**SAMOA**

# ELECTORAL ACT 1963

Arrangement of Provisions

**PART 1**
**PRELIMINARY**

1. Short title and division into Parts
2. Interpretation

**Office of the Electoral Commissioner**

3. Electoral Commissioner
3A Responsibilities, functions, duties and powers of the Commissioner
3B. Officers of the Commissioner
4. Duty to report suspected breaches

**PART 2**
**QUALIFICATIONS OF MEMBERS**

5. Who may be candidates for election as Members
6. Removal of name from roll without cause
7. Effect of registration on wrong roll
8. Public servants to resign when wanting to become a candidate
9. Repealed

**Vacancies**

10. How vacancies created
11. Proof of disqualification
12. Registrar of Court to notify cause of vacancy in certain cases
13. Commissioner of Births and Deaths to notify Speaker of death of Member
14. Offence for disqualified member to sit
15. No person to be elected for more than 1 constituency

**PART 2A**
**POLITICAL PARTIES**

15A. Registration of political parties
15B. Application for registration
15C. Registration
15D. Inspection of register
15E. Cancellation of registration
15F. Election of candidates

**PART 3**
**REGISTRATION OF VOTERS**

16. Qualification and transfer of territorial voters
16A. Rules for determining place of residence within Samoa
16B. Disqualification for registration
16C. Detention in prison under conviction

17. Compilation of territorial constituency rolls
18. Deleted as obsolete.
18A. Revision of territorial constituency rolls
18B. Compulsory registration of voters
18C. Electronic register

**PART 4**
**URBAN VOTERS**

19. Qualification of urban voters
*20. Repealed*
21. Registration of voters
*22. Repealed*
23. Procedure following claim for registration
*24. Repealed*
*25. Repealed*

**PART 5**
**ROLLS**

25A. Registration of voters
25B. Signing and witnessing of applications for registration as a voter
25C. Procedure following application for registration
25D. Applications received while rolls temporarily closed
25E. Notice to be given when person ceases to be qualified
25F. Voter must register in 1 constituency only
25G. Duty to provide further information

**Objections and Alterations**

26. Voter's objection
27. Commissioner's objection
28. Time limit for objections and hearings by District Court after closing of rolls
29. Procedure on reference of claim or objection to District Court

**Purging of rolls**

30. Registrar of Births, Deaths and Marriages to notify adult deaths
31. Registrar of Births, Deaths and Marriages to notify women's marriages
32. Removal of names from roll by Commissioner
32A. Corrupt Practices List
33. Assistance to be given to Commissioner

**Closing and printing of rolls**

34. Rolls closed by the Commissioner
35. Main rolls to be printed
36. Supplementary rolls to be printed
36A. Composite rolls
36B. Composite rolls required for by-elections
37. Requirement of printing of rolls
38. Inspection of main and supplementary rolls
39. Copies of rolls for Commissioner
39A. Dormant file
39AA. Removal of names from dormant file by Commissioner
39AB. Computer compiled list of names on dormant file
39AC. Purposes of dormant file and computer compiled list of names on dormant file
39AD. Inspection of computer compiled list of names on dormant file

**PART 6**
**OFFENCES**

40. False statements or declarations
41. Wilfully misleading Commissioner
42. Failure to deliver claim or application
43. Misfeasance of Commissioner

**PART 7**
**GENERAL ELECTIONS AND BY-ELECTIONS**

**General elections**

44. Head of State's writ for election
45. Writs for general elections
45A. Content of writs
45B. Commissioner to notify Commissioner
45C. No writ to issue pending election petition

**By-elections**

46. Speaker's warrant for issue of writ
46A. Power to resolve in certain cases that a by-election is not be held
46B. Writ for by-election
47. When Deputy Speaker to act for Speaker

**Nominations**

48. Nomination of candidates
49. Nomination fee
50. Acceptance or rejection of nomination
51. Advertisement of nomination
52. Withdrawal of nomination
53. Procedure where nominations insufficient

**Contested elections**

54. Procedure where election not contested
55. Public notice of polling day and candidates
56. Form of ballot papers
56A. Name of political party

**Death of candidate**

57. Death before close of nomination
58. Death after close of nominations

**Polling at elections**

59. Polling places
60. Polling booths, ballot boxes, ballot papers, pencils and other suitable facilities
61. Allocation of officers
62. Assistant Returning Officers, poll clerks, and interpreters
63. Poll clerks and interpreters to make declaration
64. Scrutineers
65. Hours of polling

**The ballot**

66. Ballot box to be kept locked during poll
67. Persons not to remain in polling booth
68. Persons not to be spoken to in booth
69. Questions may be put to voter
70. Issue of ballot papers
70A. Who may vote
*70B. Repealed*
70C. Special voters
70D. Voting by special voters
70E. Employees to have time off to vote
71. Method of voting
72. Spoilt ballot papers
73. Voter blind or unable to read or write

74. Procedure when second vote given in same name

**Preliminary count of votes**

75. Procedure after close of poll

**PART 8**
**PROCEDURE AFTER POLLING DAY**

**Scrutiny of the rolls**

76. Arrangements for scrutiny of the rolls
77. Marked copies of rolls to be compared
78. Parcels to be secured after scrutiny

**Official count and declaration of poll**

79. Counting of votes
80. Declaration of result of poll

**Recount**

81. Application to District Court Judge for recount
82. Ballot papers and certificate to be compared on recount

**Disposal of ballot papers**

83. Disposal of ballot papers, rolls, counterfoils, accounts, books and other papers
84. Disposal of packets
85. Papers taken from parcels as evidence in certain cases

**Maintenance of order at elections**

86. Presiding Officers to maintain order
87. Adjournment of poll

**Custody of ballot papers**

88. Prevention of irregularities as to ballot papers

**Offences at elections**

89. Interfering with or influencing voters
90. Publishing defamatory matter at election time
91. Erasing or altering official mark on ballot paper
92. Offences in respect of ballot papers and ballot boxes
93. Property to be stated as being in Commissioner
94. Infringement of secrecy

**PART 9**
**CORRUPT AND ILLEGAL PRACTICES**

**Corrupt practices**

95. Personation
96. Bribery
97. Treating
97A. Conduct of "*O'o*" and "*Momoli*"
97B. Conduct of "tautua faaauau"
98. Undue influence

**Illegal practices**

99. Procurement of voting by unqualified voters
99A. Illegal activities during period of election

**General provisions**

100. Cinematograph films
101. Punishment for corrupt or illegal practice
102. Persons charged with corrupt practice may be found guilty of illegal practice
103. Time limit for prosecutions

**PART 10**

**ELECTION PETITIONS**

104. Method of questioning election
105. Election petitions
106. Time for presentation of election petition
107. Security for costs
107A. Statutory declaration by petitioner
108. More than 1 petition relating to same election
109. Rules of Court

**Trial of election petition**

110. Court and place of trial
111. Trial of petition
112. Avoidance of election of candidate guilty of corrupt practice
113. Avoidance of election for general corruption
113A. Rolls to be used in by-election when original election avoided
114. Votes to be struck off for corrupt practices
115. Real justice to be observed
116. Irregularities not to invalidate election
117. Decisions of Court to be final
118. Certificate of Court as to result of election
119. Report of Court as to corrupt or illegal practices
120. Special report
121. Signature and effect of certificate and report

**Witnesses**

122. Summons and examination of witnesses
123. Certificate of indemnity to witness

**Costs**

124. Expenses of witnesses
125. Costs of petition
126. Costs payable by persons proved guilty of corrupt or illegal practice

**Withdrawal and abatement of petition**

127. Withdrawal of petition
128. Substitution of new petitioner
129. Report on withdrawal
130. Abatement of petition
130A. Offence to pay money to stop petition

**General provisions**

131. Withdrawal and substitution of respondent before trial
132. Submission of report to Attorney-General

**PART 11**
**MISCELLANEOUS PROVISIONS**

133. Service of notices
134. Commissioner exempt from Court fees
135. Validation of irregularities
*135A. Repealed*
136. Regulations
*137. Deleted as obsolete.*

Schedules

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## ELECTORAL ACT 1963

**1963** **No.16**

**AN ACT** to provide for the election of members of the legislative assembly.

*[Assent date and commencement date: 19 December 1963]*
*[Commencement date for section5:10 March 2010]*
*[Commencement date for section 15: 1 June 2011]*

## PART 1
## PRELIMINARY

**1. Short title and division into Parts** – **(1)** This Act may be cited as the Electoral Act 1963.

**(2)** This Act is divided into the following Parts:

(a) Part 1: Preliminary (Sections 1 to 4);
(b) Part 2: Qualifications of Members (Sections 5 to 15);
(c) Part 2A: Political Parties (15A to 15F);
(d) Part 3: Registration of Voters (Sections 16 to 18C);
(e) Part 4: Urban Voters (Sections 19 to 25);
(f) Part 5: Rolls (Sections 25A to 39AD);
(g) Part 6: Offences (Sections 40 to 43);
(h) Part 7: General Elections and By-elections (Sections 44 to 75);
(i) Part 8: Procedure after Polling Day (Sections 76 to 94);
(j) Part 9: Corrupt and Illegal Practices (Sections 95 to 103);
(k) Part 10: Election Petitions (Sections 104 to 132);
(l) Part 11: Miscellaneous (Sections 133 to 137).

**2. Interpretation** – **(1)** In this Act, unless the context otherwise requires:

"adult" means a person of or over the age of 21 years; and where public notice has been given in respect of a polling day includes a person who will have attained the age of 21 years on or before that day;

"assistant" means a person appointed as an assistant under section 25A;

"bankrupt" means a bankrupt within the meaning of the laws relating to bankruptcy in force in Samoa;

"bribery" has the meaning assigned to that term by section 96;

"by-election" means an election other than a general election;

"candidate" means a person who has been nominated as a candidate for election as a Member and in Parts 9 and 10 includes a person who has declared his or her intention of becoming a candidate;

"Constitution" means the Constitution of the Independent State of Samoa 1960;

"constituency" means a territorial constituency constituted under the Constituencies Act 1963;

"corrupt practice" means an act declared by this Act to be a corrupt practice;

"costs" includes charges and expenses;

"Assistant Commissioner" means an Assistant Commissioner appointed under this Act; and includes a person authorised to exercise the powers, duties and functions of a Assistant Commissioner;

"Assistant Electoral Officer" means an Assistant Electoral Officer appointed under this Act; and includes a person authorised to exercise the powers, duties and functions of a Assistant Electoral Officer;

"election" means an election of a Member of Parliament;

"Electoral Commissioner" and "Commissioner" mean the Electoral Commissioner appointed under section 3, and includes a person appointed as Acting Electoral Commissioner under section 3 and a person authorised by the Electoral Commissioner or Acting Electoral Commissioner to exercise the responsibilities, functions, duties and powers of the Electoral Commissioner or Acting Electoral Commissioner, as the case may require;

"Electoral Officer" means an Electoral Officer appointed under this Act; and includes a person authorised to exercise the powers, duties, and functions of an Electoral Officer;

"foreign country" means a country other than Samoa;

"*Gazette*" means the Samoa *Gazette*;

"general election" means an election which takes place after the dissolution or expiration of the Legislative Assembly;

"Government" means the Government of Samoa;

"illegal practice" means an act declared by this Act to be an illegal practice;

"kinship connection" means authentic kinship connections to the alalafaga or afioaga of the customary land within a territorial constituency;

"main roll", in relation to a territorial constituency or urban voters, means the main roll printed for the territorial constituency or urban voters and in force;

"Matai title" means the title which is entered in the Register of Matais established and kept under the Land and Titles Act 1981 other than a title held as a complimentary honour only;

"Member" means a Member of Parliament;

"Minister" means the Minister responsible for the Legislative Assembly;

"nomination day", in relation to an election, means the day appointed by public notice as the latest day for the nomination of candidates;

"offence" means an act or omission for which anyone can be punished under the Crimes Act 2013 or under any other enactment and includes a crime prescribed by law;

"personation" has the meaning assigned to that term by section 95;

"polling day", in relation to an election, means the day appointed by the public notice for that election for the polling to take place if a poll is required;

"prescribed" means prescribed by this Act or by regulations made thereunder or (for the purposes of Part 10) by rules of Court;

"Presiding Officer" means the Electoral Officer or a Assistant Electoral Officer appointed under section 3 and presiding at a polling place or booth on the day of the polling;

"public notice" or "publicly notify" means publication:

(a) in the Gazette; and

(b) in the Savali; and

(c) in a newspaper published in Samoa, or by means of notices posted in conspicuous places at Apia and at such other place or places in Samoa as the Commissioner thinks fit, or by means of notices broadcast by radio;

"public place" has the same meaning as in section 2 of the Police Offences Ordinance 1961;

"public servant" means a person employed in the service of the Government, not being honorary service; but does not include a person to whom subsection (2) applies; and does not include:

(a) a person by reason of his holding an office for which a salary is payable under the Remuneration Tribunal Act 2003; or

(b) a person remunerated by fees or a commission and not by wages or salary;

"public service law" means a law in force relating to the public sector and includes:

(a) the Public Service Act 2004; and

(b) the Public Finance Management Act 2001;

"Returning Officer" means a Returning Officer appointed under this Act; and includes a person authorised to exercise the powers, duties and functions of a Returning Officer;

"roll" or "voters roll" means a territorial constituency roll, an urban constituency roll, a main roll or a supplementary roll;

"Speaker" means the Speaker of the Legislative Assembly;

"Standing Orders" means the Standing Orders of the Parliament of Samoa;

"statement" includes not only words but also pictures, visual images, gestures, and other methods of signifying meaning;

"supplementary roll", in relation to a territorial constituency or urban voters, means a supplementary roll printed for the territorial constituency or urban voters and in force;

"territorial constituency" means a constituency constituted under the Constituencies Act 1963;

"territorial constituency roll" means the roll of the voters of a territorial constituency;

"territorial voter" means a person registered as a voter under a territorial constituency roll;

"treating" has the meaning assigned to that term by section 97;

"undue influence" has the meaning assigned to that term by section 98;

"urban constituency roll" means the roll of voters of an urban constituency;

"urban voter" means a person registered as a voter under an urban constituency roll;

"voter" means a person registered, or qualified to be registered, as:

(a) a territorial voter on the constituency roll; or

(b) an urban voter on the urban constituency roll;

"writ" means a writ for an election issued under this Act;

"writ day" in relation to an election means the day of the issue of the writ for that election.

