

[197]

THE SAMOAN INDIVIDUAL PROPERTY ORDINANCE.

Western Samoa.

No. 5, 1925.



No 2
1934

An Ordinance

made by the Administrator of the Territory of Western Samoa, with the advice and consent of the Legislative Council of that Territory, and in pursuance of the Samoa Act, 1921.

Title

1. This Ordinance may be cited as the "Samoa Individual Property Ordinance, 1925."

Definition

2. "Individual Property" means for the purposes of this Ordinance property of any kind which is held by the owner thereof being a Samoan in such manner as to be unaffected by any trust arising out of Samoan custom in favour of any other Samoan.

Samoa may dispose of property by will

3. Any Samoan who would if he were a European be capable of making a valid will and who owns individual property in Samoa shall be capable of disposing of such property by will: Provided that no such will shall be valid unless it is executed in the same manner as is required by the law in force for the time being in respect of the will of a European, and unless one of the attesting witnesses thereof is a Judge or Commissioner Registrar or Deputy Registrar of the High Court Public Trustee a solicitor of the Supreme Court of New Zealand, European Minister of religion qualified Medical Practitioner or Postmaster.

Attestation

And provided further that any such will shall be void and of no effect insofar as the testator purports thereby to devise any Samoan native land to a European.

4. Every will of a Samoan made in pursuance of this Ordinance, shall, on the expiration of two years from the death of the Testator become absolutely null and void as from the death of the Testator unless before the expiration of that period application has been made to the High Court for a grant of probate of that will or of letters of administration with that will annexed.
5. The High Court shall have jurisdiction to grant probate of the will of any Samoan who shall hereafter die leaving a valid will disposing of individual property of such Samoan in Samoa.
6. The High Court may in its discretion, grant to the Public Trustee or to any other person whom the Court thinks fit letters of Administration with such will annexed, notwithstanding the fact that an executor has been appointed by the will and has not renounced probate or has applied for probate.
7. Every grant of probate of the will or of letters of administration with the will annexed of a Samoan, shall have the same operation and effect respectively as a grant of probate of the will or of letters of administration with the will annexed of a European.
8. (1) Notwithstanding the provisions of Section 368 of the Samoa Act, 1921, the right of succession to European land of which any Samoan is the registered owner and of any individual property of a Samoan shall on the death of such Samoan be determined in accordance with the law governing the succession to real and personal property of a European on the death of such European.
- (2) The High Court shall accordingly have jurisdiction to grant letters of administration of the estate of any such Samoan in so far as such estate includes such European land and individual property.
9. In any case in which a Samoan dies leaving property and any question arises whether such property is or is not individual property such question shall be decided by the High Court on the application of any person interested or claiming so to be in such property.
10. (a) When any Samoan shall hereafter die intestate and the succession to any property or rights of such Samoan shall have been determined in accordance with Samoan custom by the Native Land & Titles Commission the Chief Judge of the High Court may give a certificate under his hand and the seal of the said Court setting out the fact of such decision and the person or persons entitled in accordance therewith to such property or rights or to any specified part of such property or rights.
- (b) Any such certificate shall be accepted by all Courts, officers and persons as sufficient proof that the person or persons therein stated to be entitled to such property or rights or such specified part thereof is or are so entitled without production of any other proof whatever.

Probate to be applied for within 2 years

Jurisdiction of High Court

Grant to Public Trustee

Effect of Grant

Right of succession to individual real and personal property of a Samoan

Letters of Administration

High Court to decide what is individual property

Intestacy and Judgment of Land and Titles Commission

Certificate by Chief Judge Effect of certificate

Assented to this twentieth day of November, 1925.

[L.S.] J. W. HUTCHEN,
Acting Administrator.