



GOVERNMENT OF SAMOA

SAMOA SECOND INFRASTRUCTURE AND ASSET MANAGEMENT  
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SURVEY ACT

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# SURVEY ACT 2006

## SAMOA

An Act to consolidate and amend the law relating to licensed surveyors and the conduct of cadastral surveys

### PART 1 PRELIMINARY

#### 1 Short Title and Commencement

This act may be cited as the Survey Act 2006

#### 2 Interpretation

(1) In this Act, unless the context otherwise requires:

**“Access Road”** means a direct access with a minimum road reserve of 10metres to individual allotments

**“Access Lane”** means direct access with minimum road reserve of 4metres to an allotment or allotments with a total maximum area of 1000sq.metres

**“Access Way”** means direct access with a minimum road reserve of 6metres to an allotment or allotments with a total maximum area of 4000sq.metres

**“Any land”** means all land in physical contiguity under one ownership, whether purchased at the same or at different times and whether under one or more instruments of title;

**“Cadastral survey”** means the determination and description of the spatial extent including boundaries of interests under a tenure system

**“Cadastral survey dataset”** means set of cadastral survey data necessary to integrate a cadastral survey into the cadastre

**“Cadastral survey mark”** means a mark placed for the purpose of cadastral survey

**“Cadastre”** means all the cadastral survey data held by or for the agencies of the Government of Samoa

**“Court”** means the Supreme Court of Samoa

**“Chief Executive Officer”** means the Chief Executive Officer or CEO of the Ministry responsible for the administration of this Act

**“Definition Plan”** means a survey plan that defines or redefines the boundaries and details of a parcel of land, for any purpose.

**“Dominant tenement”** means land which has attached to it an easement over other land

**“Digital cadastral dataset”** means cadastral dataset in digital format

**“Easement”** means a legal right to the use of land of another, without the right to possession of that land, or to take any part of the soil or products of such land

**“Easement in gross”** means an easement over land, which is not appurtenant to other land, but which belongs to a person independently of the ownership of land

**“Geodetic system”** means a system that enables positions on the surface of the earth to be determined by reference to a mathematical model that describes the size and shape of the earth. In Samoa this is defined as the Samoa Geodetic Reference System 2005

**“Land”** includes

- a) Subsoil, airspace, water and marine areas, and
- b) Interest in or over land

**“Licensed surveyor or Surveyor”** means a person licensed as a surveyor under part 3

**“Minister”** means a Minister of Government of Samoa who is responsible for the time being for the administration of this Act

**“National Survey Control System”** means a system to determine the position of points, features and boundaries in cadastral surveys and land information systems

**“Owner”** means the owner in fee simple whether beneficially or as a trustee, and includes a mortgagee acting in exercise in power of sale, Public Trustee, and any Board or other authority, howsoever designated, constituted or appointed, having power to dispose of land or interest therein by way of sale

**“Plan”** or Survey Plan means a graphical representation of one or more cadastral surveys

**“Primary Road”** means a main through route with a minimum road reserve of 25 metres linking different regions

**“Registrar of Lands or Registrar”** means the registrar of land appointed under The Samoa Land Registration Act 1992/1993

**“Right of Way”** means an easement entitling the owner of a dominant tenement, or in the case of easement in gross, the person entitled to the easement to pass and re-pass over the servient tenement

**“Secondary Road”** means an access with a minimum road reserve of 15metres linking different local areas

**“Servient Tenement”** means land over which there is an easement

**“Survey Mark”** a cadastral survey mark or mark used for the national survey control system

**“Subdivision Plan”** means a survey plan detailing the division of land into two or more allotments for any purpose.

## **PART 2      ADMINISTRATION**

### **3      Minister**

The functions of the Minister;

- (a) To administer the legislation
- (b) To issue surveyors licenses
- (c) The Minister has the power to withdraw any license under the recommendation of the CEO, if a surveyor does not comply with standards and regulations set down.