**(1A)** A reference to a numbered form is a reference to the form so numbered in the Schedule 1.

**(2)** Where a person:

(a) is appointed by the Government, or a department or agency of the Government to be a member of a Commission, Council, Board, Committee, or other body; or

(b) is a member of a Commission, Council, Board, Committee, or other body of which any members receive any payment out of public money, –

that person is not by reason of that membership taken to be a public servant, whether or not the person receives any travelling allowances, or travelling expenses.

## Office of the Electoral Commissioner

**3. Electoral Commissioner** – **(1)** Subject to this section, there shall be appointed by the Head of State, acting on the advice of Cabinet, an Electoral Commissioner who shall have and exercise the responsibilities, functions, duties and powers conferred by this Act and any applicable law.

**(2)** The Commissioner shall:

(a) hold office for a period of 3 years on terms and conditions approved by Cabinet; and

(b) be paid such salary, allowances and other benefits as determined by Cabinet, following receipt by Cabinet of a report from the Remuneration Tribunal in accordance with the Remuneration Tribunal Act 2003; and

(c) not hold any other public office or engage in a business or other employment without the prior written approval of Cabinet; and

(d) at the time of appointment and whilst holding the position of Commissioner, not—

(i) be a member of a political party; or

(ii) assist, support or endorse a Member, a Candidate and a person who has declared an intention to become a Candidate, other than performing the Commissioner's responsibilities, functions, duties and powers under this Act; and

(e) be subject to public service law; and

(f) be eligible for re-appointment, subject to compliance with this Act and satisfactory performance.

**(3)** The office of Commissioner is vacated immediately if the Commissioner:

(a) breaches subsection (2)(c) or (2)(d) or (4); or

(b) is declared bankrupt in Samoa or elsewhere; or

(c) at the time of appointment and whilst holding the position of Commissioner, has a conviction or is convicted for an offence, in Samoa or elsewhere:

(i) under this Act; or

(ii) involving dishonesty or corruption; or

(iii) where the penalty for such offence includes imprisonment for 1 year or longer (irrespective of whether such penalty has been or is imposed concerning such conviction); or

(d) is determined by a medical practitioner to be unable to perform the Commissioner's responsibilities, functions, duties and powers due to a physical or mental incapacity; or

(e) is absent from duty or Samoa for a period of 5 consecutive days without the Minister's written consent or other lawful excuse; or

(f) after due enquiry, is declared by the Chief Justice of the Supreme Court to have engaged in any personal or official conduct or other behaviour in Samoa or elsewhere which the Chief Justice determines, acting in the Chief Justice's absolute

discretion, could bring or has brought into disrepute or could or has cast doubt on the integrity or honesty or impartiality of—

(i) the office of Commissioner; or

(ii) the Samoan electoral process; or

(iii) the proper administration of this Act.

**(4)** Upon appointment and annually thereafter by 30 June, the Commissioner shall provide the Head of State, the Speaker, the Minister and the Clerk of the Legislative Assembly with a Declaration of Pecuniary Interests and Convictions in a form approved by the Attorney General.

**(5)** The Declaration under subsection (4) is available for public inspection without cost at the Office of the Clerk of the Legislative Assembly during normal business hours.

**(6)** Where:

(a) the Office of Commissioner is vacant; or

(b) the Commissioner is on leave or absent from duty; or

(c) for any other reason the Commissioner is unable or unwilling to perform the Commissioner's responsibilities, functions, duties and powers, –

the Head of State, acting on the advice of Cabinet, may appoint a person qualified to be Commissioner under this section as Acting Electoral Commissioner for a period no longer than 3 months.

**(7)** An Acting Electoral Commissioner appointed under subsection (6) shall:

(a) be subject to this Act, in so far as such provisions are consistent with subsection (6); and

(b) exercise the Commissioner's responsibilities, functions, duties and powers; and

(c) during such appointment, be deemed for all purposes to be Commissioner.

**3A. Responsibilities, functions, duties and powers of the Commissioner – (1)** The Commissioner has the following responsibilities, functions and duties:

(a) to exercise the responsibilities, functions, duties and powers given to the Commissioner under this Act and any applicable law;

(b) to advise the Head of State, the Legislative Assembly and a Committee of the Legislative Assembly (through the Speaker), the Government and the Minister concerning Samoa's electoral system, policies and laws;

(c) to provide reasonable and appropriate assistance and advice to the Speaker, Members, the Clerk of the Legislative Assembly, Candidates and persons declaring an intention to become a Candidate as to their compliance with this Act and any applicable law;

(d) upon written direction from the Legislative Assembly (through the Speaker) or Cabinet (through the Minister) or the Minister or by the Commissioner's own determination, to initiate, sponsor, carry out and publish studies and research on Samoa's electoral system and laws;

(e) to undertake public awareness and education programs concerning Samoa's electoral system and laws;

(f) within 6 months of the end of each financial year to prepare and provide to the Minister an annual report on the work of the office of the Commissioner, such report to include financial statements and accounts;

(g) within 6 months from the date of each General Election and each by-election to prepare and provide to the Speaker a report on the conduct and result of such election;

(h) to provide, in cases approved by Cabinet, assistance in matters relating to elections and referendums (including the secondment of personnel and the supply or loan of materials) to authorities of foreign countries and international and regional organisations;

(*i*) to determine issues of eligibility of voters and candidates and other complex issues in a timely manner prior to the closing of rolls or immediately prior to polling day;

(j) to perform such other responsibilities, functions, duties and powers conferred on the Commissioner under any other law.

**(2)** Upon receipt of a report under:

(a) subsection (1)(f), the Minister shall lay the report before the Legislative Assembly forthwith;

(b) subsection (1)(g), the Speaker shall lay the report before the Legislative Assembly forthwith.

**(3)** The Commissioner shall have the power to exercise all of the responsibilities, functions and duties conferred by this Act and any applicable law.

**3B. Officers of the Commissioner** – **(1)** Subject to subsection (5), the Public Service Commission may appoint on the recommendation of the Commissioner:

(a) an Assistant Electoral Commissioner and other officers and assistants as required; and

(b) Returning Officers, Assistant Returning Officers, polling officers, Assistant Registrars and such other officers and clerks as required to carry out this Act; and

(c) substitutes for a persons appointed under paragraph (a) to act in case of their sickness, absence, death or removal.

**(2)** Substitutes appointed under subsection (1)(c) have all the responsibilities, functions, duties and powers of the persons for whom they are acting.

**(3)** For all purposes the fact that a substitute so acts is sufficient evidence that the substitute is authorised so to act.

**(4)** All persons appointed under this section are subject to the authority and direction of the Commissioner.

**(5)** Subject to subsection (4):

(a) a Assistant Returning Officer shall have and may exercise in and about the polling place for which the officer is appointed all of the responsibilities, functions, duties and powers of a Returning Officer; and

(b) a Assistant Registrar shall have and may exercise all of the responsibilities, functions, duties and powers of the Commissioner.

**4. Duty to report suspected breaches** – **(1)** All persons employed in the office of the Commissioner or under the authority or direction of the Commissioner shall promptly report to the Commissioner any breach or suspected breach of any of the provisions of this Act or any applicable law.

**(2)** Where:

(a) the Commissioner receives a report under subsection (1); or

(b) the Commissioner becomes aware of a breach or suspected breach of this Act or any applicable law, −

the Commissioner shall ensure that such breach or suspected breach is reported to the appropriate authority for investigation, prosecution or other action, as the case requires.

## PART 2
## QUALIFICATIONS OF MEMBERS

**5. Who may be candidates for election as Members** – **(1)** Subject to the Constitution and of this Act, a person who is registered as an voter of a territorial constituency and is the holder of a matai title is qualified to be a candidate and to be elected as a Member for that constituency, and a person who is registered as a voter on the urban voters' roll and is the holder of a matai title is qualified to be a candidate and to be elected as a Member representing the urban voters, if in either case, as required by Article 45 of the Constitution, he or she:

(a) is a citizen of Samoa; and

(b) is not disqualified under the Constitution or of any Act,

**PROVIDED THAT:**

(a) the requirement for a candidate registered in the urban voters' roll to hold a matai title shall only apply to the 2011 General Elections and any other elections thereafter;

(b) a Member representing or who had represented the urban voters is not disqualified from being a Member for not holding a matai title for a period leading up to the 2011 General Elections.

**(2)** Any other person is disqualified from being a candidate for, or being elected as a Member.

**(3)** A person is disqualified as a candidate, or from election as a Member representing a constituency, if the person:

(a) loses a qualification required to enable him or her to be registered as a voter of that constituency; or

(b) has not resided in Samoa for a period equalling or exceeding 3 years ending with the day on which the Nomination paper is lodged with the Commissioner; or

(c) does not have a statutory declaration, in Form 1A of the Schedule 1, witnessed by a barrister and solicitor of the Supreme Court in private practice, that the candidate satisfies the 3-year residential requirement in paragraph (b) and satisfies village service requirements.

(3A) In this section:

"community" means a community within an urban constituency;

"monotaga" means the compulsory service, assistance or contribution (such as, contribution in form of cash, kind or goods) rendered for customary, traditional or religious activities, events, function or similar purposes pursuant to the customs of a particular village;

"service" means any service, assistance or contribution (such as, contribution in form of cash, kind or goods) rendered to a community for customary, traditional or religious activities, events, function or similar purposes;

"village" means a village, from which a Matai title was conferred, within a territorial constituency;

"village service" means:

(a) monotaga rendered by a candidate in respect of one or more of his or her Matai titles within the territorial constituency in which the candidate intends to stand as a candidate; or

(b) service to a community by a candidate in an urban constituency,–

for a period of at least 3 years ending on the day in which the nomination paper is lodged with the Commissioner.

**(4)** A person is disqualified from being a candidate for, or being elected as a Member representing the urban voters if he or she loses a qualification required to enable him or her to be registered as an urban voter or that person fails to provide his or her statutory declaration to the Commissioner that the person has resided in Samoa for a period equalling or exceeding 3 years ending with the day on which the Nomination paper is lodged with the Commissioner.

**(4A)** For the purpose of this Act, a person seeking nomination as a candidate or nominated as a candidate has the burden of satisfying the Commissioner or the Court that the person meets the 3-year residency qualification.

**(4B)** A candidate who makes a false declaration under Form 1A commits an offence and is liable to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 2 years.

**(5)** A person is disqualified for being a candidate or being elected as a Member of Parliament if the person:

(a) is an undischarged bankrupt; or

(b) has been—

(i) convicted in a Samoa or another country within the previous 8 years, of an offence punishable by death or by imprisonment for a term of 4 years or more; or

(ii) convicted or found guilty in Samoa of a corrupt practice and has not been removed from the Corrupt Practices List under section 32A; or

(c) is of unsound mind and is subject to an order of medical custody made under the Mental Health Act 2007.

**(6)** Nothing in subsection (2) or (3) applies to:

(a) a person who is appointed to a post under the Foreign Affairs Act 1976 and is outside Samoa during the course of that appointment; or

(b) a person who is the spouse of the person so described; or

(c) a person, who is appointed to a post in an international organisation overseas under Government sponsorship or nomination; or

(d) (i) a person who satisfies the Commissioner that the person is required to obtain and has obtained medical treatment outside of Samoa for more than 125 days in any 1 year or more for the consecutive 3 year period ending on nomination day—

(ii) the Commissioner is satisfied of the matters referred to in this paragraph if the person provides the Commissioner with declarations in Forms 1A and 1B of the Schedule 1;

(iii) if a statutory declaration in (ii) is false or misleading, the person claiming benefit of the statutory declaration or other information under subsection (2) or (3) shall forfeit the benefit.

