

JUDICATURE BILL 2020

SAMOA

Explanatory Memorandum

1.0 Object and reasons:

- 1.1 This Bill updates the Judicature Ordinance 1961 (“JO 1961”), removing duplicated provisions found in the Constitution.

- 1.2 In essence, what is now regulated by this Bill are administrative, procedural and civil appeal provisions practiced in the Civil and Criminal Courts.

Clauses:

PART 1 PRELIMINARY

- Clause 1:** - provides for the short title and commencement.
- Clause 2:** - provides for the interpretation of certain terms used throughout the Bill.
- Clause 3:** - provides that all civil and criminal Courts in Samoa shall within the limits of their jurisdiction, administer common law and equity concurrently.

PART 2
SUPREME COURT

- Clause 4:** - provides for the appointment of the Registrar of the Supreme Court.
- Clause 5:** - provides for the appointment of the Deputy Registrars of the Supreme Court.
- Clause 6:** - provides for the appointment of Court administrative officers.
- Clause 7:** - provides that the Supreme Court shall have in the custody of each Judge, Registrar and Deputy Registrar a seal of the Court, for the sealing of all judgments, orders, decrees, warrants, records and other instruments that require to be sealed by the Court.
- Clause 8:** - provides for the practice and procedure of the Court.
- Clause 9:** - provides that the Head of State, acting on the advice of the Judicial Service Commission, may make such rules for the practice and procedure of the Supreme Court.

PART 3
COURT OF APPEAL

- Clause 10:** - provides that the Registrar, Deputy Registrars and other officers of the Supreme Court shall, without further appointment, act in the like capacity in the Court of Appeal.
- Clause 11:** - provides for the appeals in civil cases.
- Clause 12:** - provides for the questions of law that may be reserved for decision of the Court of Appeal.

- Clause 13:** - provides for the proceedings in the Supreme Court that may be removed into the Court of Appeal.
- Clause 14:** - provides for the Order granting leave for appeal.
- Clause 15:** - provides for no stay of execution unless Court orders.
- Clause 16:** - provides for the evidence on appeal.
- Clause 17:** - provides for the power of court regarding judgment.
- Clause 18:** - provides for when a court may order a new trial.
- Clause 19:** - provides for non-prosecution of appeal cases.
- Clause 20:** - provides for execution of order.
- Clause 21:** - provides no appeal on appeals from District Court, unless leave to appeal is given.
- Clause 22:** - provides for when special leave to appeal may be granted by the Court of Appeal.
- Clause 23:** - provides for the Court seal.
- Clause 24:** - provides that the Head of State, acting on the advice of the Judicial Service Commission, may make rules for the practice and procedure of the Court of Appeal.

PART 4
MISCELLANEOUS

- Clause 25:** - provides that the Head of State, may make regulations setting out the fees payable for proceedings in the Supreme Court and Court of Appeal.

Clause 26: - provides for the repeal, savings and traditional provisions.

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(Hon FAAOLESA Katopau T. Ainuu)
MINISTER OF JUSTICE AND
COURTS ADMINISTRATION