



SAMOA

GENERAL LAWS (NO.2) ORDINANCE 1932

Arrangement of Provisions

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GENERAL LAWS (NO.2) ORDINANCE 1932 1932 No.2

AN ORDINANCE to enact certain General Laws.

[Assent and commencement date: 10 October 1932]

1. Short title – This Ordinance, may be cited as the General Laws (No.2) Ordinance 1932.

2. Interpretation – In this Ordinance, unless the context otherwise requires:

“Court” or “the Court” means the Supreme Court of Samoa and includes a Judge of the Court.

3. Sureties – (1) A person who, being surety for the debt or duty of another or being liable with another for a debt or duty, pays or satisfies such debt or performs such duty is entitled to have assigned to him or her or a trustee for him or her every judgment, speciality or other security held by the

creditor in respect of such debt or duty whether such judgment, speciality or other security is or is not deemed at law to be satisfied by the payment of the debt or the performance of the duty.

(2) The person is entitled to stand in the place of the creditor and to use all the remedies and if need be and upon a proper indemnity to use the name of the creditor in an action or other proceeding in order to obtain from the principal debtor or any co-surety, co-contractor or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person paying or satisfying such debt or performing such duty.

(3) The payment, satisfaction or performance made by the surety is not pleadable in bar of any such action or other proceeding by him or her.

(4) A co-surety, co-contractor or co-debtor is not entitled to recover from any other co-surety, co-contractor or co-debtor by the means aforesaid more than the just proportion to which as between those parties themselves such last-mentioned person is justly liable.

4. Interest on money – In all cases where interest for the loan of money or on any other contract is lawfully recovered or allowed in any action or other proceeding but where the rate of such interest has not been previously agreed upon by or between the parties the party entitled to interest shall not be allowed to recover or receive above the rate of \$8 for the interest of \$100 for a year and so after that rate for a greater or lesser sum than \$100 or for a longer or shorter time than a year.

5. Lost instruments – In case of an action founded on any negotiable instrument the Court may order that the loss of such instrument shall not be taken advantage of provided an indemnity is given to the satisfaction of the Court against claims of any other person upon such negotiable instrument.

6. Discharge of debts by part payment– An acknowledgement by a creditor or by a person authorised in that behalf of the receipt of a part of his or her debt in satisfaction of the whole debt shall operate as a discharge of the debt any rule of law notwithstanding.

7. Joint debtors – A judgment against 1 or more of several persons jointly liable shall not operate as a bar or defence to an action or other proceeding against any of such persons against whom judgment has not been recovered except to the extent to which the judgment has been satisfied any rule of law notwithstanding.

8. Encroachments upon land – (1) Where in an action or other proceeding relating to land it appears to the Court that the defendant or any of his or her predecessors in title has, in the erection of a building or structure upon a land adjoining the land in question, encroached upon such last-mentioned land and it is proved to the satisfaction of the Court by or on behalf of the defendant that such encroachment was not intentional or did not arise from gross negligence then the Court instead of ordering the defendant to give up possession of the piece of land so encroached upon or to pay damages or instead of granting an injunction may give the defendant the right of retaining possession of the piece of land so built upon subject to the payment of such sum or sums of money and to such other conditions as the Court thinks just.

(2) An order made under this section may be registered under the Samoa Land Registration Order 1920 (NZ) and its amendments.

9. Husband's liability for wife's torts – The rule of common law where under a husband is liable to third parties for the tortious acts of his wife ceases to be applicable in Samoa:

PROVIDED THAT nothing in this section affects the vicarious liability of a husband for the tortious acts of his wife committed while acting for or on his behalf within the scope of her authority.

10. Examination of injured persons – (1) Where a person injured or alleged to have been injured by an accident or through the wrongful act, neglect or default of any other person claims compensation or damages on account of the injury the Court may at any time after the commencement of the action to recover such compensation order that the person injured be examined by 1 or more medical officers or practitioners named

in the order and may make such order with respect to the costs of such examination as it thinks fit.

(2) If the person injured refuses to submit to such examination or in any way obstructs the same, his or her right to compensation or damages is suspended and all proceedings brought by him or her in respect of such compensation or damages shall be stayed while such refusal continues.

11. Slander of women – Words spoken and published which impute unchastity or adultery of a female does not require special damage to render them actionable.

12. Judgments against married women – A judgment may be entered and an order made against a married woman in the same way as if she was unmarried and the judgment or order may be enforced accordingly.

13.*Repealed by section 51 (1) of the Administration Act 1975*

14. Protection of life insurance policies – A policy of life insurance is protected upon the holder thereof becoming bankrupt under any law for the time being in force relating to bankruptcy or dying leaving a will to the extent and in the manner provided by section 65 of the Life Insurance Act 1908 (NZ) and every existing or future amendment thereto and any enactment passed in substitution therefor:

PROVIDED THAT:

- (a) the word “Samoa” is to be substituted for the word “New Zealand” in subsection (4) that section; and
- (b) the words “Supreme Court on a motion filed” is to be substituted for “Supreme Court on a Summons taken out” in subsection (6) of that section.

15. Overhanging coconut trees – (1) The common law right of an owner or occupier of land to sever the branches of trees growing on the land of another if such branches overhang his or her land ceases, on the coming into force of this Ordinance, to apply in Samoa in respect of coconut trees.

(2) The owner or occupier of land who severs a coconut tree or any part of a coconut tree overhanging his or her land

commits an unlawful act for which he or she is liable in damages.

(3) If an owner or occupier of land (hereinafter referred to as the plaintiff) proves to the satisfaction of the Supreme Court that any part of a coconut tree growing on the land of another overhangs the plaintiff's land the Court may in its discretion and subject to such terms and conditions as it may impose order that the coconut tree be felled and for such purpose may authorise the plaintiff to enter upon the land on which the tree is growing.

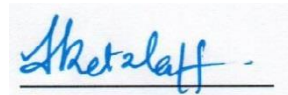
(4) All proceedings under subsection (3) are commenced by way of motion under the Rules of the Court.

REVISION NOTES 2008 – 2017

This is the official version of this Act as at 31 December 2017.

This Act has been revised by the Legislative Drafting Division from 2008 to 2017 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

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



Lemalu Hermann P. Retzlaff
Attorney General of Samoa

*This Ordinance is administered by
the Office of the Attorney General*