**(7)** In this section, "resided in Samoa for a period equalling or exceeding 3 years" means a person has been in Samoa for at least 240 days in each year for a consecutive 3 year period ending on nomination day.

**(8)** The calculation of the time periods provided in subsection (7) shall not include any temporary absences by persons who are required to be absent from Samoa for the conduct of official duties where they are the holder of a Government position, post or office or a member or official of a representative body or an organisation which is based in Samoa.

**(9)** A candidate may, by motion and no later than noon of the 3rd day after nomination, challenge the qualification of another candidate under this section in the Supreme Court for an order to disqualify that other candidate.

**(10)** An order made under subsection (9) is final and is not subject to any review or appeal.

**6. Removal of name from roll without cause** – A person duly qualified as a voter who has been registered on a territorial or urban constituency roll but whose name has been removed

from a roll through no fault of his or her own shall not, by reason only of not being registered a voter, be disqualified from becoming a candidate and being elected; but in every such case he or she shall forward to the Commissioner, at the time when he or she sends the nomination or consent to nomination, a statutory declaration to the effect that he or she is not disqualified as a voter, as the case may be, under this or any other Act, that he or she still retains that qualification, and that his or her name has been removed from the roll through no fault of his or her own.

**7. Effect of registration on wrong roll** – The nomination of a person as a candidate for election, or a person's election as a Member, shall not be questioned on the ground that, though the person has chosen and is entitled to be registered as a voter of a territorial constituency, he or she was not in fact registered as a voter of that constituency but was registered in error as a voter of some other territorial constituency.

**8. Public servants to resign when wanting to become a candidate** – **(1)** As an exception to any other enactment, if a public servant wants to be nominated as a candidate for election as a Member of Parliament, the public servant must resign from the public service pursuant to the law that regulates public servants.

**(2)** A public servant who does not resign pursuant to subsection (1) is taken to have resigned from the date of filing his or her nomination.

**(3)** In this section, "public servant" means a person appointed or engaged under the Public Service Act 2004, and includes:

(a) a Judge of any Court;

(b) a police officer, prison officer, member of other disciplined force or any uniformed branch of any defence force established by law;

(c) a member of a board of or person employed or engaged by a public body the Public Bodies (Performance and Accountability) Act 2001;

(d) a person employed or engaged by any other office of the Government or State established by law;

(e) a member of any government board, commission, committee, corporation or council, whether or not established by law;

(f) any person or a member of an office or body, prescribed by regulations.

*Section 9 (Repealed by section 3 of the Electoral Amendment Act 2015, No.13)*

## Vacancies

**10. How vacancies created** – The seat of a Member becomes vacant on the occurrence of any of the events specified in Article 46(2)(a), (b) or (c) of the Constitution, and in addition he or she is disqualified from holding his or her seat:

(a) if on 3 consecutive sitting days he or she fails, without permission of the Speaker of the Legislative Assembly, to attend in the Assembly in the manner and for the period prescribed under the Standing Orders of the Parliament of Samoa; or

(b) if he or she takes an oath or makes a declaration or acknowledgement of allegiance or adherence to a foreign country; or

(c) if he or she does or concurs in or adopts an act whereby he or she may become a subject or citizen of a foreign country, or entitled to the rights, privileges, or immunities of a subject or citizen of a foreign country; or

(d) if he or she becomes a bankrupt; or

(e) if he or she is convicted in Samoa or in another country of a crime punishable by death or by imprisonment for a term of 4 years or more, or has been convicted in Samoa of a corrupt practice, or is reported by the Supreme Court in its report on the trial of an election petition to have been proved guilty of a corrupt practice; or

(f) if he or she becomes a public servant; or

(g) if on an election petition the Court declares his or her election void; or

(h) if he or she becomes of unsound mind and subject to an order of medical custody made under the Mental Health Act 2007; or

(i) if being a Member representing a constituency he or she ceases to be qualified to be a candidate to represent that constituency, or if being a Member representing the urban voters he or she ceases to be qualified to be a candidate to represent them; or

(j) if the Member acts in accordance with section 15F(4)(a) and (b);

(k) if while he or she is a Member he or she is guilty of conduct unbecoming a Member of Parliament;

(l) if he or she is proved to the satisfaction of a Committee of the Legislative Assembly to have acted for commission or other reward as agent on behalf of the owner or for any other person having an interest in any land for the purpose of securing the purchase or acquisition of that land by the Government;

(m) if a Member holds himself or herself out during his or her term of office as representing or being a member of—

(i) a party or organisation that has political aims and is desirous of taking part in an election where such party or organisation is not registered as a political party under this Act; or

(ii) a registered political party other than the registered political party of which he or she is a member when he or she takes the oath of allegiance.

**11. Proof of disqualification** – **(1)** If and as soon as the Speaker has reason to believe or suspect that a Member has become disqualified from holding his or her seat on the grounds set out in section 10(k) or 10(m), the Speaker shall charge that Member with such disqualification, and if the Legislative Assembly is then sitting shall do so orally in the Assembly.

**(2)** If a Member other than the Speaker charges any other Member with having become disqualified from holding his or her seat on the grounds set out in section 10(k) other than in a sitting of the Legislative Assembly, he or she shall immediately notify the Speaker of that charge.

**(3)** If the Speaker or any other Member charges any other Member with having become disqualified from holding his or her seat on the grounds set out in section 10(k) or (m), and that other Member does not admit the charge in writing (by cable if he or she is not in Samoa) within 7 days of it being brought to his or her attention, the Speaker shall refer the charge to the Supreme Court by motion, and it is to be determined by that Court under Article 47 of the Constitution.

**(4)** The Speaker shall give notice of the Speaker's motion to the Member who is alleged to have misconducted himself or herself, unless in a case the Speaker is excused by the Court on special grounds from so doing.

**(5)** A person with whom the Member charged is alleged to have misconducted himself or herself is entitled to be treated as a party to the motion and to be heard thereon.

**(6)** On the Speaker referring a charge to the Supreme Court by motion under this section, the Assembly may by resolution suspend the Member charged until the motion has been disposed of.

**(7)** A Member suspended under this section is not during the period of his or her suspension entitled to sit in or otherwise take part in the proceedings of the Assembly or any Committee thereof, to perform any of the functions or powers of a Member or have any of the privileges or immunities of a Member.

**(8)** A Member suspended under this section is not entitled to any pay or allowance for the period of his or her suspension unless the Supreme Court holds that he or she is not disqualified.

**(9)** If the Speaker is charged by any other Member with having become disqualified from holding his or her seat as a Member on the grounds set out in section 10(k), the Deputy Speaker shall perform the functions and duties of the Speaker under subsections (1) to (8).

**12. Registrar of Court to notify cause of vacancy in certain cases – (1)** The Registrar of the Supreme Court shall, within 48 hours after adjudication as a bankrupt of a Member, or after conviction in a jurisdiction within the previous 8 years, of an offence punishable by death or by imprisonment for a term of 4 years or more, or after he or she has been convicted of a corrupt practice, notify the fact to the Speaker, or to the Head

of State if there is no Speaker or if the Speaker is absent from Samoa.

**(2)** The Registrar commits an offence if the Registrar who fails to send a notice required by this section commits and is liable on summary conviction to a fine not exceeding 20 penalty units for every day during which he or she fails to send such notice.

**13. Commissioner of Births and Deaths to notify Speaker of death of Member** – The Registrar General by whom the death of a Member is registered shall, within 24 hours of making the registration, notify the fact to the Speaker.

**14. Offence for disqualified member to sit** – A Member who sits or votes therein being disqualified under this Act and knowing that he or she is so disqualified or after his or her seat has become vacant under this Part is liable to a fine not exceeding 20 penalty units for every day on which he or she so sits or votes.

**15. No person to be elected for more than 1 constituency** – **(1)** Where a Member for a constituency is also elected as a Member for any other constituency his or her election for that other constituency is void.

**(2)** Where at elections held on the same polling day a person is elected as a Member for 2 or more constituencies, his or her election is in every case void.

## PART 2A
## POLITICAL PARTIES

**15A. Registration of political parties** – **(1)** Subject to this Part, an eligible political party may by application in Form 1C of the Schedule 1 be registered for the purposes of this Act.

**(2)** The Commissioner shall establish and maintain a register known as the Register of Political Parties, containing a list of political parties registered under this Part.

**15B. Application for registration** – **(1)** An application for the registration of an eligible political party may be made to the Commissioner by the Secretary of the party.

(a) *Repealed by section 9 of the Electoral Amendment Act 2009, No.21*.

(b) *Repealed by section 9 of the Electoral Amendment Act 2009, No.21*.

**(2)** An application for the registration of an eligible political party:

(a) shall be in writing; and

(b) shall be signed by the applicant; and

(c) shall—

(i) set out the name of the party; and

(ii) if the party wishes to be able to use for the purposes of this Act an abbreviation of its name; set out the name of that abbreviation; and

(iii) set out the name and address of the applicant and the capacity in which he or she makes the application; and

(iv) be accompanied by a declaration made by the applicant in the manner provided by section 19 of the Oaths, Affidavits and Declarations Act 1963, that the party has at least 8 current financial members who are eligible to enroll as voters.

**(3)** Upon receipt of an application for the registration of an eligible political party, the Commissioner shall deal with the application in accordance with this Part and determine whether the party can be registered.

**(4)** No application for registration is to be accepted after the day on which the writs for a election or by-election are issued.

**(5)** No application for registration is to be accepted where in the opinion of the Commissioner the name of the proposed party or a proposed abbreviation of such:

(a) is indecent or offensive; or

(b) is excessively long; or

(c) is likely to cause confusion or mislead voters; or

(d) contains a reference to a title or honour or similar form of identification.

**15C. Registration** – **(1)** Where the Commissioner determines that a political party should be registered, the Commissioner shall:

(a) register the party by entering in the register:

(i) the name of the party; and

(ii) if an abbreviation of the name of the party was set out in the application, that abbreviation; and

(b) give written notice to the applicant that the party has been registered; and

(c) cause notice of the registration of the party to be published in the *Gazette*.

**(2)** When an application for registration is refused the Commissioner shall give the applicant written notice of the refusal and the reasons for such refusal.

**(3)** It is the duty of the Secretary of a political party registered to:

(a) supply the address for service of all correspondence under this Part to the Commissioner;

(b) notify the Commissioner immediately of any changes in the address for service of correspondence;

(c) notify the Commissioner immediately whenever a new Secretary of the party is appointed;

(d) notify the Commissioner if the number of current financial members falls below 100.

**(4)** The Commissioner may amend the details of the register when there have been any changes under subsection (3).

**(5)** Where a registered political party seeks to change its name or its abbreviation, no amendment to an existing registered party may be made but a fresh application for registration must be submitted to the Commissioner for his or her consideration.

**15D. Inspection of register** – Members of the public are entitled to inspect the register during working hours on a day on which the Office of the Commissioner is open.

**15E. Cancellation of registration** – **(1)** The Commissioner shall cancel the registration of a registered political party:

(a) as the result of a request on behalf of the party made by the Secretary or other Office holder;

(b) where the Commissioner becomes aware that the number of current financial members falls below 100.

**(2)** Where registration of a political party is cancelled the Commissioner:

(a) shall give written notice to the applicant and the Secretary of the political party with the reasons for cancellation;

(b) cause notice of the cancellation to be published in the *Gazette*.

**15F. Election of candidates** – Despite any other law, including but not limited to Standing Orders:

**(1)** Subject to subsection (3), a candidate elected as a Member, where the ballot paper for such election cites the Candidate's membership of a political party, shall sit in the Legislative Assembly as a member of that political party during the term for which the Candidate was so elected.

**(2)** Subject to subsection (4), a candidate elected as a Member, where the ballot paper for such election cites the candidate as independent (meaning the candidate is not a member of a political party at the time of election), may, prior to taking the oath of allegiance, join a political party in the manner provided by Standing Orders and thereafter such elected candidate shall sit in the Legislative Assembly as a member of that political party during the term for which the candidate was so elected.

**(3)** Subject to subsection (4), a candidate elected as a Member, where the ballot paper for such election cites the candidate's membership of a political party and upon election, but prior to taking the oath of allegiance, it appears that such political party does not have sufficient membership to be recognised as a political party in the Legislative Assembly under Standing Orders, the candidate may, prior to taking the oath of allegiance, join another political party or become an independent in the manner provided by Standing Orders and thereafter the elected candidate shall sit in the Legislative Assembly as a member of such other political party or as an independent, as the case may require, during the term for which the candidate was so elected.

