

**LAND TITLES REGISTRATION AMENDMENT
BILL 2014**

SAMOA

Explanatory Memorandum

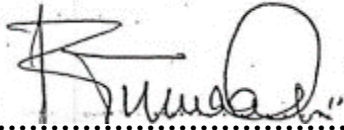
Introduction

The Bill seeks to amend the Land Titles Registration Act 2008 to provide extra clarity that customary lands are not registered with other type of lands under the Land Register kept under section 10 of the Act. Whilst a “record” of customary land can be maintained by the Registrar of Lands, such record is not to be treated as being part of the ordinary folio where freehold and Government lands (including leasehold interest in customary land) are registered.

Clauses:

- Clause 1:** - Clause 1 provides for the short title and commencement provisions.
- Clause 2:** - amends section 2 to ensure that customary lands are excluded from certain definitions dealing with the registration of land. A new definition of “record of customary land” is included. A proposed subsection (3) is included to ensure that references to “folio” in the Act do not include “record of customary land”, as part of the folio.
- Clause 3:** - amends section 5 to strengthen the provision about record of customary land. It will clarify that record of customary land is separate from the Register under section 10. The current section 9(2) relating to recording of customary lands that are subject to a judgment of the Land and Titles Court will now become part of section 5.
- Clause 4:** - amends section 9 as a result of moving subsection (2) to section 5 and to cover other minor amendments of ensuring that customary lands are not to be construed as being registered under the Act.

Clause 5: - provides for consequential amendments to the Lands and Titles Act 1981 for consistency with the amendments to the Land Titles Registration Act 2008.



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(Hon FAAMOETAULOA Ulaitino Faale Tumaalii)

**MINISTER OF NATURAL RESOURCES
AND ENVIRONMENT**

**LAND TITLES REGISTRATION AMENDMENT
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Arrangement of Provisions

1. Short title and commencement
2. Section 2 amended
3. Section 5 amended
4. Section 9 amended
5. Consequential amendments

2015, No.

A BILL INTITULED

**AN ACT to amend the Land Titles Registration Act 2008
("principal Act").**

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

1. Short title and commencement-(1) This Act may be cited as the Land Titles Registration Amendment Act 2015.

(2) This Act commences on the date of assent by the Head of State.

2. Section 2 amended - For section 2 of the principal Act:

- (a) in the definition of "land" after "specially excepted" insert "but does not include customary land for the purpose of registration of land under this Act (other than registration of licences or leases of customary land)";

(b) insert in its alphabetical position:

““record of customary land” means a record of customary land maintained under section 5(1)(l) but does not include registration of licences or leases of customary land;”;

(c) in the definition of “Register”, after “section 8” insert, “but does not include a record of customary land”;

(d) in the definition of “registration”, after “Register,” insert, “but does not include record of customary land”;

(e) after subsection (2), insert:

“(3) Reference to any folio under this Act does not include record of customary land as part of the folio.”.

3. Section 5 amended - In section 5 of the principal Act, for subsection (6), substitute:

“(6) The record which the Registrar is required to maintain under subsection (1)(l) is separate from registration of land required by section 10.

(7) The Registrar must enter in the record of customary land any customary land for which judgment has been made by the Land and Titles Court under the Land and Titles Act 1981.

(8) The record of customary land is not to be interpreted or construed under this Act as a registration of customary land under this Act.”.

4. Section 9 amended - In section 9 of the principal Act:

(a) repeal subsection (2);

(b) in subsection (3) -

(i) for “subsections (1) and (2)” substitute “subsection (1)”;

(ii) after “such land”, insert, “ lease or licence.”.

5. Consequential amendments - In the Land and Titles Act 1981:

(a) in section 2 -

(i) for the definition of “Land Register” and “Land Registrar”, substitute:

““Land Registrar” means the Registrar defined in section 2 of the Land Titles Registration Act 2008;”;
and

(ii) insert the following new definition:

““record of customary land” has the meaning given in the Land Titles Registration Act 2008”; and

- (b) in the Heading of Division 2 under PART III, for “Registration” substitute “Record”; and
 - (c) in the heading of section 11, delete “to Land Registrar”;
and
 - (d) in section 12(1)(a), for “register” substitute “to enter in the record of customary land”; and
 - (e) in section 12(1)(b), for “Land Register a memorial”, substitute “record of customary land details”.
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