### **4      Chief Executive Officer**

The functions of the Chief Executive Officer are;

- (a) To approve plans.
- (b) To maintain a National Geodetic System
- (c) To maintain a National survey control system
- (d) To determine how the spatial extent (including boundaries) of interests under a tenure system must be defined and described, setting standards;
- (e) To advise private surveyors of any significant failures in complying with standards referred to in (d)
- (f) To set standards for integration of new cadastral surveys into the cadastre;
- (g) To provide facilities to receive cadastral survey data-sets
- (h) To integrate new cadastral surveys into the cadastre
- (i) To set standards for, and determine the structure, storage and provision of cadastral survey data;
- (j) To provide advice to agencies of officers responsible for any enactment for tenure systems on matters relating to the spatial definition of interests under those systems
- (k) To undertake research and to liaise with persons or organizations to carry out his or her functions
- (l) To audit compliance of surveyors with the standards set in (d)
- (m) To exercise any other duties or function conferred by the Minister
- (n) To keep and maintain the register of all surveyors licensed under this Act

- (o) To receive applications on behalf of Minister for licensing of surveyors and issue licenses in proper cases
- (p) To set fees for the issuance and renewal of licenses and Annual Practicing Certificates under this Act.
- (q) Issuance of Annual Practicing Certificates
- (r) To issue and update standards that persons applying for licenses, or the renewal of licenses under this Act must meet.

## **PART 3 LICENSING OF SURVEYORS**

### **5 License**

- (1) The Minister may upon advise of the CEO approve that a person be licensed as a surveyor provided that he or she;
  - (a) is 21 years or over
  - (b) has a recognized qualification as a surveyor
  - (c) has at least 3 years experience after acquiring a degree in (b) of working under the supervision of a Licensed Surveyor OR at least 5 years experience after acquiring a Certificate or Diploma in (b) of working experience under the supervision of a Licensed Surveyor.
  - (d) has applied to the Minister for a license in such form and giving such information as the CEO may require
  - (e) is of good character and standing
  - (f) has paid the application fee as determined by the CEO by notice.
- (2) The CEO shall issue the surveyors' license upon approval by the Minister, and the payment of the license fee.
- (3) For the purposes of this section, a recognized qualification for licenses is as published from time to time by the CEO in the Savali and one other newspaper circulated in Samoa.
- (4) No qualification shall be prescribed for the purpose of section 5 (3) unless, it is an academic qualification in Surveying from any country or jurisdiction acceptable to the Minister.

### **6. Application for License**

- (1) Every application for a license must be made to the Minister in such form and giving such information as the CEO may require.
- (2) A supporting declaration from the licensed surveyor supervising the applicant must accompany the application.

### **7. Issuance of Annual Practicing Certificates**

- (1) An Annual Practicing Certificate shall be issued by the CEO as part of a surveyor's license when it is first awarded.

- (2) A subsequent surveyor's annual practicing certificate is valid only on payment of the annual fee set by the CEO.
- (3) The licensed surveyor is entitled to the renewal of his or her Annual Practicing Certificate if the CEO is satisfied that the surveyor has complied with the current survey standards and regulations.

## **8 Transitional Provisions**

Every person who immediately before this Act comes into force, was registered as a surveyor under the Survey Ordinance 1961 shall be treated as if he or she held a license issued under this Part after the date that this Act comes into force.

## **PART 4 SURVEY PLANS**

### **9 Subdivision Plan**

- (1) Where any land is subdivided into allotments for any purpose, a subdivision plan shall be prepared by a licensed surveyor and submitted for approval.
- (2) Every subdivision plan submitted for approval by the CEO should be signed by the owner or legal representative.
- (3) Every subdivision plan shall show the whole of the land being subdivided, the allotments and their areas, dimensions, and in addition to existing roads, public reserves and easements shall also show the propose roads, splays, or road widening proposed public reserves, lands affected by easements and such other particulars as may be prescribed by regulation under this Act
- (4) Where applicable, instruments for dedication of road reserves, land affected by safety restrictions and public reserves shall be submitted with subdivision plan in (1)
- (5) No allotment in any subdivision to which this section applies can be sold, leased or build upon until the roads, water and electricity supply services have been provided to the satisfaction of the respective utility providers.

