

## SAMOA

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**2010, No. 26**

**AN ACT to regulate the practice of land valuations by the registration and licensing of qualified land valuers and the prescription of requirements for land valuations and the application of a formula valuation system, and for related purposes.** *[19<sup>th</sup> October 2010]*

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

**PART 1  
PRELIMINARY**

**1. Short title and commencement-**(1) This Act may be cited as the Land Valuation Act 2010.

(2) This Act commences, in whole or in part, on a date or dates nominated by the Minister.

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

“approved fee” means a fee approved by the Minister by notice issued to that effect;

“Assistant Chief Executive Officer” means the Assistant Chief Executive Officer responsible for land valuation in the Ministry;

“Chief Executive Officer” means the Chief Executive Officer of the Ministry responsible for lands;

“Committee” means the Land Professionals Registration Committee (Land Valuation) established under section 7;

“current land market value” means a value for which an asset is exchanged on the date of valuation between a willing buyer and a willing seller in an arm’s length transaction after proper marketing, wherein the parties had each acted knowledgeably, prudently and without compulsion;

- “Institute” means the Samoa Institute of Land Professionals established under section 10 of the Survey Act 2010;
- “land” includes subsoil, airspace, and water and marine areas; and includes interests in or over land;
- “land professions” includes the professional practice of land surveys, land valuation and land use planning, and any other land related activity performed by person who are entitled to be members of the Institute under its Rules or as authorised by any Act;
- “licensed valuer” or “valuer” means a person registered as a valuer and who is the holder of a current practising certificate;
- “Minister” means the Minister responsible for lands;
- “Ministry” means the Ministry responsible for lands;
- “qualification” means any certificate, diploma, degree or licence granted by overseas academic institutions or authorities and recognised either singly or in combination by the Committee as sufficient evidence of the possession by the holder of the requisite knowledge and skill for the efficient practice of land valuing in Samoa.

**3. Act to bind the Government** – This Act binds the Government.

## **PART 2 ADMINISTRATION**

**4. Role of the Ministry-**(1) The Ministry shall administer and regulate matters relating to land valuation in accordance with this Act.

(2) The functions of the Ministry in relation to the valuation of land in Samoa are to:

- (a) monitor the practice of land valuation in Samoa; and
- (b) develop standards for the practise of land valuation in Samoa; and
- (c) advise the Minister and the Government on land valuation and land valuation practices; and

- (d) consult with entities (including organisations that represent valuers in Samoa) on policy issues affecting the practice of valuing lands; and
- (e) approve arrangements entered into by the Committee with the appropriate authority of any jurisdiction outside Samoa for the reciprocal recognition of valuing qualifications and eligibility to practice; and
- (f) liaise and enter into arrangements with any entity in Samoa or elsewhere, for the purpose of improving or reviewing -
  - (i) standards for the practice of land valuation; and
  - (ii) the qualifications and professional development of valuers; and
- (g) to exercise any other function given to the Ministry under this Act or any other Act.

**5. Delegation of the Chief Executive Officer's powers and functions-**(1) The Chief Executive Officer may delegate any of his or her powers to an officer of the Ministry.

(2) A delegation shall be revocable at will, and no such delegation may prevent the exercise of a power by the Chief Executive Officer.

(3) A delegation may be made subject to such restrictions and conditions as the Chief Executive Officer thinks fit, and may be either general or apply only in relation to any particular case or matter.

(4) The fact that a power is purported to be exercised by an officer of the Ministry in accordance with a delegation shall, in the absence of proof to the contrary, be sufficient evidence of his or her authority to exercise that power.

**6. Delegation of the Minister's powers and functions-**(1) The Minister may, by writing under the Minister's hand, delegate to the Chief Executive Officer a power conferred on the Minister.

(2) A delegation shall be revocable at will, and no such delegation may prevent the exercise of a power by the Minister.

(3) A delegation may be made subject to such restrictions and conditions as the Minister thinks fit, and may be either general or apply only in relation to any particular case or matter.

(4) The fact that the Chief Executive Officer exercises a power conferred on the Minister shall, in the absence of proof to the contrary, be sufficient evidence of his or her authority so to do.