**(4)** Where:

(a) a candidate elected as a Member is or becomes, as the case may be, a member of a political party in accordance with subsection (1) or (2) or (3); and

(b) the candidate resigns subsequently from such political party and becomes a member of another political party during the term for which the candidate was so elected,−

the seat of the candidate as a Member becomes vacant and the candidate is disqualified from holding the seat.

**(5)** After taking the oath of allegiance, a candidate elected as a Member with the ballot paper for such election citing the candidate as an independent, remains an independent during the term for which the candidate was so elected.

**(6)** Where a candidate does not comply with subsection (5) the seat of the candidate as a Member becomes vacant and the candidate is disqualified from holding the seat.

## PART 3
## VOTERS REGISTRATION IN TERRITORIAL CONSTITUENCIES

**16. Qualifications and transfer of territorial voters – (1)** Subject to the Constitution and this Act, an adult person is qualified to be registered as a territorial voter if the person is a Samoa citizen listed in Column 2 of Schedule 2.

(2) (*Repealed by section 4 of the Electoral Amendment Act 2015, No.13)*

**(3)** Subject to this Act, a voter is eligible to transfer his or her registration to another constituency provided that the transfer is registered not less than 5 years from the later of the voter's:

(a) first registration as voter; or

(b) most recent transfer of registration to a constituency or re-registration in a constituency (if any).

**(4)** Despite subsection (3) no transfer shall be made after the date of the first publication of the notice in the Gazette caused by the Speaker under section 46, until after the vacancy to which the notice relates is supplied.

(5) (*Repealed by section 6 of the Electoral Amendment Act 2005 (No. 3)).*

(6) (*Repealed by section 6 of the Electoral Amendment Act 2005 (No. 3)).*

(7) (*Repealed by section 6 of the Electoral Amendment Act 2005 (No. 3)).*

(8) (*Repealed by section 6 of the Electoral Amendment Act 2005 (No. 3)).*

**16A. Rules for determining place of residence within Samoa – (1)** Subject to this section, the place where a person resides within Samoa at a material time or during a material period is determined for the purpose of this Act by reference to the facts of the case.

**(2)** For the purposes of this Act a person can reside in 1 place only.

**(3)** A person resides at the place where that person chooses to make his or her home by reason of family or personal relations or for other domestic or personal reasons.

**(4)** Where the property on which a person's home is located is divided between 2 or more constituencies, that person is:

(a) if his or her dwelling is located wholly within 1 of those constituencies, deemed to reside in that constituency; or

(b) in any other case, deemed to reside in the constituency in which is located:

(i) the front door or other main entrance of his or her dwelling; or

(ii) where his or her dwelling is an apartment, the front door or other main entrance of the building in which the apartment is situated.

**(5)** A person who is detained in a penal institution or hospital by virtue of an enactment shall not, by reason only of that detention, be treated for the purpose of subsection (3) as residing there.

**(6)** The place where, for the purposes of this Act, a person resides shall not change by reason only of the fact that the person:

(a) is occasionally or temporarily absent from that place; or

(b) is absent from that place for a period because of his or her service or that of his or her spouse as a Member; or

(c) is absent from that place for a period because of his or her occupation or employment or that of his or her spouse; or

(d) is absent from that place for a period because he or she or his or her spouse, is a student,−

even if such absence involves occasional or regular residence at

another place or other places.

**(7)** Except as provided in subsection (6), a person who has permanently left his or her former home is taken not to reside at that place, despite his or her home is temporary only.

**(8)** A Samoan citizen who is outside Samoa is taken to reside where he or she had his or her last home in Samoa; but nothing in this subsection affects the application of section 16 for the purpose of determining the qualification of a person for registration as a voter.

**(9)** In the case of a person who is appointed to be a member of the Cabinet, or who is the spouse of a person so appointed, the following shall apply despite anything to the contrary in this section, namely:

(a) so long as he or she holds that office he or she is deemed to continue to reside at the place of residence in respect of which he or she was registered as a territorial constituency voter (in this subsection referred to as the original constituency), despite his or her absence therefrom at the seat of Government or otherwise, unless he or she duly applies for registration as a voter of another territorial constituency of which he or she is, apart from this paragraph, qualified to be a voter;

(b) upon being registered as a voter of the other territorial constituency under an application as aforesaid, the applicant shall cease to be entitled to continue to be registered under this subsection as a voter of the original territorial constituency.

**(10)** A person whose home is on a ship, boat, or vessel permanently located in a harbour is taken to reside in the electoral district in which the wharf or landing place in the harbour is situated.

1**6B. Disqualification for registration** – **(1)** The following persons are disqualified for registration as voters:

(a) a person who is detained in a hospital, a prison or some other place of security under the Mental Health Act 2007;

(b) a person detained in a prison under a conviction;

(c) a person whose name is on the Corrupt Practices List made out for a constituency.

**(2)** The Commissioner of the Court in which an order or conviction is made shall not later than the 5th day of the month next succeeding the date of the order or conviction forward to the Commissioner the name, place of residence and description of the patient or offender and particulars of the order or conviction.

**16C. Detention in prison under conviction** – Where a person who has been sentenced to a full time custodial sentence is received into a prison in which that person is to serve the whole or part of that sentence the Gaoler of that prison shall not later than the 5th day of the month next succeeding the date of the conviction forward to the Commissioner a notice showing:

(a) the name, previous residential address and date of birth of that person;

(b) the name and address of the prison.

**17. Compilation of territorial constituency rolls – (1)** For each constituency, the Commissioner shall compile and at all times maintain a territorial constituency roll, which the Commissioner shall make and keep as complete and accurate as possible.

**(2)** Subject to Part 5, the Commissioner shall make such additions to, deletions from and other amendments to each territorial constituency roll as appear to him to be necessary as the Commissioner receives information relevant to such roll.

(3) (*Repealed by section 7(3) Electoral Amendment Act 1990).*

(4) *(Repealed by section 12(3) of the Electoral Amendment Act 2015, No.13).*

(5) (*Repealed by section 7(3) Electoral Amendment Act 1990.)*

18. (*Deleted as obsolete)*

**18A. Revision of territorial constituency rolls** – To assist the Commissioner in revision of the territorial constituency rolls, the Registrar of the Land and Titles Court established under the Land and Titles Act 1981 shall, every 3 months or such other period as may be mutually agreed, submit to the Commissioner the changes to titles entered in the Register of

Matais established and kept under that Act within the previous 3 months or the agreed period.

**18B. Compulsory registration of voters** – **(1)** A person qualified to be registered as a voter under this Act shall (if he or she is in Samoa), make application in the prescribed form to the Commissioner of Electors for registration as a voter within 1 month after the date upon which he or she first becomes qualified to be registered as a voter.

**(2)** A person commits an offence against this section who being required by this section to apply for registration as a voter, during a period, knowingly and wilfully fails to do so.

**(3)** No person who applies for registration as a voter is liable to prosecution for an earlier failure to apply for registration.

**(4)** A person who commits an offence against this section is liable to a fine not exceeding 20 penalty units for a first conviction and to a fine not exceeding 40 penalty units on any subsequent conviction.

**18C. Electronic register** – There shall be a register in electronic form of all voters.

## PART 4
## VOTERS REGISTRATION IN URBAN CONSTITUENCIES

**19. Qualifications of urban voters –** (1) Subject to this Act and subsection (2), an adult person is qualified to be registered as an urban voter if the person:

(a) is a Samoa citizen listed in Column 3 of Schedule 2; and

(b) has lived in that urban constituency for a period of at least 6 months immediately before registration.

(2) A person who is living in an urban constituency for less than 6 months and therefore cannot be registered under subsection (1) may apply to be registered under this Act:

(a) in a territorial constituency; or

(b) in the other urban constituency in which the person last lived for at least 6 months:

**PROVIDED THAT** a candidate in either of the urban constituencies for the 2016 General Elections must, on

nomination day, have resided in either of the urban constituencies for at least 6 months.

(3) Section 16(3) and (4) applies to a registered voter in an urban constituency if the voter wishes to be transferred to another urban or territorial constituency.

(4) As an exception to section 16(3) and (4), a registered voter in a territorial constituency may, at any time, be transferred to an urban constituency if the voter is qualified for registration in that urban constituency.

20. *(Repealed by section 12(3) of the Electoral Amendment Act 2015, No.13).*

**21. Registration of voters** – A person desirous of having his or her name entered on the urban voters' roll shall (unless his or her name is already on the roll) deliver in person to the Commissioner or an Assistant to the Commissioner a claim in Form 2.

22. *Repealed*

**23. Procedure following claim for registration** – **(1)** If the Commissioner is satisfied that a voter who claims to be registered as a voter is qualified to be registered, the Commissioner shall forthwith enter the voter's name on the roll.

**(2)** If after making such inquiries as he or she thinks fit the Commissioner is not so satisfied the Commissioner shall within 5 days of the receipt of the claim give notice in writing to the claimant setting forth the particulars of which proof is required.

**(3)** If the claimant fails to furnish proof of his qualifications satisfactorily to the Commissioner within 10 days after the giving of notice to him or her under subsection (2), the Commissioner shall refuse the claim and forthwith notify the claimant accordingly.

**(4)** Within 14 days after the giving to the claimant of a notice of refusal under subsection (3), the claimant may require the Commissioner to refer his or her claim to a District Court.

**(5)** The Commissioner shall notify the claimant of the time and place appointed for the hearing of the claim by such District Court.

24. (*Repealed by section 14 of the Electoral Amendment Act 2009, No.21)*

25. **(***Repealed by section 14 of the Electoral Amendment Act 2009, No.21)*

## PART 5
## ROLLS

**25A. Registration of voters** – **(1)** A person who wishes to be registered as a territorial voter shall unless his or her name is already on the roll make application in person to the Commissioner or to an assistant appointed by the Commissioner to receive such application.

**(2)** The Commissioner shall appoint and make available such assistants as the Commissioner considers necessary for the purposes of subsection (1) or section 21 and may appoint and make available assistants in an Embassy or Consulate of Samoa in a foreign country.

**25B. Signing and witnessing of applications for registration as a voter** – **(1)** A person making an application or declaration in respect of registration as a voter shall do so in Form 1D or 2 of the Schedule 1, as the case may require, and shall either sign or place his or her mark on the application or declaration and must add to his or her signature, occupation and address.

**(1A)** Subsections (1A) to (1K) inclusive apply to Parts 3, 4 and 5.

**(1B)** Despite the other provisions of this Act, where there is an inconsistency between this section and Parts 3, 4 and 5, this section prevails to the extent of such inconsistency.

**(1C)** At the time of receiving an application for registration or re-registration or transfer of registration as a voter, the Commissioner shall photograph or cause to be photographed the person seeking such registration or re-registration or transfer of registration, as the case may require.

**(1D)** Subject to subsection (1J), where a person referred to in subsection (1C) is registered or re-registered as a voter or whose registration as a voter is transferred in accordance with this Act, the Commissioner shall record or print the person's

photograph on the appropriate roll adjacent to the name of the person.

**(1E)** Where a roll is used in a general election or by-election, the Commissioner and all electoral officials shall use rolls prepared in accordance with subsection (1D).

**(IF)** Where a roll is required by this Act or any other law to be available for public or other inspection or use (howsoever described), the Commissioner shall provide or produce, as the circumstances require, such roll without the photographs required under subsection (1D).

**(1G)** Where for a reason a person applying for registration or re-registration or transfer of registration as a voter fails or refuses or is unable to be photographed in accordance with subsection (1C), the Commissioner shall not register such person on a roll as a voter.

**(1H)** A person registered as a voter as at the date of commencement of the Electoral Amendment Act 2005 is to be required to re-apply for such registration in accordance with this Act at a time and place and in such manner determined by the Commissioner by Public Notice.

(1I) The Commissioner:

(a) may require a registered voter to be re-photographed under this section after 10 to 15 years from the date on which the person was last photographed under this section, at a time and place and in a manner determined by the Commissioner, by public notice; and

(b) shall substitute the photograph taken under paragraph (a) for any previous photograph of the voter taken, recorded or printed under this section.

**(1K)** A person required to be photographed in accordance with this section who fails to do so without lawful excuse commits an offence and is liable to a fine not exceeding 20 penalty units.

**(2)** Where a person making an application or declaration in respect of registration as a voter is physically disabled, the application or declaration may be signed on his or her behalf by a registered voter who signs by direction of the physically disabled person and who indicates on the application or declaration:

(a) that the applicant or declarant is a physically disabled person;

(b) that the application or declaration is being signed by direction of the applicant or declarant.

**(3)** The place in respect of which registration is claimed must be specified in such manner as to enable it to be clearly identified.

**(4)** The Commissioner may reject an application or declaration that does not comply with subsection (1) or subsection (3) or fails to supply any of the information required by Form 1D or as the case may be, Form 2, of the Schedule 1.