### **10 Consideration of subdivision plan;**

- (1) The CEO may refuse to approve any subdivision plan or may approve it unconditionally or upon or subject to such conditions if he sees fit.
- (2) The CEO may refuse to approve a subdivision plan if in his opinion;
  - (a) Closer subdivision or settlement of the land shown on the plan is not in the public interest or the land for any other reason is not suitable for subdivision.
  - (b) Adequate provision has not been made for access to or the drainage of any allotment.
  - (c) Insufficient areas for public reserves have not been set aside.

- (d) The proposed subdivision does not conform to recognized principles of the close settlement of land.
- (3) The CEO may approve a subdivision plan subject to all or any of the following conditions;
  - (a) A condition restricting the use of all or any of the allotments shown on the plan
  - (b) A condition restricting in the interest of public safety the use of land at intersections to provide splays
  - © A condition restricting in the public safety the use of land on road frontage, to provide road widening.
- (4) in any case where the CEO has refused to approve a plan or subject to conditions, any person grieved by the decision of the CEO may appeal in the prescribed manner to the Court, whose decision shall be final

## **11 Definition Plan**

- (1) Where the details of any land are to be defined or redefined for any purpose, a definition plan shall be prepared by a licensed surveyor and submitted to the CEO for approval.
- (2) Every definition plan submitted for approval by the CEO, should be signed by the owner or legal representative in the case of freehold land. A plan of customary land shall be shown as “Customary Land” and signed by the customary owner if known or if the owner is not known, it can be signed later once confirmed.
- (3) Every definition plan shall show the whole of the land being defined or redefined, the areas and dimensions and in addition to existing roads, public reserves and easements shall also show the proposed roads, splays or road widenings, proposed public reserves, lands affected by easements and such other particulars as may be prescribed by regulations under this Act
- (4) Where applicable, instrument for dedication of road reserves, land affected by safety, restrictions and public reserves shall be submitted with the definition plan in (1)

Where applicable, no land shown in the definition plan which this section applies can be sold or leased until the roads, water and electricity supply services have been provided to the satisfaction of the utility providers.

## **12 Consideration of Definition Plan**

- (1) The CEO may refuse to approve any definition plan or may approve it unconditionally or upon or subject to such conditions as he sees fit.
- (2) The CEO may refuse to approve a definition plan if in his opinion,

- a) Closer subdivisions or settlement of the land shown on the plan is not in the public interest or the land for any other reason is not suitable for definition
  - b) Adequate provision has not been made for access to or the drainage of any part of the land.
  - c) Insufficient areas for public reserves have not been set aside
- (3) The CEO may approve a definition plan subject to all or any of the following conditions;
- a) A condition restricting the use of all or any of the land shown on the plan
  - b) A condition restricting in the interest of the public safety, the use of the land at intersections to provide splays.
  - c) A condition restricting in the public safety the use of land on road frontage but to provide road widening
- (4) In any case where the CEO has refused to approve a plan or subject to conditions, any person grieved by the decision of the CEO may appeal in the prescribed manner to the Court whose decision shall be final.

### **13 Subdivision and Definition Plans to Be Deposited**

Every approved subdivision and Definition plan together with any notice of conditions restricting the use of any land, shall be deposited at the office of the CEO

### **14 Creation of Access and Drainage Easements**

- (1) Where in a plan of subdivision it is intended to create rights of ways or drainage easements, there shall be endorsed on the plan a memorandum showing in respect of each such right of way or drainage easements which is the dominant tenement and which is the servient tenement or in the case of a drainage easement in gross, the name of a proposed grantee and which is the servient tenement.
- (2) On the submission of any plan of subdivision in which land is shown as proposed right of way or drainage easement, any right of way or any drainage easement so indicated shall be created without any further assurance and shall vest in the owner of the land benefited by the right of way or drainage easement notwithstanding that the land benefited and the land burdened may be in same ownership at the time when the plan is register and notwithstanding any rule of law or equity in that behalf
- (3) When creating a folio of the register kept under the Title Registration Act 2005 for land benefited or land burdened by any right of way or any drainage easement created on approval of a plan, the Registrar shall record that folio the right of way or drainage easement