**7. The Land Professionals Registration Committee (Land Valuation)**-(1) The Land Professionals Registration Committee (Land Valuation) is established.

(2) The Committee shall consist of:

(a) the Chief Executive Officer, who shall be the Chairperson; and

(b) the Assistant Chief Executive Officer; and

(c) two (2) registered valuers, of whom -

(i) one (1) shall be nominated by the Council of the Institute established under the Survey Act 2010; and

(ii) one (1) shall be appointed by the Minister,

provided that upon the commencement of this Act, the Minister may appoint qualified valuers to hold office in the Committee for the purposes of establishing the Committee pending the formation of the Institute.

(3) The members of the Committee appointed under subsection (2)(c) shall:

(a) be appointed by the Minister by notice published in the Savali, and shall take office from the date of such notice or such later date as may be specified in the notice; and

(b) hold office for three (3) years or such lesser term as may be specified in the notice of appointment, and shall be eligible for re-appointment.

(4) Notwithstanding that a Committee member's term of appointment may have expired, that member shall continue in office until that member's successor comes into office, unless

the member sooner vacates his or her office in accordance with this Act.

(5) The powers of the Committee shall not be affected by any vacancy in its membership.

(6) If a member dies, resigns or is removed from office:

(a) the vacancy created shall be filled in the manner in which the appointment to the vacant office was originally made; and

(b) the person appointed to fill the vacancy shall be appointed for the residue of the term for which that person's predecessor was appointed.

(7) The members of the Committee may be reimbursed travelling and other expenses as are approved by the Chief Executive Officer in accordance with applicable Ministry of Finance policies and laws.

**8. Functions of the Committee** - The functions of the Committee in relation to land valuation are:

(a) to determine the courses of formal education (and any other or alternative experience) which are to be recognised as qualifying a person for registration as a land valuer in Samoa; and

(b) to receive applications for the registration of valuers, to consider the academic and professional qualifications and practical experience in valuing of all such applicants, and to conduct interviews as appropriate; and

(c) to authorise the registration of qualified valuers and ensure that the integrity of the register of registered valuers is maintained; and

(d) to promote and maintain high standards of professional education and conduct among persons engaged in the practice of land valuing in Samoa, including programmes of continuing education; and

(e) to negotiate and administer reciprocal arrangements with survey Committees or other similar authorities of other countries for the purpose of securing uniformity and reciprocity in the

- education, training and recognition of persons engaged in land valuing; and
- (f) to consider and recommend where appropriate amendments to the law relating to the valuation of land; and
  - (g) to act as the disciplinary body for the profession of land valuing; and
  - (h) to advise the Chief Executive Officer of grounds upon which the issue of a practising certificate to a land valuer may be declined; and
  - (i) to perform such functions and powers as are conferred on it by this Act, and any other law.

### **PART 3 REGISTRATION AND LICENSING OF LAND VALUERS**

**9. Register of valuers-**(1) The Chief Executive Officer shall ensure that a register of valuers registered in accordance with this Act is maintained and made accessible to the public.

(2) The Secretary of the Committee shall enter in the register the name, qualifications and current address of every person registered, and make such other entries as may be required by the Chief Executive Officer or the Committee, or as required to keep the registration details current.

(3) The Chief Executive Officer may fix a fee to be paid by a person who wishes to obtain a copy of the register or part of the register.

**10. Qualifications of applicants for registration-**(1) Subject to this Act and to any matters of disciplinary procedure applying to the Institute, a person is entitled to be registered as a valuer if the Committee is satisfied that the applicant:

- (a) has the educational qualifications determined by the Committee as necessary for registration as a valuer; and
- (b) has the practical experience determined to be necessary for any category of registration approved by the Committee; and

(c) is of good character and that he or she is in all respects professionally competent to act as a valuer in Samoa; and

(d) has paid the approved application and registration fees.

(2) A person may not be registered unless the Committee is satisfied that the person is of good character and reputation and is a fit and proper person to be so registered.

**11. Applications for registration-**(1) An application for registration must be made to the Chief Executive Officer and must:

(a) specify the full name, postal address, qualifications, and relevant experience of the applicant; and

(b) specify the category of registration which is sought by the applicant; and

(c) be accompanied by an approved fee.

