



SAMOA

## LAND TITLES INVESTIGATION ACT 1966

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## LAND TITLES INVESTIGATION ACT 1966

1966

No.19

**AN ACT** to authorise the setting up of a Commission to investigate and determine titles to certain lands, and claims thereto.

*[Assent and commencement date: 15 December 1966]*

**1. Short title** – This Act may be cited as the Land Titles Investigation Act 1966.

**2. Interpretation** – In this Act, unless the contrary intention appears:

- “appointed member” means a member of the Commission appointed under section 4(3);
- “Chairperson” means the Chairperson of the Commission;
- “Chief Executive Officer” means the Chief Executive Officer of the Ministry responsible for Lands;
- “Commission” means the Commission appointed by and under this Act;
- “day” means any continuous period of 24 hours commencing at midnight;
- “Government” means the Government of the Independent State of Samoa;
- “Minister” means the Minister responsible for lands;
- “public notice” means a notice published in the Samoan and English languages at least once in the Savali, in a newspaper circulating in Samoa and over a Government broadcasting station;
- “Registrar” means the Registrar of Lands appointed pursuant to Land Registration Act 1992/1993;
- “Secretary” means the Secretary to the Commission.

**3. Administration of Act** – This Act shall be administered by the Minister, and, subject to the Minister’s control, by the Registrar.

**4. Constitution of Commission and appointment of members** – (1) There is constituted a Commission for the purposes of this Act consisting of 5 members.

(2) One member of the Commission and the Chairperson thereof shall be the Chief Justice of the Supreme Court of Samoa, and another member thereof shall be the Chief Executive Officer.

(3) The Head of State, acting on the advice of Cabinet, shall by warrant appoint the remaining 3 members of the Commission, of whom one shall be a senior Samoan Judge.

(4) The Commission may not take any action until the 3 appointed members have been appointed.

(5) No person, by reason only of his or her being a member of the Commission, is deemed to be employed in the “Public Service” or in the “Service of Samoa”, within the meaning of

those terms as defined in Articles 83 and 111 respectively of the Constitution.

**5. Term of office of appointed members – (1)** The appointed members of the Commission shall be appointed for a term of 3 years, but may be re-appointed.

(2) An appointed member, unless he or she sooner resigns from office or is removed from office pursuant to section 6, continues in office until a successor comes into office even if the term for which the member was appointed may have expired.

**6. Vacancies – (1)** An appointed member may at any time be removed from office by the Head of State, acting on the advice of Cabinet, for disability, inefficiency, misconduct, neglect of duty, insolvency, or permanent departure from Samoa proved to the satisfaction of Cabinet, or may at any time resign from office by written notice addressed to the Minister.

(2) If an appointed member dies, or resigns, or is removed from office, the vacancy is to be filled in the manner in which appointment to the vacant office was originally made.

**7. Deputies of members – (1)** If the Chief Justice or the Chief Executive Officer is temporarily incapacitated by illness, absence or other sufficient cause from attending any sitting or other meeting of the Commission, he or she may authorise to attend that sitting or meeting as his or her deputy:

- (a) for the Chief Justice, any other “judicial officer” within the meaning of Article 111 of the Constitution; and
- (b) for the Chief Executive Officer, any officer of the Ministry.

(2) If the Minister is satisfied that any appointed member is temporarily incapacitated by illness, absence or other sufficient cause from performing his or her duties as a member, the Minister may appoint a deputy to act for that appointed member during the member’s incapacity:

**PROVIDED THAT**, in the case of the senior Samoan Judge who is an appointed member, his or her deputy shall be another senior Samoan Judge.

(3) No deputy appointed under this section shall act as Chairperson of the Commission.

(4) A deputy is, while he or she acts as such, taken to be a member of the Commission.

**8. Procedure of Commission** – (1) If the Chief Justice is absent from a sitting or other meeting of the Commission, the members present shall choose one of their number to be the Chairperson of that sitting or other meeting.

(2) At each sitting or other meeting of the Commission, the quorum necessary for the transaction of business shall be 4 members.

(3) A question before a sitting or other meeting of the Commission is to be determined by a majority of the valid votes of the members present recorded thereon:

**PROVIDED THAT** the Chairperson of each sitting or other meeting has a deliberative vote and in the case of an equality of votes has a casting vote.