**(5)** An application for registration as a territorial voter is to be witnessed by the Commissioner or an assistant.

**25C. Procedure following application for registration** – **(1)** If the Commissioner is satisfied that a person who claims to be registered as a voter (whether by transfer from another territorial constituency or from the urban voters' roll or otherwise) is qualified to be registered the Commissioner shall within 5 days of the receipt of the claim forthwith enter the name of the applicant on the appropriate roll.

**(2)** If after making such inquiries as the Commissioner thinks fit the Commissioner has reason to believe that an applicant is not qualified to be registered the Commissioner shall within 5 days of receipt of the claim give notice in writing to the claimant setting forth the particulars of which proof is required.

**(3)** If the applicant fails to furnish proof of his qualifications satisfactorily to the Commissioner within 10 days after the giving of notice under subsection (2), the Commissioner shall refuse the application and forthwith notify the applicant accordingly.

**(4)** Within 14 days after the giving to the applicant of a notice of refusal under subsection (3), the applicant may require the Commissioner to refer the claim to a District Court.

**(5)** The Commissioner shall notify the applicant of the time and place appointed for the hearing of the application by the District Court.

**25D. Applications received while rolls temporarily closed** – **(1)** The Commissioner shall not at any time in the

period that a roll is temporarily closed, register an application as a voter that the Commissioner receives after 4p.m. on the day before the commencement of that period.

**25E. Notice to be given when person ceases to be qualified – (1)** A person who ceases to be qualified to be enrolled as a territorial or urban voter shall give notice of that fact to the Commissioner within 1 month of his or her ceasing to be so qualified.

**(2)** A person who fails to comply with this section commits an offence and is liable upon conviction to a fine not exceeding 40 penalty units.

**25F. Voter must register in 1 constituency only – (1)**

A person qualified to be registered as voter under this Act must only register as such in 1 constituency only, even if the person holds more than 1 matai title in different constituencies.

**(2)** If a voter is registered in 2 or more constituencies his or her first registration is treated as valid. Any subsequent registration in another constituency is void, unless the Commissioner decides which of the registration is valid taking into account the registration requirements under this Act.

**25G. Duty to provide further information –** In addition to any information required under this Act for registration of voters, a person applying for registration as a voter must, if required by the Electoral Commissioner, provide further evidence or information about the person's entitlement for registration as a voter under this Act.

## Objections and Alterations

**26. Voter's objection – (1)** A voter may at any time object to the name of a person being on the territorial or urban constituency roll, upon the ground that:

(a) the person is not qualified as a voter in terms of section 16; or

(b) the person is not qualified as a voter in terms of section 19; or

(c) the name should appear on some other roll; or

(d) the person whose name is objected to is also registered as a voter under the same or another name either on the same or another roll.

**(2)** An objector shall make his or her objection in writing specifying particulars of the objection and the grounds thereof, and shall serve his or her objection on the Commissioner and a copy thereof on the person objected to.

**(3)** Unless within 5 days after the service of the copy of the objection the person objected to agrees with the Commissioner that the latter may delete the entry objected to, or satisfies the Commissioner that he or she is entitled to have the entry objected to retained on the roll, or the objection is withdrawn, the Commissioner shall refer the objection to a District Court, and shall notify the parties of the time and place appointed for the hearing.

**27. Commissioner's objection** – **(1)** The Commissioner may at any time object to the name of a person being on a roll on the ground that person is not qualified to be registered as a voter, as the case may be.

**(2)** The Commissioner shall forthwith give notice in writing to the person objected to of the objection and of the particulars and grounds thereof.

**(3)** Unless, within 5 days after the giving of notice of the objection to the person objected to, he or she agrees with the Commissioner that the latter may delete the entry objected to, or satisfies the Commissioner that he or she is entitled to have the entry objected to retained on the roll, or the objection is withdrawn, the Commissioner shall refer the objection to a District Court and shall notify the person objected to of the time and place appointed for the hearing.

**(4)** Nothing in this section affects this Act as to the removal by the Commissioner of names from a roll.

**28. Time limit for objections and hearings by District Court after temporary closing of rolls** – When the roll for a constituency or urban voters has been temporarily closed under section 34(1) and (2):

(a) no objection is to be made under section 26 or 27 in respect of any roll unless 21 clear days before polling day remain;

(b) no application or objection referred to a District Court under section 23, 26 or 27 is to be determined by the Court within the period of 14 clear days before polling day.

**29. Procedure on reference of claim or objection to District Court** – **(1)** This section applies with respect to proceedings on the reference to a District Court of a claim under section 23 or of an objection under section 26 or 27.

**(2)** The Commissioner, a claimant, an objector, and the person objected to may appear before the Court either in person or by some person appointed by him or her in writing or by a barrister or solicitor.

**(3)** In the case of an objection the person objected to may forward to the Commissioner of the Court a statement signed by him or her giving reasons why the entry objected to should be retained on the roll, and the Court shall take any such statement into account in determining the objection.

**(4)** If a person objected to does not either appear or forward a statement as aforesaid the Court shall make an order that the entry objected to be removed from the roll.

**(5)** Except as otherwise provided in this Act, the entry objected to is not to be removed from the roll until the objection has been determined.

**(6)** At the hearing of an objection no grounds of objection is to be taken into account except those specified in the written objection.

**(7)** In any proceedings to which this section applies the Court may make such order as to costs as it thinks fit.

**(8)** Subject to this section, the ordinary rules or procedure of the Court shall apply.

**(9)** The Commissioner shall make additions, deletions, and alterations to the roll that may be necessary to give effect to the orders of the Court.

## Purging of rolls

**30. Registrar of Births, Deaths and Marriages to notify adult deaths** – The Registrar of Births, Deaths and Marriages shall within 48 hours after the registration of the death of any

adult person notify the Commissioner to enable him or her to amend any roll if necessary.

**31. Registrar of Births, Deaths and Marriages to notify women's marriages – (1)** The Registrar of Births, Deaths and Marriages shall, within 48 hours after the marriage of a woman voter, send notice thereof to the Commissioner.

**(2)** On receipt of any such notice, the Commissioner shall take all proper steps, after verification of the particulars contained in the notice, to amend a roll if necessary.

**(3)** If for a reason the alteration is not made in the appropriate roll before polling day the voter shall, if otherwise qualified, be entitled to vote at that election in respect of her former name as appearing on the roll.

**32. Removal of names from roll by Commissioner – (1)** The Commissioner shall, at any time except as provided in subsection (3), remove from a roll:

(a) the name of a person not qualified to be registered as a voter who requests in writing that his or her name be removed from the roll; and

(b) the name of a person of whose identity the Commissioner is satisfied and whose death has been notified in writing—

(i) by the Commissioner of Births and Deaths; or

(ii) by the spouse, father, mother, brother, sister or child of the deceased provided that the person so advising the Commissioner is at least 18 years of age;

(c) the name of a person whom the Commissioner upon enquiry is satisfied has ceased to be qualified to be enrolled on that roll if—

(i) the Commissioner has notified that person by delivery to him or her or (if the person cannot be found) by leaving at the last known address a notice of the Commissioner's intention to remove the name of that person from the roll and calling upon the person to show cause why his or her name should not be so removed; and

(ii) after 21 days following the giving of that notice the person has not satisfied the Commissioner that he or she remains qualified to be registered on that roll;

(d) the name of a person whose name is entered on the Corrupt Practices List made out for that Constituency or for the Urban Voters.

**(2)** Despite anything in this Act, the Commissioner, on being satisfied that the name of a person has been omitted or removed from a roll by mistake or clerical error, or through false information, may restore the name of that person to the roll at any time.

**(3)** Except as provided in subsection (2) it shall not be lawful for the Commissioner to enter on or remove from a roll the name of a person after the date fixed for the temporary closing of the roll and before the day following the polling day in connection with which the roll has been closed.

**(4)** If the Commissioner contravenes this section he or she is liable to a fine not exceeding 20 penalty units for a name improperly entered on or removed from the poll.

**(5)** In addition to other powers of alteration conferred by this Act, the Commissioner may at any time, subject to subsection (3), alter the roll:

(a) by correcting a mistake or omission in the particulars of the enrolment of a person;

(b) by striking out the superfluous entry when the name of a person appears more than once on the roll;

(c) if an error made by or on behalf of the Commissioner has resulted in a person being registered as a territorial voter of a constituency other than the constituency in respect of which the person should have been registered.

(6) *(Repealed by section 12(3) of the Electoral Amendment Act 2015, No.13).*

**(7)** Where, under this section, the name of a person is removed from the roll in the period commencing on the day after writ day and ending on the day before polling day, the Commissioner shall, on removing that name, enter it on a list to be known as the "list of post-writ day deletions".

**32A. Corrupt Practices List – (1)** Where it is proved before the Commissioner that a person who is registered or who

applies for registration as a voter has within the immediately preceding period of 5 years:

(a) been convicted of a corrupt practice; or

(b) been reported by the Supreme Court in its report on the trial of an election petition to have been proven guilty of a corrupt practice,−

the Commissioner shall enter the name, residence, and description of that person and particulars of the conviction or report on a list to be called the Corrupt Practices List.

**(2)** The Commissioner shall remove the name of a person from the Corrupt Practices List at the expiration of 5 years from the date of the conviction or report in respect of which his or her name is entered on the list, or sooner if so ordered by the Supreme Court.

**(3)** Whenever a main roll is printed for a territorial or urban constituency, a copy of the Corrupt Practices List for the territorial or urban constituency is to be appended to it and printed and published with it.

**(4)** Whenever a supplementary roll is printed for a territorial or urban constituency, a copy of so much of the Corrupt Practices List as has not been printed with the main roll or an existing supplementary roll for the territorial or urban is to be appended to the supplementary roll and printed and published with it.

**33. Assistance to be given to Commissioner** – **(1)** All members of the Samoa Police Service shall at the request of the Commissioner assist the Commissioner by informing the Commissioner of the name of a person who they believe is registered as a voter but not qualified to be so registered and shall give the Commissioner any information he or she requests relating to the qualifications of a person for registration as a voter.

**(2)** All members of the Samoa Police Service shall also assist the Commissioner by making such enquiries and obtaining such information as the Commissioner requests.

## Closing and printing of rolls

**34. Rolls closed by the Commissioner** – **(1)** In a year in which a general election is to be held, all rolls are to be

temporarily closed on a date to be fixed by the Commissioner which shall not be less than 4 months before the last possible date for general elections, and after such date no name is to be added to the roll to which it relates until after that election: **PROVIDED THAT,** despite section 25D, for voters turning 21 years of age within 4 months up to polling day or eligible under the Act to transfer their registration within 4 months up to polling day, their names may be added to the rolls if they apply for registration before the 4 month period preceding polling day.

**(2)** Where a by-election is to be held, the roll is to be temporarily closed on a date to be fixed by the Commissioner, and after such date no name is to be added to the roll to which it relates until after that by-election.

**(3)** The Commissioner shall give public notice of the date the roll or rolls will close at least 15 days before the date so fixed to close the roll or rolls.

**35. Main rolls to be printed – (1)** The Commissioner shall cause the roll for a constituency to be printed, containing the names, numbered consecutively in alphabetical order according to the English alphabet, of all persons whose names are lawfully on the roll. The roll for a constituency is to be in Form 3 and issued under the hand of the Commissioner.

**(1A)** The roll for a territorial constituency must list voters alphabetically under each village or sub-village within that territorial constituency.

**(2)** The Commissioner shall cause the urban voters' roll to be printed, containing the names, numbered consecutively in alphabetical order, according to the English alphabet of all persons whose names are lawfully on the roll. The roll is to be in Form 4, and issued under the hand of the Commissioner.

**(3)** The printed rolls so formed, signed, added to, or altered as herein provided, shall be the territorial constituency and urban constituency rolls for Samoa.

**36. Supplementary rolls to be printed – (1)** The Commissioner may prepare supplementary rolls containing names added to a roll after the printing of the main roll and an indication of names removed from the main roll, and may cause

the same to be printed, and a supplementary roll is deemed to be a part of the main roll to which it refers.

**(2)** The names in a supplementary roll is to be numbered consecutively, starting with the number next higher than the last number on the last printed roll for voters, whether main or supplementary.

**36A. Composite rolls – (1)** The Commissioner may cause to be printed a composite roll for the territorial or urban constituencies , which roll:

(a) shall subject to any additions alterations and deletions made to the electoral roll for the territorial or urban constituency contain a list of—

(i) all persons whose names appear on the main roll for the territorial or urban constituencies; and

(ii) all persons whose names appear on any existing supplementary roll for the territorial or urban constituency; and

(iii) all persons whose names do not appear on the main roll for the territorial or urban constituency or any existing supplementary roll for the territorial or uruban constituency on a date to be fixed for the closing of that composite roll by the Commissioner; and

(b) shall, subject to paragraph (a), be printed in the manner prescribed by section 35 in respect of a main roll.