(2) The Chief Executive Officer may approve the form of application for the purpose of this section.

(3) The Chief Executive Officer shall, as soon as practicable after receiving an application for registration, notify the Institute of the application and refer the application to the Secretary of the Committee.

(4) The Institute is entitled to make such written comments to the Committee on the application.

(5) As soon as practicable after the receipt of an application for registration and any comments on or objections to the application, the Committee shall consider the application, and shall give directions to the Secretary of the Committee in respect of the application.

(6) Before giving any directions, the Committee may interview the:

(a) person making the application; and

(b) any person who has made comments on or objections to the application; and

(c) any other appropriate person.

(7) The Committee shall not decline an application for registration without first giving the applicant:

- (a) a copy of an information on which the Committee relies in proposing to decline the application; and
- (b) a reasonable opportunity to comment on that information and to be heard either personally or by his or her representative in support of his or her application.

**12. Registration of valuers-**(1) If the Committee, after considering an application, decides that the applicant is entitled to be registered, the Committee shall direct the Secretary to register that person and notify the applicant accordingly.

(2) If the Committee decides that the applicant is not entitled to be registered, the Committee shall direct the Secretary to notify the applicant in writing of the reasons.

(3) A registered valuer shall, on payment of the approved fee for registration receive a certificate of registration issued by or under the authority of the Committee.

(4) A person who, when making an application for registration to the Committee:

- (a) either orally or in writing makes a declaration or representation that to his or her knowledge is false or misleading in a material particular; or
- (b) produces to the Committee or makes use of a document knowing it to contain any false or misleading declaration or representation; or
- (c) produces to the Committee or makes use of a document knowing that it is not genuine,

commits an offence and shall be liable upon conviction to a fine not exceeding 10 penalty units.

(5) The registration of a person who commits an offence under sub-section (4) shall be deemed to be cancelled upon his or her conviction.

**13. Annual practising certificates for registered valuers-**

(1) In this section, the term “year” means the period of 12 months beginning on the 1st day of July in a year and ending with the close of the 30<sup>th</sup> day of June in the following year.

(2) A registered valuer shall not be entitled to practise as a valuer in a year unless he or she is the holder of an annual practising certificate issued in respect of that year.

(3) Upon receipt of an application by a registered valuer and on payment of an approved fee for an annual practising certificate, the Chief Executive Officer shall issue to the valuer an annual practising certificate which shall, subject to subsection (5), be in force during the year in respect of which it is issued.

(4) The Chief Executive Officer may refuse to grant or renew a practising certificate if:

- (a) the Committee or the Council of the Institute considers that a valuer is no longer competent to practise land valuation; or
- (b) the applicant has obtained registration as a result of fraud or misrepresentation, or through dishonesty of any nature; or
- (c) the valuer has previously breached a provision of the National Valuation Practise Standards; or
- (d) the valuer has previously breached the Code of Ethics and Rules of Conduct; or
- (e) the valuer no longer has good standing as a member of the land valuation profession as determined by the Council of the Institute; or
- (f) the valuer has failed to comply with any condition of his or her registration; or
- (g) the valuer has permitted a person who is not a licensed valuer to perform any aspect of land valuation in the name of the applicant; or
- (h) the valuer has failed to adequately supervise his or her staff or has failed to personally inspect any property valued by him or her.

(5) An annual practising certificate shall be deemed to be cancelled if at any time during the currency of the certificate, the holder of that certificate ceases to be registered under this Act.

(6) The Secretary of the Committee shall keep a register of the names and addresses of all persons to whom annual practising certificates have been issued.

(7) A registered valuer who practises as a land valuer in Government without an annual practising certificate, commits an offence and shall be liable upon conviction to a fine not exceeding 10 penalty units.

**14. Disciplinary procedures for registered valuers** - The powers and procedures for the discipline and de-registration of registered valuers by the Institute and the Committee shall be as prescribed in:

- (a) the Rules of Incorporation of the Institute; and
- (b) any other Rules made by the Institute, which shall apply any requirements determined from time to time by the Committee; and
- (c) regulations made under this Act.

