

DISTRICT COURTS AMENDMENT

WESTERN SAMOA

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1992/1993, No. 11

AN ACT to amend the Act heretofore known as the
Magistrates' Courts Act 1969.

BE IT ENACTED by the Legislative Assembly of Western
Samoa in Parliament assembled as follows:-

1. **Short Title and commencement** - (1) This Act may be cited as the District Courts Amendment 1992/1993 and shall be

read together with and deemed part of the Act heretofore known as the Magistrates' Courts Act 1969 (hereinafter referred to as the principal Act).

(2) This Act shall commence on such date as shall be appointed by the Head of State acting on the advice of Cabinet, by Order.

2. Altering Short Title of principal Act and amending Acts- (1) The principal Act may hereafter be cited as the District Courts Amendment Act 1969.

(2) The Short Title of the principal Act and the Short Titles of the Acts specified in the Schedule to this Act are hereby consequentially amended, in each case, by omitting the word "Magistrates", and substituting the word "District".

(3) Every reference in any enactment to any of the said Acts is hereby consequentially amended by omitting the word "Magistrates", and substituting the word "District".

3. Interpretation - (1) Subsection (1) of section 2 of the principal Act is hereby amended by omitting the definition of the terms "Court" and "Magistrate's Court", and substituting the following definitions:

"Court" or "District Court" means a District Court of Western Samoa constituted under this Act:"

(2) The said subsection (1) of section 2 is further amended by omitting the definition of the term "Magistrate"

and substituting in its proper alphabetical position the following definition:-

" "Judge" means a District Court Judge appointed under this Act."

4. Courts constituted - (1) The principal Act is hereby amended by omitting from Part II the subheading "Magistrates' Courts", and by repealing section 3, and substituting the following subheading and section:

"District Courts"

"3. Courts constituted - (1) There shall continue to be within Western Samoa subordinate Courts of record, possessing civil and criminal jurisdiction, henceforth to be called District Courts of Western Samoa.

(2) The Head of State, acting on the advice of Cabinet, may at any time by Order subdivide any District Court and create separate District Courts.

(3) Each Court shall have a seal, which shall be kept by the Registrar."

(2) Every Court constituted as a Magistrates' Court immediately before the commencement of this Act, shall continue to be constituted as a District Court under the principal Act as amended by this Act.

5. **Oath of Office** - (1) The principal Act is further amended by inserting immediately after section 10 the following new section, to be known as section 10A:-

"10A. **Oath of Office** - (1) An oath in the form appearing in subsection (3) of this section shall be taken by every District Court Judge and Fa'amasino Fesoasoani, or acting District Court Judge or Fa'amasino Fesoasoani, as soon as may be after his acceptance of office, or as the case may be after the commencement of this section and no District Court Judge and Fa'amasino Fesoasoani, or acting District Court Judge or Fa'amasino Fesoasoani, shall enter on his office or as the case may be continue in his office until he has taken the same.

(2) The oath to be taken under this section shall be administered by a District Court Judge, or if no District Court Judge is available for that purpose, by a Judge of the Supreme Court.

(3) The oath referred to in subsection (1) of this section shall be in the following form:-

I,.....swear by Almighty God that I will well and truly serve the Independent State of Western Samoa in the office of, in accordance with the Constitution and the law; and I will do right to all manner of people, without fear or favour, affection or ill will."

6. Extending general civil jurisdiction of District Court Judges - (1) The principal Act is further amended -

- (a) By omitting from section 23 the expression "\$1,000" in both places where it occurs, and substituting in each case the expression "\$10,000":
- (b) By omitting from paragraph (b) of section 24 the expression "\$1,000", and substituting the expression "\$10,000":
- (c) By omitting from section 25 the expression "\$1,000", and substituting the expression "\$100,000":
- (d) By further omitting from section 25 the expression "\$100", and substituting the expression "\$10,000":
- (e) By omitting from section 28 the expression "\$1,000" in every place where it occurs, and substituting in each case the expression "\$10,000":
- (f) By omitting from section 29 the expression "\$1,000" in every place where it occurs, and substituting the expression "\$10,000":
- (g) By omitting from section 27 of the principal Act the expression "\$1,000", and substituting the expression "\$10,000".