**(2)** Where the date for the closing of a composite roll for any territorial or urban constituencies is writ day in relation to an election in those constituencies, the Commissioner of Electors:

(a) shall cause the composite roll to be printed as soon as may be after the issue of the writ for the election; and

(b) shall not be obliged to issue a supplementary roll under section 36(1) in relation to that election.

**(3)** Where a composite roll for a territorial or urban constituency is printed under this section:

(a) the composite roll shall, despite section 34, be the main roll until a new main roll is printed for the constituency under section 34(1) and (2) or a new composite roll is printed for the territorial or urban constituency under this section; and

(b) the main roll and any supplementary rolls that were in force for the territorial or urban constituency immediately before the date of the closing of the composite roll shall cease to be in force.

**(4)** Nothing in this section:

(a) limits section 34(1) and (2); or

(b) prevents a main roll or supplementary roll that is no longer in force from being examined for the purpose of determining—

(i) whether a person's name should appear on the main roll or a supplementary roll in force for a territorial or urban constituency; or

(ii) whether a person is qualified to vote in a territorial or urban constituency as a special voter.

**36B. Composite rolls required for by-elections** – Despite section 34, the Commissioner shall cause a composite roll for that territorial or urban constituency to be closed and printed as at writ day for the by-election.

**37. Requirements of printing of rolls** – The requirement of printing of rolls may, for the purposes of this Part, be satisfied by typewriting and a mechanical process of reproducing typewritten copies, and the term "printed" wherever used in this Part shall, where necessary, be construed accordingly.

**38. Inspection of main and supplementary rolls – (1)** Printed copies of the main rolls and of the supplementary rolls are to be kept for inspection by the public at the office of the Commissioner in Apia, at the Post Office in Apia, and at such other convenient places as the Commissioner directs.

**(2)** A person may inspect at the Commissioner's office without payment at any time when the office is open for the transaction of business:

(a) the main rolls and the supplementary rolls so kept;

(b) the applications of any persons who have applied or claimed to be registered as voters but whose names are not on the relevant roll.

**(3)** A printed copy of the territorial constituency roll is to be kept for inspection by the public without payment at convenient times at the residence of a Pulenuu holding office in the constituency concerned.

**39. Copies of rolls for Commissioner** – Printed copies of the main rolls and supplementary rolls, certified correct by the Commissioner, are to be supplied by the Commissioner, as the same are required for the purpose of conducting an election.

**39A. Dormant file** – The Commissioner shall create a dormant file showing the particulars of those persons whose names have been removed from the roll for the territorial or urban constituency as a result of the latest revision of the roll under section 18A.

**39AA. Removal of names from dormant file by Commissioner** – **(1)** The Commissioner shall remove from the dormant file:

(a) the name of a person who registers as a territorial voter after the revision of the roll under section 18A has been completed;

(b) the name of a person of whose identity the Commissioner is satisfied and whose death has been notified to the Commissioner in writing—

(i) by a Commissioner of Births and Deaths; or

(ii) by the spouse, father, mother, brother, sister or child of the deceased provided that the person so advising the Commissioner is at least 18 years of age.

**(2)** Despite subsection (1), the Commissioner shall keep, for the purpose of the next election to be held in the territorial or urban constituency to which the dormant file relates, a copy of the dormant file as first created.

**(3)** Where more than 1 revision of the roll takes place under section 18A between 2 successive elections in a territorial or urban constituency, the Commissioner shall keep, for the

purposes of the later of these 2 elections, copies of each of the dormant files as first created.

**39AB. Computer compiled list of names on dormant file** – **(1)** The Commissioner shall cause to be printed a computer compiled list showing the names and other particulars of the persons whose particulars are held in a dormant file.

**(2)** Copies of a computer compiled list printed under subsection (1) are to be kept by the Commissioner for the purposes of the next election to be held in the territorial or urban constituency to which the file relates.

**39AC. Purposes of dormant file and computer compiled lists of names on dormant file** – A dormant file and a computer compiled list printed under section 39A(1) may be used for the purpose of determining whether any person is qualified, under section 16, to vote at an election held in the territorial or urban constituency to which the file or list relates.

**39AD. Inspection of computer compiled list of names on dormant file** – **(1)** A copy of the most recent computer compiled list printed under section 39A for a territorial or urban constituency is to be kept for inspection by the public at the office of the Commissioner.

**(2)** A person may inspect at the Commissioner's office without payment at any time between 9.00 am and 4.00 pm on a day on which the office is open for the transaction of business a computer compiled list that is kept for inspection by the public at the Commissioner's office.

**(3)** The Commissioner may, at the request of a person, make a computer compiled list printed under section 36B available for public inspection, under the supervision of a Assistant Commissioner if the Commissioner is satisfied that a large number of persons are likely to attend the meeting.

**(4)** Where a list is made available for public inspection under subsection (3), that list is to be made available at such times and places as the Commissioner thinks fit.

**(5)** In the case of a computer compiled list, neither the power of inspection conferred by subsection (2) nor the power to inspect the list when it is made available for public inspection under subsection (4) includes the power to copy the list.

## PART 6
## OFFENCES

**40. False statements or declarations** – A person who knowingly and wilfully makes a false statement in a claim, application, declaration or objection for the purposes of Part 3, 4 or 5 is liable to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 6 months.

**41. Wilfully misleading Commissioner** – **(1)** A person is for an offence liable to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 6 months who:

(a) wilfully misleads a Commissioner in the compilation of a roll, or wilfully enters or causes to be entered thereon a false or fictitious name or qualification or the name of a person whom he or she knows to be dead; or

(b) signs the name of any other person, whether requested to do so or not, or a false or fictitious name, to a form of claim, application, declaration or objection for the purposes of Part 3, 4 or 5 either as claimant, applicant, declarant, objector or witness; or

(c) signs his or her name as witness to a signature upon any such form of claim, application, declaration or objection without either seeing the signature written or hearing the person signing declare that the signature is in his or her own handwriting and that the name so signed is his or her own proper name.

**(2)** It is the duty of the Commissioner to institute a prosecution against a person whom he or she believes to have committed an offence against this section, or the offence of aiding, abetting, counselling, or procuring the commission of any such offence by a person.

**42. Failure to deliver claim or application** – A person is liable to a fine not exceeding 20 penalty units who, having obtained possession of a claim or application for registration signed by any other person for the purpose of being delivered to

the Commissioner for registration, wilfully or negligently fails so to deliver it so that the claimant's or applicant's name is not entered on the roll in question.

**43. Misfeasance of Commissioner** – The Commissioner who knowingly and wilfully does anything contrary to Part 3, 4 or 5 or who knowingly and wilfully omits to do anything required by Part 3, 4 or 5 to be done by him or her, is liable if no other penalty is elsewhere in this Act provided, to a fine not exceeding 20 penalty units.

## PART 7
## GENERAL ELECTIONS AND BY-ELECTIONS

### General elections

**44. Head of State's writ for election** – For a general election the Head of State shall, not later than 7 days after the day of the dissolution or expiration of the last Parliament as the case may be, under the Head of State's hand, issue a writ of election to the Commissioner for the conduct of the election of Members for all Territorial and Urban Constituencies.

**45. Writs for general elections** – On receipt of the Head of State's writ for general elections the Commissioner shall within 3 days give public notice of the writs.

**45A. Content of writ** – **(1)** In a writ for the election of a Member there shall be appointed:

(a) the latest day for nomination of candidates being a date not earlier than the 5th day and not later than the 7th day from writ day; and

(b) the latest day for the withdrawal of nominations which is to be the 7th day from nomination day; and

(c) a day for the polling to take place if a poll is required, being a Friday; and

(d) the latest day for the return of the writ being the 45th day after its issue.

**(2)** Polling Day shall not be earlier than the 19th and not later than the 21st day after nomination day.

**45B. Commissioner to notify Commissioner** – The Commissioner shall, immediately on signing a writ for an election to be held in a territorial or urban constituency, cause a notice of the issue of the writ to be sent to the Commissioner.

**45C. No writ to issue pending election petition** – If, after the petition has been presented against the return of a member representing a territorial or urban constituency , his or her seat becomes vacant on any of the grounds mentioned in section 5, no writ to fill the vacancy is to be issued until after the petition has been disposed of, and not then if the Court determines that member was not duly elected and that some other person was duly elected.

## By-elections

**46. Speaker's warrant for issue of writ** – **(1)** Where:

(a) Parliament is not in session; or

(b) the Legislative Assembly is adjourned and is not due to meet again for more than 14 days, −

and it appears to the Speaker that the seat of a member has become vacant, the Speaker shall immediately cause a notice of the vacancy and of the cause thereof to be published in the Gazette.

**(2)** Where the vacancy arises from death or resignation the Speaker shall, forthwith upon the publication of the notice in the Gazette, by warrant under the Speaker's hand direct the Commissioner to proceed forthwith to issue a writ to supply the vacancy.

**(3)** Where the vacancy arises from a cause other than death or resignation, then, as soon as conveniently may be after the expiration of 10 days from the date of the publication of the notice in the *Gazette*, the Speaker, on its being established to the Speaker's satisfaction that a vacancy does exist, shall, by warrant under the Speaker's hand, direct the Commissioner to proceed immediately to issue a writ to supply the vacancy.

**(4)** Where a vacancy exists at the commencement of a session and no writ has been issued to supply the vacancy, or where a vacancy occurs during a session, the Speaker shall immediately upon being ordered to do so by the Legislative

Assembly, by warrant under the Speaker's hand, direct the Commissioner to proceed immediately to issue a writ to supply the vacancy.

**(5)** Nothing in subsections (1) to (4) applies in respect of a vacancy that occurs in the period between a dissolution or expiration of Parliament and the close of polling day at the next general election.

**46A. Power to resolve in certain cases that a by election is not to be held** – Despite anything in section 46, no writ shall be issued for a by-election to supply a vacancy in the Legislative Assembly if:

(a) the vacancy arises in the period of 6 months ending with the date of the expiration of the Parliament; or

(b) following the tabling in the Legislative Assembly by the Prime Minister of a document informing the Assembly that a general election is to be held within 6 months of the occurrence of the vacancy.

**46B. Writ for by-election** – The Commissioner shall as soon as reasonably practicable after receiving a warrant, but in a case not later than 21 days after the date of the receipt of the warrant, issue a writ for election to supply the vacancy:
**PROVIDED THAT**, in any case in which it appears appropriate, the Head of State may, by Order, authorise the Commissioner to postpone the issue of a writ until such day as may be specified in the Order being not later than 42 days after the date of the receipt of the warrant.

**47. When Deputy Speaker to act for Speaker** – Where a vacancy occurs at a time when there is no Speaker or the Speaker is absent from Samoa, the Deputy Speaker shall cause a like notice to be inserted in the *Gazette*, and the like proceedings to be taken as are provided for in section 46.

## Nominations

**48. Nomination of candidates** – **(1)** A person qualified under Part 2 may, with the person's consent, be nominated as a

candidate for election for a territorial or urban constituency by at least 2 registered voters of that constituency, as the case may be, by a nomination paper in Form 5.

**(2)** Consent to the nomination of a person is to be given by that person in writing or by telegram, but need not be given at the time when the nomination paper is lodged.

**(3)** A nomination paper and a consent is to be lodged with or given to the Commissioner not later than noon on nomination day. The Commissioner shall give a receipt in writing for a nomination accepted by him or her.

**(4)** A candidate is to be nominated by a separate nomination paper in such manner as, in the opinion of the Commissioner, is sufficient to identify the candidate.

**(5)** No voter may nominate more than 1 candidate.

**(6)** A registered voter may inspect a nomination paper or consent at the Commissioner's office without payment at any time when the office is open for the transaction of business.

**49. Nomination fee** – A candidate, or some person on the candidate's behalf, shall pay to the Commissioner a nomination fee of $300 not later than noon on nomination day.

**50. Acceptance or rejection of nomination** – **(1)** The Commissioner shall reject the nomination of a candidate:

(a) if the nomination paper and the consent of the candidate are not lodged with him or her not later than noon on nomination day; or

(ab) if the consent of the Candidate does not state that he or she is qualified to be elected a Member in terms of Part 2 and of any other enactment; or

(b) if the nomination paper does not state that the candidate is a registered voter of that territorial or urban constituency; or

(c) if the nomination paper is not signed by at least 2 registered voters of that territorial or urban constituency; or

(d) if the nomination fee is not paid as required by this Act; or

(e) if the nomination paper is not accompanied by a statutory declaration in Form 1A in the Schedule 1.

(2) (*Repealed by section 19(b) of the Electoral Amendment Act 2009, No.21)*

**51. Advertisement of nomination** – At the hour of noon on the day appointed for the nomination of candidates, or as soon thereafter as practicable, the Commissioner, shall cause the names of all candidates so nominated to be posted in a conspicuous place outside the place named in the public notice, and shall in a constituency give public notice of the nominations for that constituency.

