-simple free from encumbrances, or upon the rents and profits of real estate held in fee-simple free from encumbrances :

Provided that no greater advance shall be made where the debentures are secured upon real estate than three-fifths of the value of such real estate ; and if the debentures are secured upon rents and profits, then no advances shall be made unless such rents and profits are sufficient to pay two-thirds more than the annual interest payable in respect of the advance :

- (c.) In advances by way of mortgage on the security of any real estate held in fee-simple in New Zealand or in Western Samoa and free from encumbrances, to an amount not exceeding three-fifths of the estimated value of such estate, according to a valuation approved by the Investment Board :
- (d.) In fixed deposits in any bank of issue created or established by or under any Act of the General Assembly of New Zealand or by Royal Charter, and carrying on business in New Zealand or in Samoa, or in the Post Office Savings-bank or other savings-banks established in New Zealand or in Samoa in accordance with any law affecting such banks :
- (e.) In the Common Fund of the Public Trust Office of New Zealand :

Provided, however, that a power or direction to invest money in some only of the foregoing classes of security, with or without a power or direction to invest in securities not included in any of the foregoing classes, shall not be deemed to be an express prohibition within the meaning of the foregoing provisions, and such money shall form part of the Common Fund of the Samoan Public Trust Office unless expressly directed to the contrary.

17. If the Common Fund is insufficient to meet the lawful claims thereon, the Treasurer of Western Samoa shall, on the direction in writing of the Administrator, pay such sums out of the Samoan Treasury as may be necessary to meet the deficiency.

18. Moneys in or payable into the Public Trustee's Account by the Public Trustee, the Deputy Public Trustee, or any other officer, servant, or person acting or purporting to act under the authority of this Order shall be deemed to be property of His Majesty for the purposes of this Order, and shall be recoverable in like manner as money due to the Crown is recoverable.

19. Subject to this Order, and subject to any Ordinance which may make different provisions, the Acts specified in the Schedule hereto and to the extent therein set forth shall as far as applicable be in force in Samoa as fully and effectually as if such provisions had been recited and set out herein : Provided that in the application of the provisions of the said Acts to Samoa—

- (a.) Every reference therein to the Supreme Court, Chief Justice, or Judge shall be read as a reference to the High Court of Samoa and the Chief Judge or a Judge thereof respectively, and every reference therein to the Court of Appeal shall be read as a reference to the Supreme Court of New Zealand.
- (b.) Every reference to Wellington and New Zealand shall be read as a reference to Apia and Western Samoa respectively.
- (c.) Every reference to the *Gazette* shall be read as a reference to the *Western Samoa Gazette*.

- (d.) Every reference to the Public Trustee, the Public Trustee's Account, and to the Common Fund shall be read as a reference to the Samoan Public Trustee, and to the Public Trustee's Account and the Common Fund established under this Order.
- (e.) Every reference to the Board shall be read as a reference to the Investment Board established under this Order.
- (f.) The definitions set out in section two of the Public Trust Office Act, 1908, shall apply so far as applicable.

PERSONS OF UNSOUND MIND.

20. (1.) When any person is in lawful confinement in Samoa or in New Zealand or elsewhere as a person of unsound mind, the High Court may, on the application of the Public Trustee or of any other person, appoint the Public Trustee as the Committee of the estate in Samoa of the person of unsound mind.

(2.) While any such order remains in force the Public Trustee shall have in respect of such estate so far as situated in Samoa the powers conferred on the Public Trustee of New Zealand in respect of the estate in New Zealand of mental defectives under Part VIII of the Mental Defectives Act, 1911, but subject to the control of the High Court instead of that of the Supreme Court.

(3.) The provisions of sections ninety-nine to one hundred and fourteen (inclusive) of Part VIII of the Mental Defectives Act, 1911, shall be deemed to be incorporated in this Order as fully and effectually as if the said sections had been recited herein, but subject to the following modifications, that is to say:—

- (a.) Every reference in the said sections to the Public Trustee shall be read as a reference to the Samoan Public Trustee.
 - (b.) Every reference to the Supreme Court shall be read as a reference to the High Court.
 - (c.) Every reference to Wellington shall be read as a reference to Apia.
 - (d.) Every reference to the Public Trust Office shall be read as a reference to the Samoan Public Trust Office constituted by this Order.
- (4.) The powers, duties, and functions of the Public Trustee under this clause shall cease—
- (a.) When the person of whose estate he is committee dies.
 - (b.) When that person is discharged from custody under clause three hundred and eleven of the Samoa Constitution Order, 1920.
 - (c.) When the order of medical custody under Part XII of the Samoa Constitution Order is cancelled.
 - (d.) In the case of a person detained in New Zealand under the Mental Defectives Act, 1911, on receipt by the Public Trustee of a notice under the hand of the Inspector-General of Mental Hospitals that the said person has been discharged.

21. Should any question arise as to the application of the provisions of the Acts in the Schedule hereto to the Territory of Western Samoa or in any way relating to the powers, duties, and functions of the Public Trustee or the Investment Board constituted under this Order, such question shall be submitted to the determination of the Chief Judge, whose decision shall be final and binding, and shall be accepted by all Courts, officers, and persons.

22. Any appointments heretofore made by the High Court of Samoa appointing the Commissioner of Crown Estates or P. E. Patrick as administrator of the estate of any deceased person, or as committee of the estate of any person of unsound mind, or as trustee of any trust or

in any other capacity, and any acts performed by such person in pursuance of the duties and powers conferred upon him by any such appointment, are hereby validated, and all such appointments made shall be deemed to have been appointments of the Public Trustee, and all powers exercised by him as aforesaid shall be deemed to be powers exercised by the Public Trustee.

SCHEDULE.

PUBLIC Trust Office Act, 1908 : Part I and Part III, except sections 3, 4, 5, 6, 7, 8, 9, 10, 31, 32, 33, 34, 35, and 36.

Public Trust Office Amendment Act, 1912 : Except sections 2, 8, and 9.

Public Trust Office Amendment Act, 1913 : Sections 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 31, 36, 40, 41, 42, 43, 44, 45, 46.

C. A. JEFFERY,
Acting Clerk of the Executive Council.

By Authority : MARCUS F. MARKS, Government Printer, Wellington.