(4) Subject to the provisions of this Act and of the Commissions of Inquiry Act 1964 and of any regulations made under this Act, the Commission may regulate its proceedings in such manner as it thinks fit.

**9. Proceedings not affected by irregularities** – No act or proceeding or determination of the Commission shall be invalidated in consequence of there being a vacancy in the membership of the Commission, or of the subsequent discovery that there was some defect in the appointment of any member or deputy member or that he or she was incapable of being or had ceased to be a member or deputy member.

**10. Functions of Commission** – The functions of the Commission are:

- (a) to advertise for claims as provided by section 15;  
and
- (b) to inquire into each claim made to the Commission by any person to individual ownership of or property in any land in Samoa other than land undoubtedly held by any person as individual property for an estate in fee simple created or

- confirmed by a Crown Grant or a Court Grant;  
and
- (c) to conduct each such inquiry as prescribed by this Act; and
  - (d) to dispose of each such claim in one or other of the ways permitted by this Act; and
  - (e) to recommend to Cabinet any amendments of the law which may be necessary to give effect to the determination of the Commission on any such claim.
  - (f) *Repealed by section 4 of the Land Titles Investigation Amendment Act 1973*

**11. Status of Commission** – The Commission, in addition to the status and powers conferred on it by other sections of this Act, shall have the same status and powers as a Commission appointed under the Commissions of Inquiry Act 1964, and all the provisions of that Act apply to and in respect of the Commission, unless the contrary intention appears and with any other necessary modifications:

**PROVIDED THAT** section 7 of that Act applies as if the words "the inquiry" referred separately to each claim made to the Commission, and otherwise subject to sections 17, 18 and 21 of this Act.

**12. Secretary of Commission** – (1) The Public Service Commission shall, on the recommendation of the Registrar, appoint another officer of the Land Registry Office to be the Secretary to the Commission, which office may be held in conjunction with any other office in the Land Registry Office.

(2) The Secretary may exercise the power of the Commission to summon witnesses to appear before the Commission.

(3) The Secretary shall record or have recorded all proceedings of the Commission, and generally perform such duties connected with the inquiry as the Commission may direct.

**13. Interpreter** – The Public Service Commission shall make available as needed an officer or officers of the Public Service to interpret written and oral claims, evidence and

submissions from Samoan into English, and from English into Samoan.

**14. Fees of members of Commission** – The Minister of Finance shall pay out of the Treasury Fund, in addition to the sums directed to be paid by section 14(b) of the Commissions of Inquiry Act 1964 to a member of the Commission who is not a salaried employee of the Government such sum or sums as are agreed between the member and the Government and failing agreement as Cabinet approves in respect of each day or part of a day which the member spends on the business of the Commission other than attending meetings thereof.

**15. Notice of claims** – A person desiring to make a claim to the Commission to individual ownership of or property in any land in Samoa other than land undoubtedly held by him or her as individual property for an estate in fee simple created or confirmed by a Court Grant or a Crown Grant, may give notice in writing of his or her claim to the Secretary.

**16. Form of notice of claim** – (1) A notice in writing of a claim shall contain:

- (a) the full name and address of the claimant; and
- (b) as full a description as possible of the land to which the claim relates, including the boundaries thereof; and
- (c) the estate or interest claimed therein; and
- (d) the full name and address if known of the person (if any) who is alleged to have alienated the land; and
- (e) the consideration (if any) paid to that person, and any information held as to the adequacy of that consideration; and
- (f) any information held to show that that person was the rightful owner of the land, or otherwise entitled to alienate it, at the date of his or her alleged alienation; and
- (g) if the claimant does not allege that he or she obtained the land directly from that person, then particulars of the chain of his or her alleged title; and

- (h) if the claimant claims that he or she has obtained such estate or interest by prescription, then—
  - (i) information as to the improvements (if any) including fencing erected on or made to the land by the claimant or any person from whom he or she has derived his or her alleged title; and
  - (ii) information as to any exclusive occupation of the land, for as far back as possible; and
  - (iii) information as to who has obtained payment of, and enjoyed, any income derived from the land for as far back as possible; and
- (i) any other information available to the claimant as to the character and description of his or her claim; and
- (j) the full name and address of each other person thought by the claimant to have any ground for objection to his or her claim or for himself or herself claiming any estate or interest in the land; and
- (k) a statement as to whether or not the claimant desires, personally or by counsel, to make oral submissions to the Commission in support of his or her claim.