### **15 Reserves**

- (1) For any subdivision or definition plan, with an area of up to **1000 square meters** (1 hectare), a strip of land of 5metres minimum width shall be set aside as water reserve along the high water mark of the sea, the banks of rivers, streams, lakes and water ways (even if dry) For any subdivision or definition plan with an area greater than 10,000 square meters, a strip of land of 10metres minimum width shall be set aside for water reserve.
- (2) The reserves for roads on any subdivision or definition plans are;
  - (a) Minimum of 25metres for Primary Road
  - (b) Minimum of 15metres for Secondary Road
  - © Minimum of 10metres for Access Road
  - (a) Minimum of 6metres for Access Way
  - (b) Minimum of 4metres for Access Lane
- (3) The total area set aside for reserves is the sum of the water and road reserves or 30% of sum of the total area of the plan, which ever is greater.
- (4) Any residue area of the 30% shall be set aside for other public services
- (5) Land shown as a public reserve which is vested in the government under the last preceding subsection shall be held as public reserve.

## **16 Dedication of Reserves**

The CEO shall register the instruments dedicating any reserve under this Act when all conditions for take over by the government are met

## **PART 5 DISCIPLINE**

### **17 Professional Conduct**

A licensed surveyor may loose his or her license if found;

- (a) To have been negligent in the conduct of or failure to conduct any cadastral survey,
- (b) To have certified to the accuracy of any cadastral survey or cadastral survey dataset without having personally carried out or directed the cadastral survey and related field operations
- © To have certified to the accuracy of any cadastral survey or cadastral dataset knowing it to be defective
- (d) To have failed to comply with any directions imposed under section 22.
- (e) To have been convicted by any court in Samoa of an offence under the Crimes Ordinance 1961 or by any Court overseas against similar provisions.

## **PART 6 CONDUCT OF SURVEYS**

## **18 General**

- (1) A cadastral survey must be conducted by a licensed surveyor or a person acting under the personal supervision of a licensed surveyor.
- (2) A licensed surveyor is responsible for the survey conducted by a person acting under his or her personal supervision
- (3) In conducting a cadastral survey, a licensed surveyor or person acting under his or her supervision, must comply with this Part and any regulation, standards and rules made under the Act.
- (4) If the CEO considers that compliance with the requirements of (3) in a particular case is impractical or unreasonable, the CEO may;
  - (a) grant an exemption from the requirements; or
  - (b) specify alternate requirements

## **19 Rules for Cadastral Surveys**

- (1) In order to maintain the integrity of, and public confidence in the cadastre, the CEO may from time to time specify rules;
  - (a) For the conduct of cadastral surveys
  - (b) For the use of cadastral survey marks
  - (c) For cadastral survey datasets.
- (2) The rules may require surveyors to provide cadastral datasets, or specified parts or classes of cadastral datasets, to the CEO as digital cadastral datasets.

## **20 Correction of Errors**

If an error is found in any survey affecting any title or tenure to land under any Act, the CEO may, in writing, require the surveyor responsible for the error to undertake the work necessary to correct the error at his or her own costs.

## **21 Powers of entry for cadastral survey purposes**

- (1) For the purpose of conducting a cadastral survey, or the installation of a survey mark, a licensed surveyor, or person acting under the direction of a licensed surveyor, may;
  - (a) enter or re-enter any land at reasonable times with or without assistants, vehicles and equipment which are reasonably necessary for the conduct of the cadastral survey or to install the survey mark, and
  - (b) do all things necessary on any land for the proper conduct of the cadastral survey or installation of a survey mark

- (2) Before exercising the power conferred by section (1), in respect of any land, the licensed surveyor must as far as practicable give reasonable notice to occupier of the land of the intention to enter.

## **PART 7      OFFENCES AND PENALTIES**

### **22      Assault of a Licensed Surveyor**

Every person commits an offence who knowingly obstructs a licensed surveyor, or a person assisting the licensed surveyor or acting under the direction of a licensed surveyor in;

- (a) performing the licensed surveyors duties in relation to a survey or
- (b) ascertaining or marking out a boundary or cadastral survey line or
- (c) fixing, placing, restoring, replacing or setting up a survey mark.