7. Extending general civil jurisdiction of Fa'amasino Fesoasoani - (1) The principal Act is further amended -

- (a) By omitting from section 33 the expression "\$40" in both places where it occurs, and substituting in each

case the expression "\$1,000":

- (b) By omitting from paragraphs (a) of section 34 the expression "\$40" and substituting the expression "\$2,000":

8. Jurisdiction in proceedings under the Customs Act 1977-

Section 37 of the principal Act is repealed and the following section is substituted:-

" **37. Jurisdiction in proceedings under the Customs Act 1977** - A Court presided over by a District Court Judge shall have jurisdiction to hear and determine any proceedings commenced under the Customs Act 1977:

Provided that the amount claimed or the value of the goods does not exceed \$10,000 and that in any criminal proceedings the maximum penalty does not exceed 3 years' imprisonment."

9. Extending criminal jurisdiction of Fa'amasino

Fesoasoani- (1) Section 38 of the principal Act is amended by omitting the expression "\$40" and substituting the expression "\$1,000".

(2) Section 39 of the principal Act is amended by:-

- (a) Omitting from paragraph (a) the expression "\$200" and substituting the expression "\$1,000":
- (b) Omitting from paragraph (b) the expression "\$40" and substituting the expression "\$1,000".

(3) Paragraph (b) of section 40 of the principal Act is amended by omitting the expression "\$100" and substituting the expression "\$1,000".

10. **Transfer to Supreme Court of proceedings within jurisdiction** - (1) Section 48 of the principal Act is amended by omitting from subsection (1), and also from subsection (2), the expression "\$400", and substituting in each case the expression "\$5,000".

11. **Transfer of proceedings from Supreme Court to District Court**- The principal Act is hereby amended by repealing section 51, and substituting the following section:

" **51. Transfer of proceedings from Supreme Court to District Court** - If, where civil proceedings have been commenced in the Supreme Court, -

(a) An agreement is made under the provisions of section 35 of this Act that a District Court shall have jurisdiction; or

(b) The subject-matter of the proceedings is within the jurisdiction of District Courts, -

the Supreme Court or a Judge of that Court may, on the application of any party to the proceedings, order that the proceedings be transferred to a District Court."

12. **Interpleader** - Section 54 of the principal Act is amended by omitting the expression "\$1,000", and substituting the expression "\$10,000".

13. Equity and good conscience - Section 56 of the principal Act is amended -

- (a) By omitting the expression "\$100" and substituting the expression "\$1,000";
- (b) By omitting the expression "\$40" and substituting the expression "\$1,000".

14. Penalty for failing to comply with witness summons - Section 58 of the principal Act is amended -

- (a) By omitting from subsection (1) the expression "\$40" and substituting the expression "\$500";
- (b) By omitting from subsection (2) the expression "\$40" and substituting the expression "\$500";

15. Right to appeal - Section 70 of the principal Act is amended by omitting the expression "\$40" in both places where it occurs, and substituting in each case the expression "\$1,000":

16. Security for appeal - Subsection (2) of section 72 of the principal Act is amended by omitting the expression "\$50" and substituting the expression "\$200".

17. Warrant of distress - Paragraph (a) of subsection (1) of section 87 of the principal Act is amended by omitting the expression "\$100" and substituting the expression "\$1,000".

18. **Penalty for rescue of goods seized** - Section 90 of the principal Act is amended by omitting the expression "\$40" and substituting the expression "\$500".

19. **Absconding defendant** - Subsection (1) of section 104 of the principal Act is amended by omitting the expression "\$40" and substituting the expression "\$500".