(2) The claimant shall give to the Secretary, with the notice in writing of his or her claim, a statutory declaration verifying his or her claim and any evidence in writing held or obtainable by the claimant relating to the claim.

(3) The claimant shall pay to the Secretary, when he or she gives notice in writing of the claim:

- (a) the prescribed fee for giving that notice; and
- (b) if he or she states that he or she desires, personally or by counsel, to make oral submissions to the Commission in support of the claim, the prescribed hearing fee.

**17.** *Repealed by section 7 of the Land Titles Investigation Amendment Act 1973*

**18. Investigation and determination of claims** – (1) The Commission:

*(a) & (b) Repealed by section 8(a) of the Land Titles Investigation Amendment Act 1973*

- (c) shall give public notice of all claims (hereinafter called the advertised claims) and of the fact that any person desiring to object to any claim shall, within a period of 6 months after the first publication of the public notice of that claim, give notice in writing of his or her objection and pay the prescribed fee to the Secretary and give a copy of that notice to the claimant; and
- (d) may, on request by the claimant or when it appears to the Commission or the Chairperson thereof to be necessary and on payment by the claimant of the survey fees, order a survey of the land to which any advertised claim relates;
- (e) shall, as soon as reasonably possible after the expiration of the period of 6 months for giving notice in writing of an objection to an advertised claim, and after the deposit of the plan of any survey ordered in respect of the land to which the claim relates, make a fixture for the hearing of that advertised claim, and give at least 2 weeks' notice in writing of the fixture to the claimant thereunder and to each objector thereto; and
- (f) may, after considering the written and oral evidence given and the submissions made by or on behalf of the claimant under an advertised claim, and the written and oral evidence given and the submissions made by or on behalf of each objector thereto who appears at the hearing, determine—
  - (i) that the land is customary, freehold or public land; and
  - (ii) that the claim has not been established to the satisfaction of the Commission and is therefore rejected; or
  - (iii) that the claimant shall have a grant of the estate or interest claimed by him or her in the land where the Commission determines that the land is freehold land in law or in equity, and that



the claim has been established to the satisfaction of the Commission; or

(iv) that, despite anything to the contrary in the Land Ordinance 1959, the claimant shall have a grant of the estate or interest claimed by him or her in the land where the Commission determines that the land is public land in law, but that the claim has been established to the satisfaction of the Commission in equity; and

(v) that the title to be issued to the claimant shall be limited as to parcels, or as to title, or as to both.

(2) On the lodging in the office of the Chief Executive Officer for checking of a survey plan prepared pursuant to an order made under subsection (1)(d), the applicant shall serve notice in writing of such lodging on each owner or occupier of or person having the pule over land adjoining the land in the plan, and each such owner, occupier or person shall have a period of one month from the service of such notice in writing upon him or her during which he or she may give notice in writing to the Secretary of his or her objection to any boundary shown on the plan. The Commission shall have jurisdiction to hear and determine each such objection, and to order any consequential alteration of the plan. The Chief Executive Officer shall not deposit the plan prior to the expiration of each such period of one month and the determination of each such objection.

**19. Barring of objections** – Subject to section 24, any objection to a claim of which notice in writing is not given to the Secretary within the period of 6 months prescribed by section 18(1)(c) is taken to be invalid and is for ever barred, and the objection shall not be considered by the Commission or by any Court:

**PROVIDED THAT** an objection to a claim may be made to the Commission at any time prior to the hearing of that claim if the Commission is satisfied that because of reasonable cause the objector omitted to give to the Secretary notice of objection within the prescribed period.

**20. Customary land** – If the Commission determines that any land is customary land, it shall not make any determination or order as to the ownership or control thereof.

**21. Incidental or subsidiary orders** – The Commission may make any incidental or subsidiary order necessary to give effect to any determination made under section 18.

**22. Notifying determinations and orders** – The Secretary shall give notice in writing of each determination and order made by the Commission under section 18 or 21 in respect of any claim to the claimant thereunder and to each objector thereto.

**23. Status of determinations and orders** – Subject to section 24, any determination and an order made by the Commission under section 18 or 21 are final.