**52. Withdrawal of nomination** – **(1)** Not later than 7 days from nomination day, a candidate may sign and deliver or cause to be delivered to the Commissioner a paper in Form 6 in the Schedule 1, stating that the candidate withdraws his or her nomination. The Commissioner shall give public notice thereof.

**(2)** No withdrawal of nomination which does not comply with subsection (1) shall have any effect.

**(3)** If a candidate withdraws his or her nomination in accordance with subsection (1), the candidate shall not be capable of being elected at a poll which it may still be necessary to hold.

**53. Procedure where nominations insufficient** – **(1)** If there is only 1 member to be elected for a territorial or urban constituency, and if:

(a) no candidate is nominated; or

(b) the only candidate nominated withdraws his or her nomination, -

the Commissioner shall, after the expiration of 3 months from polling day, declare the seat to be vacant and section 47 shall apply.

**(2)** If there is more than 1 member to be elected for a territorial or urban constituency, and if:

(a) no candidate is nominated; or

(b) the number of candidates nominated is less than the number of members to be elected; or

(c) a candidate or candidates who have been nominated withdraw his, her or their nominations; and

(d) the number of candidates who remain (if any) is less than the number of members to be elected,

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the Commissioner shall, after the expiration of 3 months from polling day, declare to be vacant a seat in excess of the number of remaining nominations and as a result section 47 applies to each vacant seat.

## Contested elections

**54. Procedure where election not contested – (1)** The Commissioner shall, by public notice on or before polling day, in respect of a territorial or urban constituency, declare that the candidate or candidates are deemed to be elected, and report accordingly to the Head of State:

(a) if there is only 1 member to be elected and if only 1 candidate is nominated, or if a candidate who has been nominated withdraws his or her nomination and there remains only 1 candidate; or

(b) if there is more than 1 member to be elected and if the number of candidates nominated is equal to or less than the number of Members to be elected, or if a candidate or candidates who have been nominated withdraw his or their nomination and the number of candidates who remain is equal to or less than the number of members to be elected.

**(2)** As a result, the Head of State shall, by warrant under the Head of State's hand, declare such candidate or candidates to be elected.

**55. Public notice of polling day and candidates** – If the number of candidates exceeds the number of Members to be elected, the Commissioner shall immediately give a second public notice of polling day, and public notice of the names of the candidates.

**56. Form of ballot papers – (1)** The ballot papers to be used at an election shall be in Form 7.

**(2)** Immediately after nomination day for an election, the Commissioner shall, if a poll is required to be taken, cause ballot papers to be printed in sufficient numbers for the election.

**(3)** A ballot paper shall contain a list of all the persons nominated as candidates who have not withdrawn their nominations (which list is to be in the manner prescribed by this Act).

**(4)** On the ballot paper:

(a) the names of candidates are to be arranged alphabetically in order of their surnames;

(b) the given names of the candidates shall follow the candidates surname;

(c) the surnames of the candidates shall (except in the case of a special ballot paper that is not printed) be in large characters and bold type;

(d) the name of the political party of the candidate, if any—

(i) is to be shown immediately below the candidate's name; and

(ii) is to be in characters that are smaller than those used for the surname of the candidate; and

(iii) shall not be in bold type;

(e) such other matter, if any, as may be necessary to distinguish the names of the candidates are to be shown.

**(5)** No candidate who seeks election as an independent candidate shall use the name of a political party that contested the last general election or a by-election held since the last general election, but shall have the word "independent" shown on the ballot paper immediately below that candidate's name.

**(6)** Subject to subsection (4)(e), no other identification, such as occupation, title, honor, or degree, is to be included on the ballot paper in relation to a candidate's name or political party.

**(7)** A square is to be shown on the ballot paper to the right of a candidate's name.

**(8)** A ballot paper shall have a counterfoil in Form 8.

**(9)** There shall also be printed on the top right-handed corner of a ballot paper and in the space provided in the counterfoil attached thereto, a number (called a consecutive number) beginning with the number 1 in the case of the first ballot paper printed, and on all succeeding ballot papers printed the numbers are to be consecutive, so that no 2 ballot papers for

the Territorial or Urban Constituency shall bears the same number.

**(10)** Where a question arises concerning the order or manner in which the names of the candidates or the names of political parties are to be shown on the ballot paper, the Commissioner shall decide the question.

**56A. Name of political party** – **(1)** Where a name is shown on a nomination paper or other document in which a candidate lists a registered political party, the Commissioner may require confirmation of such candidates eligibility to claim that accreditation.

**(2)** No unregistered political party is to be recognised by the Commissioner.

## Death of Candidate

**57. Death before close of nomination** – **(1)** Where a candidate who has been nominated and has not withdrawn his or her nomination dies before the close of nominations the nomination is to be treated in all respects as if it had not been made, and the nomination fee is to be returned to the personal representatives or, as the case may be, to the person who paid it.

**(2)** Where in any such case the candidate dies on nomination day or on the day before nomination day the time for the close of nominations in that territorial constituency, or for that urban constituency (if the candidate is an urban voter), is deemed to be postponed by 5 days.

**58. Death after close of nominations** – **(1)** If a candidate dies after the close of nominations and before the close of the poll or if the successful candidate dies after the close of the poll and before the declaration of the result of the poll, this section shall apply.

**(2)** The election is taken to have failed and the seat is taken to be vacated.

**(3)** Where the candidate dies before polling day the Commissioner shall, upon being satisfied of the fact of the death, countermand the notice of the poll in that particular territorial or urban constituency as the case may be.

**(4)** Where the candidate dies on polling day before the close of the poll the Commissioner or the Presiding Officer shall, upon being satisfied of the fact of the death, immediately close the poll and declare it to be null.

**(5)** Where the candidate dies after the close of the poll and before the declaration of the result of the poll, and it is found on the completion of the count of votes or on a recount that the candidate, if still living, would have been elected the Commissioner shall, upon being satisfied of the fact of the death, endorse on the report to the Head of State the fact of the death and that the candidate, if still living, would have been elected.

**(6)** This Act as to equality of votes between candidates applies despite the death of 1 of those candidates after the close of the poll.

**(7)** Where the poll is interrupted in consequence of the death of a candidate all ballot papers placed in the several ballot boxes are to be taken out by the several Presiding Officers and, being made up into secured packages, are to be sent unopened to the Commissioner, who shall immediately destroy them in the presence of a District Court Judge or other judicial officer.

**(8)** A fresh public notice is to be issued by the Commissioner immediately for a new election and, except as otherwise provided, all proceedings in connection with the new election are to be had and taken anew.

**(9)** The main roll and supplementary rolls which were to be used at the election which has failed are to be used at the new election without an amendment or addition.

**(10)** It is not necessary to nominate afresh a candidate who at the time of the countermand or close of the poll was a duly nominated candidate: **PROVIDED THAT** any such candidate may withdraw his or her nomination not later than 5 clear days before the new polling day.

**(11)** All appointments of polling places made in respect of the election which has failed shall continue in respect of the new election.

## Polling at elections

**59. Polling places – (1)** The Commissioner shall by public notice, given at least 7 days before polling day, appoint a

sufficient number of polling places in a territorial or uban constituency where an election is being held, for the taking of the poll.

**(1A)** The Commissioner may also designate polling places for a territorial or urban constituency which may be located outside the territorial or urban boundaries of that constituency where considered appropriate.

**(2)** No polling place is to be appointed either for the receipt of ordinary or special votes outside the islands of Upolu, Savaii or Manono.

**60. Polling booths, ballot boxes, ballot papers, pencils and other suitable facilities** – The Commissioner shall provide the following for taking the poll:

(a) one or more rooms for polling booths at a polling place, and in a booth 1 or more inner compartments, separated from but opening into the booth and having no other opening;

(b) in an inner compartment, pencils for use of the voters or other suitable facilities for the marking of ballot papers;

(c) in a booth, 1 or more ballot boxes having a lock and key and a slit in the upper side by which the ballot papers may be put into the box;

(d) in a booth, 1 or more copies of the main roll and supplementary rolls for the territorial or urban constituency, as the case may be, and a sufficient number of ballot papers.

**61. Allocation of officers** – **(1)** The Commissioner shall prescribe the territorial or urban constituency in which Electoral Officers, Assistant Electoral Officers, poll clerks and interpreters shall exercise their functions.

**(2)** An Electoral Officer has the powers and may perform any of the duties of the Commissioner in the territorial or urban constituency or constituencies to which he or she is appointed and is to be subject to the authority and control of the Commissioner.

**(3)** The Commissioner shall exercise supervision over the functions of Electoral Officers, Assistant Electoral Officers, poll

clerks and interpreters, and may give any such officers directions as to the performance of their duties.

**62. Assistant Returning Officers, poll clerks, and interpreters** – **(1)** The Commissioner shall appoint for a polling booth an Assistant Electoral Officer to conduct the poll at that booth and 1 or more poll clerks to assist the Assistant Electoral Officer, and may appoint such additional Assistant Electoral Officers and poll clerks and such interpreters as he or she considers necessary.

**(2)** An Electoral Officer may himself exercise all the powers, duties, and functions of an Assistant Electoral Officer in respect of any 1 polling booth.

**(3)** An Electoral Officer or Assistant Electoral Officer may at any time on or before polling day appoint in writing a substitute to act for him or her in respect of that election in case of his or her absence from duty.

**(4)** If the Assistant Electoral Officer fails to open the polling at a booth, or if he or she is absent from duty and has not appointed a substitute, a poll clerk at the booth may act for him or her and in that event is deemed to be his or her substitute.

**(5)** A substitute while acting for an Electoral Officer or Assistant Electoral Officer has all the powers, duties, and functions of that Electoral Officer or Assistant Electoral Officer.

**63. Poll clerks and interpreters to make declaration** – A poll clerk and interpreter shall before the poll, and a substitute for an Assistant Electoral Officer shall before acting, make a declaration in Form 1 before the Commissioner, Electoral Officer, another Assistant Electoral Officer or a person authorised to take a statutory declaration by section 21 of the Oaths, Affidavits and Declarations Act 1963.

**64. Scrutineers** – **(1)** A candidate may, by writing under his or her hand, appoint 1 scrutineer for a polling booth at an election.

**(2)** A scrutineer shall, before being allowed to act, make a declaration in Form 1 before an Electoral Officer, an Assistant Electoral Officer or a person authorised to take a statutory declaration by section 21 of the Oaths, Affidavits and Declarations Act 1963.

**(3)** A scrutineer who during the hours of polling leaves the polling booth to which he or she is appointed, without having first obtained the permission of the Presiding Officer at that polling booth, is not entitled to re-enter the booth or to resume his or her scrutiny.

**(4)** Nothing in this Act renders it unlawful for a scrutineer to communicate to a person information as to the names of persons who have voted.

**(5)** No candidate shall act as a scrutineer under this Act.

**65. Hours of polling** – **(1)** The poll at an election shall commence at 8 am of polling day, and, except as otherwise provided in this Act, shall finally close at 3 pm of the same day or at 7 pm of the same day if polling day is a Saturday.

**(2)** A voter who at the close of the poll is present in a booth for the purpose of voting shall be entitled to receive a ballot paper and to mark and deposit it in the same manner as if he or she had voted before the close of the poll.

## The ballot

**66. Ballot box to be kept locked during poll** – The Presiding Officer at a polling booth shall, before the opening of the poll, and in the sight of any of the scrutineers present, see that the ballot box is empty, and shall close and lock it, and retain the key in his or her possession; and the ballot box shall not again be opened until after the close of the poll:
**PROVIDED THAT**, if the lock of a ballot box is damaged or defective so that the box cannot be locked, the Presiding Officer shall securely seal the box instead of locking it.

**67. Persons not to remain in polling booth** – Not more than 6 voters are to be allowed in a polling booth or more than 1 voter in an inner compartment at 1 and the same time; and no person is to be allowed to remain in a polling booth except the Presiding Officer and his or her clerks, any of the scrutineers, an interpreter, and as many constables as the Presiding Officer thinks necessary to keep the peace.

**68. Person not to be spoken to in booth** – **(1)** No scrutineer or other official or unofficial person shall speak to a

voter in a polling booth either before or after the voter has given his or her vote, except only the Presiding Officer or poll clerk (with an interpreter if necessary), who may ask the questions he or she is authorised to put, and give such general directions as may assist a voter to give his or her vote, and in particular may on request inform a voter orally of the names of all the candidates in alphabetical order.

**(2)** A person who commits an offence against this section is liable on summary conviction to a fine not exceeding 20 penalty units, and may be at once removed from the booth by order of the Presiding Officer.

**69. Questions may be put to voter** – **(1)** The Presiding Officer may, and if so required by a scrutineer shall, before allowing a person to vote, put to him or her the following questions:

(a) are you the person whose name appears as A.B. in the roll now in force for the (Name) territorial or urban constituency, as the case may be?