20. **Compensation** - Paragraph (b) of section 105 is amended by omitting the expression "\$40" and substituting the expression "\$500".

21. **Security for costs** - Subsection (1) of section 112 of the principal Act is amended by omitting the expression "\$100" and substituting the expression "\$500".

22. **Penalty for resisting or obstructing officer** - Section 115 of the principal Act is amended by omitting the expression "\$40" and substituting the expression "\$500".

23. **Misconduct of Officers** - Subsection (3) of section 116 of the principal Act is amended by omitting the expression "\$40", and substituting the expression "\$500".

24. **Officers of Court not to act as solicitors therein** - Subsection (2) of section 117 of the principal Act is amended

by omitting the expression "\$20", and substituting the expression "\$500".

25. Proof of service of documents - Subsection (2) of section 131 of the principal Act is amended by omitting the expression "\$400" and substituting the expression "\$1,000"

26. Constables to assist Court - Subsection (1) of section 135 is amended by omitting the expression "\$10", and substituting the expression "\$500".

27. Extending jurisdiction under other Acts - (1) The Property Law Act 1952 (N.Z) (as amended by the Decimal Currency Act 1966) as it applies in Western Samoa shall be read and construed as if -

(a) the expression "\$4,000" where it appears in section 143 were omitted and the expression "\$10,000" substituted therefor.

(b) the expression "\$10,000" where it appears in paragraph (a) of subsection 6 of section 152 were omitted and the expression "\$10,000" substituted therefor.

(2) Paragraph (b) of subsection 2 of section 112 of the Criminal Procedure Act 1972 is amended by omitting the expression "\$500" and substituting the expression "\$2,000".

(3) Subsection 3 of section 112 of the Criminal Procedure Act 1972 is amended by omitting the expression "\$500" and

substituting the expression "\$2,000".

28. References to Magistrates' Courts, etc., deemed references to District Courts - (1) Every reference to a Magistrate's Court in the principal Act or any other enactment specified in the Schedule to this Act shall be deemed for all purposes to be a reference to a District Court, and every such reference to a Magistrate shall be deemed for all purposes to be a reference to a District Court Judge.

(2) Every reference to a Magistrate's Court in any enactment (other than one to which subsection (1) of this section applies) passed before the date of the commencement of this section or in any document executed before that date, shall be deemed for all purposes to be a reference to a District Court, and every such reference to a Magistrate shall be deemed for all purposes to be a reference to a District Court Judge.

29. Transitional provisions - (1) Every person who, immediately before the commencement of this Act, was holding office as a Magistrate or an acting Magistrate pursuant to section 5 or section 10 of the principal Act shall be deemed for all purposes to have been appointed to be a District Court Judge, or, as the case may be, an acting District Court Judge and his commission shall be construed accordingly.

(2) Every person who, immediately before the

commencement of this Act, was holding office as a Fa'amasino Fesoasoani or an acting Fa'amasino Fesoasoani pursuant to section 6 or section 10 of the principal Act shall be deemed for all purposes to have been appointed to be a Fa'amasino Fesoasoani of the District Court or, as the case may be, an acting Fa'amasino Fesoasoani of the District Court and his commission shall be construed accordingly.

(3) Every person who, immediately before the commencement of this Act, was holding office as a Registrar or Deputy Registrar or an officer of a Magistrate's Court shall be deemed for all purposes to have been appointed to be a Registrar or Deputy Registrar or an officer of a District Court.

(4) Any form that was printed, before the commencement of this Act, in the form prescribed by or under, and for the purposes of, the principal Act or any other enactment may be used for such purposes after the commencement of this section, and it shall not be necessary, merely because of any of the provisions of this Act, to alter any printed material in any such form.

SCHEDULE

Sections 2, 28

ENACTMENTS AMENDED BY ALTERING SHORT TITLES

Magistrates' Courts Amendment Act 1972

Magistrates' Courts Amendment Act 1976