**24. Removal of limitations on title** – (1) Where a title is issued limited as to parcels, that limitation shall be removed only on a proper survey plan of the land being prepared and deposited in the office of the Chief Executive Officer.

(2) On the lodging in the office of the Chief Executive Officer for checking of a survey plan prepared for the purpose of removing a limitation as to parcels, the applicant shall serve notice in writing of such lodging on each owner or occupier of or person having the pule over land adjoining the land in the plan, and each such owner, occupier or person shall have a period of one month from the service of such a notice in writing upon him or her during which he or she may give notice in writing to the Registrar of the Supreme Court of his or her objection to any boundary shown on the plan. The Supreme Court has jurisdiction to hear and determine each such objection, and to order any consequential alteration of the plan. The Chief Executive Officer shall not deposit the plan prior to the expiration of each such period of one month and the determination of each such objection.

(3) Where a title is issued limited as to title:

- (a) that limitation shall be removed by the Registrar on the expiration of one year from the date of issue of the title unless any person who was not in

Samoa during any part of the period of 6 months prescribed by section 18(1)(c) and who was neither an applicant nor an objector under the foregoing provisions of this Act in respect of the land for which the title has issued, issues proceedings in the Supreme Court within that year claiming an estate or interest in the land for which the title has issued; and

- (b) if any such person does issue any such proceedings within that year, the Supreme Court shall, notwithstanding anything to the contrary in the foregoing provisions of this Act, have jurisdiction to hear the proceedings and to vary the determination and any order made by the Commission or to revoke the same and substitute a determination and order made by the Supreme Court or to reject the claim. If the claims made by all such proceedings in respect of any title are rejected the Court shall remove the limitation as to title.

**25. Fees of Commission** – There shall be payable to the Secretary, for each transaction described in the Schedule, the fee set opposite thereto in that Schedule.

**26. Regulations** – The Head of State, acting on the advice of Cabinet, may make:

- (a) regulations not inconsistent with this Act or the Commissions of Inquiry Act 1964 governing the proceedings of the Commission; and
- (b) all such other regulations as necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

**SCHEDULE**  
**(Section 25)**

<u>ITEM</u>	<u>TRANSACTION</u>	<u>AMOUNT OF FEE</u>
1	Giving notice of claim to Secretary (to cover the cost of public notice)	\$100.00

<b>12</b>	<b><i>Land Titles Investigation Act 1966</i></b>	
2	Hearing before Commission (to cover sealed copy of Commission's order for each party)	15.00
3	Each additional copy of order	5.00
4	Giving notice of objection to Secretary	50.00

**REVISION NOTES 2008 – 2012**

This Act has been revised under section 5 of the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Insertion of the commencement date
- (c) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
  - (i) “Every” and “any” changed to “a/an” where appropriate
  - (ii) Present tense drafting style:
    - o “shall be” and “has been” changed to “is/are”
    - o “shall have” changed to “has”
    - o “hereby” and “from time to time” removed
  - (iii) Removal/replacement of obsolete and archaic terms with plain language
    - o “notwithstanding” changed to “despite”
    - o “in the case of” changed to “for”
  - (iv) Numbers in words changed to figures
  - (v) Removal of superfluous term: “of this Act/section/subsection”
  - (vi) Adopting practice of placing “and” or “or” at the end of each paragraph where appropriate.

There were no amendments made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*.

This Act has been consolidated and revised in 2008, 2009, 2010, 2011 and 2012 by the Attorney General under the authority of the *Revision and Publication of Laws Act 2008* and is the official version of this Act as at 31 December 2012. It is an offence to publish this Act without approval or to make any unauthorised change to an electronic version of this Act.



Aumua Ming Leung Wai  
Attorney General of Samoa

*Revised in 2008 by the Legislative Drafting Division under the supervision of Teleiai Lalotoa Sinaalamaimaleula Mulitalo (Parliamentary Counsel)*

*Revised in 2009, 2010 and 2012 by the Legislative Drafting Division under the supervision of Papalii Malietau Malietoa (Parliamentary Counsel).*

*Revised in 2012 by the Legislative Drafting Division.*

**The Land Titles Investigation Act 1966 is administered by the Ministry of Natural Resources and Environment.**