**15. Professional misconduct by land valuers**-(1) The Rules of the Institute and regulations made under this Act may prescribe disciplinary offences by valuers.

(2) Without limiting the generality of sub-section (1), a registered valuer shall be guilty of professional misconduct if he or she is found in any legal or disciplinary proceedings:

- (a) to have undertaken a land valuation in a manner which is inconsistent with the approved Formula Valuation System; or
- (b) to have undertaken a land valuation in a manner which breaches any National Valuation Practise Standards; or
- (c) to have produced a land valuation with a fraudulent intent or with the intention that a person may be misled by the valuation; or
- (d) to have certified to the accuracy of a land valuation without having personally carried out or supervised that valuation, and the related site inspections; or
- (e) to have certified to the accuracy of a land valuation knowing it to be defective; or
- (f) to have supplied to the Ministry or a government agency, a erroneous information on a land valuation; or

- (g) to have breached any Rules of the Institute relating to unprofessional conduct.

**PART 4**  
**PRACTISE OF LAND VALUATIONS**

**16. Standards, Ethics and Rules of Conduct-**(1) The Minister may, after receiving advice from the Committee and the Council of the Institute, approve:

- (a) a Valuers' Code of Ethics; and
  - (b) Rules of Conduct; and
  - (c) National Valuation Practise Standards.
- (2) The Chief Executive Officer shall ensure:
- (a) that the Code of Ethics, Rules of Conduct and National Valuation Practise Standards are periodically reviewed and updated; and
  - (b) that the Code of Ethics, Rules of Conduct and National Valuation Practise Standards take into account international valuation standards; and
  - (c) that appropriate mechanisms are put in place to apply and enforce the approved Code of Ethic, Rules of Conduct and National Valuation Practise Standards.
- (3) Nothing in this section shall prevent the Institute from determining, applying and enforcing its own ethical standards.
- (4) The Minister may approve an interim Code of Ethics, interim Rules of Conduct and interim National Valuation Practise Standards until such time as the Committee and the Council of the Institute give their advice under subsection (1).

**17. Formula Valuation System-**(1) The Ministry shall determine and publish a Formula Valuation System as a guide to the current land market value in Samoa.

(2) A licensed valuer shall use the Formula Valuation System as a guide to the current land market value in Samoa.

**PART 5**  
**MISCELLANEOUS**

**18. Performing land valuations without registration and an annual practising certificate** –A person who carries out a survey without:

- (a) being registered; and
  - (b) holding an annual practising certificate,
- commits an offence and is liable upon conviction to imprisonment for a term not exceeding one (1) year, or a fine not exceeding 50 penalty units, or to both.

**19. Protection from liability** – The Minister, the Chief Executive Officer, any member of the Committee or the Council of the Institute and any delegate or employee of the Ministry exercising a function under this Act shall not incur civil liability for anything done or omitted to be done in good faith:

- (a) in the exercise of a power or the discharge of a duty;  
or
- (b) in the reasonable belief that the act or omission was in the discharge of duty.

**20. Regulations-**(1) The Head of State acting on the advice of Cabinet may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting subsection (1), regulations may be made for any of the following purposes:

- (a) prescribing qualifications for the licensing of land valuers;
- (b) regulating the conduct of land valuation;
- (c) prescribing methods of making applications and forms;
- (d) prescribing any other documents under this Act;
- (e) prescribing fees required to be prescribed under this Act;

- (f) prescribing penalties for breach of regulations made under this Act, being fines not exceeding 50 penalty units.

**21. Transitional provisions-**(1) A person who practised land valuation under any law or authority at the commencement of this Act:

- (a) shall be deemed to have been recognised as a land valuer under that law or authority; and
- (b) shall apply to be a licensed valuer at the commencement of this Act.

(2) A person referred to in subsection (1) may be deemed to be a registered valuer for the purposes of forming part of the Committee established under section 7 after the commencement of this Act.

(3) The Committee can discharge its functions pending nomination by the Council of the Institute of a valuer under section 7(2)(c)(i).

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**The Land Valuation Act 2010 is administered by the  
Ministry of Natural Resources and Environment.**

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