### **23      Interference with survey Marks**

- (1) Every person commits an offence who knowingly takes, destroys or alters the position of, or markings on, a survey mark which has been placed under this or any other Act
- (2) Every person who is convicted of an offence against sub-section (1), is also liable to pay the costs including survey costs of repairing, replacing or restoring to its proper position the survey mark concerned.

## **.PART 8      MISCELLANEOUS**

### **24      Delegation of the Ministers Power**

- (1) The Minister may from time to time, by writing under his hand, delegate to the CEO any of the powers conferred on him under this Act
- (2) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister
- (3) Any delegation under this section may be made subject to such restrictions and conditions as the Minister thinks fit, and may be either general or in relation to any particular case.
- (4) Unless and until any delegation under this section is revoked, it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister, and in the event of the CEO to whom any delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as CEO.
- (5) The fact that the CEO exercises any power conferred on the Minister under this Act shall, in the absence of proof to the contrary, be sufficient evidence of his authority so to do.

## **25 Delegation of the CEO's Function**

In the absence of the CEO, he may by writing under his hand delegate the authority to approve all survey plans to the Assistant CEO of Technical Services or any other senior officer of the same division he thinks fit.

## **26 Offences**

- (1) Every person commits an offence who acts in contravention of or fails to comply in any respect with the provisions of this Act or with any condition or requirements imposed by the Minister acting under the authority of this Act
- (2) Every person who commits an offence as aforesaid shall be liable on summary conviction to a fine of 10 per unit (PU) and if the offence is a continuing one to a further fine of 1 per unit (PU) for every day during which the offence continues.
- (3) The continued existence of any building or any use of land which is contrary to any condition imposed by the Minister under this Act shall be deemed to be a continuing offence within the meaning of this section
- (4) Any information in respect of any offence to which this section applies may be laid at any time within three years from the time when the matter of the information arose.

## **27 Liabilities**

The government is not liable in any civil proceedings for any damage done or for any loss suffered as a result of an act, omission, or default of the CEO or any of his relevant staff.

## **28 Regulations**

- (1) The Head of State acting on the advice of Cabinet may make regulation as may be necessary or expedient for giving full effect to the provisions of this Act and the administration of the Act.
- (2) Without limiting the general power of subsection (1) of this section, regulation may be made for all or any of the following purposes;
  - (a) prescribing qualifications for the licensing of surveyors under this Act.
  - (b) Regulating the conduct of surveys including provisions for ensuring accuracy of plans and surveys, and providing for amendments and additions to plans in accordance with requisitions in that behalf made by the CEO
  - (c) Fixing the basis of fees and charges for any surveys, plans or other work of a like nature
  - (d) Prescribing methods of making applications under this Act and forms and documents required under this Act.

(e) Prescribing fees payable in respect of the examination of all plans under this Act and in respect of other matters arising under this Act

(3) It shall be the responsibility of the Minister to lay all regulations made under this Act before the Legislative Assembly within twenty eight (28) days after the making thereof if the Assembly is then in session, and if not to lay such regulations before the Assembly before twenty eight (28) days after the commencement of the next ensuing session.

**29. Fees**

(1) Fees may be charged on the basis of time plus materials plus disbursements or may be derived from lump sums or quotations or tenders as agreed with the client. In all cases the fee charged shall be fair and equitable and shall reflect the extent and circumstances of the work to which the fee relates. No surveyor shall offer inducements to or accept inducements from any person interested in the work undertaken by the surveyor.

(2) Where a dispute as to survey fees cannot be resolved by the surveyor concerned, then the dispute shall be investigated by a panel nominated by the CEO. The panel shall consist of the CEO, who shall chair the panel, a licensed surveyor in private practice and a licensed government surveyor. The surveyor who set the fee in dispute shall not be on the panel. The decision of the panel shall be final.

**30. Repeals and savings**

(1) The Survey Ordinance 1961 is hereby repealed

(2) Any plan of subdivision heretofore approved or deposited shall be deemed to have been approved or deposited under this Act.

**The Survey Act 2006 is administered in the Ministry of Natural Resources,  
Environment & Meteorology.**