(b) are you still possessed of the qualifications in respect of which you are enrolled?

(c) have you already voted at this election?

**(2)** In every such case the Presiding Officer shall require the questions to be answered in writing signed by the person to whom they are put.

**(3)** A person to whom those questions are put who does not answer them, or does not answer the first and second in the affirmative and the third in the negative, shall not be permitted to vote.

**(4)** A person who wilfully and knowingly makes a false answer to any of the questions that the Presiding Officer may put to him or her under this section is liable to a fine not exceeding 40 penalty units.

**70. Issue of ballot papers** – **(1)** A Presiding Officer shall, in accordance with this section, issue ballot papers to all voters who apply to vote at the booth in respect of which he or she is appointed.

**(2)** The voter shall state his or her name to the Presiding Officer and shall give such particulars as may be necessary to identify the entry in the printed rolls relating to the voter.

**(3)** If the name of the voter appears in the rolls a line is to be drawn through his or her name and number.

**(4)** If the name of the voter appears in the rolls the Presiding Officer shall then issue to the voter a ballot paper after he or she has prepared it in the following manner:

(a) unless a consecutive number has been printed on the ballot paper and on the counterfoil, he or she shall enter on both the counterfoil and the back of the ballot paper in the spaces provided a number (called a consecutive number), beginning with the number 1 in the case of the first ballot paper issued by him or her, and on all succeeding papers issued by him or her the numbers shall be consecutive, so that no 2 ballot papers issued in the same booth shall bear the same number;

(b) he or she shall then fold over the corner of the ballot paper on which the consecutive number appears and shall firmly fix a piece of gummed paper over that corner so as effectively to conceal the consecutive number;

(c) on the counterfoil of the ballot paper he or she shall write his or her initials, and the number appearing in the roll against the name of the voter;

(d) he or she shall place the official booth stamp on the perforation between the counterfoil and the back of the ballot paper.

**(5)** A Presiding Officer who fails faithfully to perform a duty imposed by this section, by reason whereof any of the requirements of the section are not effectively fulfilled, is liable to a fine not exceeding 40 penalty units:

**PROVIDED THAT**, insofar as the failure relates to the duty of fixing a piece of gummed paper over the consecutive numbers so as effectively to conceal it, it shall be a sufficient defence if he or she satisfies the Court that he or she took all reasonable precautions to secure the same.

**70A. Who may vote** – Subject to the other provisions of this Act a person whose name lawfully appears on the main or a supplementary roll for a territorial or urban constituency and

who is qualified to be registered as a voter is qualified to vote at an election in that territorial or urban constituency.

70B. *(Repealed by section 5(2)(f) of the Electoral Amendment Act 2005 (No. 3))*

**70C. Special voters** – A person who is qualified and registered to vote at an election in a territorial or urban constituency and wishes to cast his or her vote for that territorial or urban constituency may vote as a special voter at a polling place outside that constituency.

**70D. Voting by special voters** – **(1)** Despite anything to the contrary in this Act, a special voter may vote at such place within Samoa, at such time, in such manner, and upon or subject to such conditions as appear in this Act or are as may be prescribed in that behalf by regulations made under this Act.

**(2)** Different methods of voting may be prescribed for different classes of special voters.

**(3)** The ballot papers for use by special voters or by a class of special voters may be in such form as is prescribed by regulations, and the consecutive numbers of the special ballot paper for a district may be in a different series from that used for the ordinary ballot papers.

**(4)** A candidate may, by writing under his or her hand, appoint 1 scrutineer to be present at the office of the Commissioner when the Commissioner is performing duties in relation to declarations in respect of special votes.

**(5)** A scrutineer shall, before being allowed to act, make a declaration in Form 1 before an Electoral Officer or the Assistant Electoral Officer or a person authorised to take a statutory declaration by section 21 of the Oaths, Affidavits and Declarations Act 1963.

**(6)** No candidate shall act as scrutineer under this section.

**(7)** Subject to this section and section 70C, and to regulations made for the purposes, this Act shall, as far as applicable and with the necessary modifications, apply with respect to voting by special voters and to their votes.

**70E. Employees to have time off to vote** – **(1)** A voter employed in the services and places of employment in section 5 of the Public Holidays Act 2008 is to be given reasonable time

for the purpose of voting and it shall not be lawful for an employer to make a deduction from any renumeration payable to any such worker in respect of such absence.

(2) (*Repealed by section 23(e) of the Electoral Amendment Act 2009, No.21)*

(3) (*Repealed by section 23(e) of the Electoral Amendment Act 2009, No.21)*

**71. Method of voting** – **(1)** The voter, having received a ballot paper, shall immediately retire into 1 of the inner compartments provided for the purpose, and shall there alone and secretly indicate on the ballot paper the candidate or candidates for whom he or she desires to vote by marking a cross in a square set opposite to the name of each: **PROVIDED THAT** no ballot paper is to be rejected as informal that clearly indicates the candidate or candidates for whom the voter intended to vote whether that indication is made in the manner prescribed by this section or otherwise.

**(2)** A voter shall, before leaving the inner compartment, fold his or her ballot paper so that the contents cannot be seen, and shall then deposit it so folded in the ballot box.

**72. Spoilt ballot papers** – **(1)** A voter who, not having deposited his or her ballot paper in the ballot box, satisfies the Presiding Officer that he or she has spoilt it by inadvertence may be supplied with a fresh ballot paper, but only after the spoilt one has been returned to the Presiding Officer.

**(2)** The Presiding Officer shall:

(a) cancel every such spoilt ballot paper by writing across the face thereof the words "Spoilt by voter, and a fresh ballot paper issued" and writing his or her initials thereon;

(b) if a ballot paper is inadvertently spoilt by the Presiding Officer or any other official, cancel it by writing across the face thereof the words "Spoilt by official" and also the words "and a fresh ballot paper issued" if that is the case, and writing his or her initials thereon;

(c) retain all spoilt ballot papers in his or her possession until the close of the poll.

**(3)** The Presiding Officer shall make up into separate packets and shall deliver to the Commissioner as soon as

practicable after the close of the poll all spoilt ballot papers at the polling booth at which he or she presided.

**(4)** Section 83(1) providing for the disposal of ballot papers shall apply with respect to the disposal of spoilt ballot papers.

**73. Voter blind or unable to read or write** – **(1)** A voter who is wholly or partially blind, or is unable to read or write (whether because of physical handicap or otherwise), or is not sufficiently familiar with the English language to vote without assistance, may vote in accordance with this section.

**(2)** At the request of any such voter who has received a ballot paper the Presiding Officer shall accompany him or her into 1 of the inner compartments provided for the marking of ballot papers, and the ballot paper may there be marked by the voter with the assistance of the Presiding Officer or may be marked by the Presiding Officer in accordance with the instructions of the voter.

**(3)** The person assisting the voter shall sign his or her name on the back of the ballot paper and shall add the words "Witness for blind or partially blind person" or "Witness for person unable to read or write" or "Witness for person not familiar with the English language", as the case may be, and shall fold the ballot paper so that its face cannot be seen before depositing it in the ballot box.

**(4)** A poll clerk or some other person nominated by the voter may also accompany him or her into the inner compartment and may, if so desired by the voter, inspect the ballot paper before it is deposited in the ballot box.

**(5)** A person who is present under this section or under any regulations when a voter votes and who communicates at any time to a person any information obtained as to the candidate for whom the voter is about to vote or has voted, or as to the number on the ballot paper given to the voter, commits an offence, and is liable to a fine not exceeding 30 penalty units or to imprisonment for a term not exceeding 3 months, or both.

**74. Procedure when second vote given in same name** – If a person proposing to vote at an election gives as his or her name the name of a person to whom a ballot paper has already been given at the same election, he or she shall be dealt with in all respects in like manner as any other voter:

**PROVIDED THAT** the ballot paper of any such person is not to be deposited in the ballot box or allowed by the Presiding Officer, but is to be set aside for separate custody.

### Preliminary counts of votes

**75. Procedure after close of poll – (1)** At a polling booth the Presiding Officer shall, as soon as practicable after the close of the poll, in the presence of such of the scrutineers as choose to be present and the poll clerks, but of no other person, perform the following duties:

(a) he or she shall make up into separate parcels—
  (i) the certified copies of the main roll and supplementary rolls on which the fact of any person having received a ballot paper has been noted; and
  (ii) all the counterfoils of ballot papers that have been issued to voters; and
  (iii) all the spoilt ballot papers; and
  (iv) all the unused ballot papers;

(b) he or she shall then open the ballot boxes and, taking therefrom all the ballot papers therein, proceed to ascertain the number of votes received by a candidate;

(c) he or she shall set aside as informal all ballot papers which do not clearly indicate the candidate for whom the voter desired to vote;

(d) he or she shall announce the result of the voting at the polling booth at which he or she presides and arrange for the result of the voting to be transmitted as soon as possible to the Commissioner;

(e) he or she shall make up into separate parcels—
  (i) the used ballot papers, together with (but in separate enclosures) the ballot papers set aside as informal, and the ballot papers set aside under section 74; and
  (ii) a certificate signed by himself or herself of the number of votes received by a candidate, the number of ballot papers set aside as informal, the number of ballot

papers set aside under section 74, the number of spoilt ballot papers, the number of unused ballot papers, and the numbers of ballot papers originally delivered to him or her.

**(2)** The Commissioner (and his or her assistants) or such Returning Officers as designated by the Commissioner to scrutinise the particular roll, is to be present at the scrutiny in addition to 1 person appointed as scrutineer by a candidate.

**(3)** The Presiding Officer shall forward all the parcels mentioned in this section to the Commissioner.

## PART 8
## PROCEDURE AFTER POLLING DAY

### Scrutiny of the rolls

**76. Arrangements for scrutiny of the rolls – (1)** The Commissioner shall make arrangements for a scrutiny of the rolls as soon as practicable after the close of the poll, and shall give at least 3 clear days' notice in writing to each of the candidates of the time and place at which he or she will commence the scrutiny.

**(2)** No person other than the Commissioner and his or her assistants, and 1 person appointed as scrutineer by a candidate for the purpose, is to be present at the scrutiny.

**(3)** No candidate shall act as scrutineer under this section.

**(4)** A scrutineer may be appointed under this section by telegram.

**77. Marked copies of rolls to be compared – (1)** The Commissioner shall:

(a) in the presence and hearing of his or her assistants (if any) and such scrutineers as choose to be present, but of no other person, compare 1 with another all the certified copies of the main roll and supplementary rolls on which the fact of a person having received a ballot paper has been noted; and

(b) on an unmarked copy of the main roll and a supplementary roll (called the master roll) draw a

line through the number and name of a voter who is shown on any of the certified copies of the rolls at having received a ballot paper.

**(2)** If on that comparison, or from the report of a Presiding Officer on the ballot papers set aside under section 74, and after such inquiry as the Commissioner deems necessary, it appears that the same voter has received more than 1 ballot paper, the Commissioner shall;

(a) in the presence of his or her assistants (if any) and such scrutineers as choose to be present but of no other person, open the parcel or parcels of ballot papers used at the polling booth or polling booths at which that voter appears to have received a ballot paper; and

(b) select therefrom the ballot papers which appear from their consecutive numbers and counterfoils to have been issued to that voter; and

(c) disallow a vote appearing to have been given by means of the ballot papers so selected:

**PROVIDED THAT**, if the Commissioner is satisfied that 1 and only 1 of the ballot papers was lawfully received by the voter entitled thereto and that he or she was not in a way concerned in the issue of the other ballot paper or ballot papers, the Commissioner shall not disallow the vote of that voter under this section but shall disallow the other vote or votes.

**(3)** Except in the case of the ballot papers so selected therefrom, the Commissioner shall inspect only the consecutive numbers on the ballot papers in the several parcels so opened, and shall so cover the ballot papers that no person present shall have the opportunity of determining the candidate for whom a particular voter has voted.

**78. Parcels to be secured after scrutiny – (1)** When the Commissioner has selected from a parcel all the ballot papers he or she is required to select therefrom, the Commissioner shall:

(a) immediately, in the presence of his assistants (if any) and such scrutineers as choose to be present, but of no other person, close and secure the parcel; and

(b) endorse a memorandum of the fact of the ballot papers having been selected from that parcel,

specifying the same by the name of the person to whom the same appear to have been delivered; and

(c) sign the endorsement with his or her name.

**(2)** The Commissioner shall:

(a) set aside all ballot papers selected by him or her from a parcel as herein provided; and

(b) in the presence of his or her assistants (if any) and such scrutineers as choose to be present, but of no other person, secure those ballot papers in a separate parcel; and

(c) endorse the parcel with a description of the contents thereof, and

(d) sign the endorsement with his or her name.

### Official count and declaration of poll

**79. Counting of votes** – **(1)** On completion of the scrutiny hereinbefore directed the Commissioner, with such assistants and such Returning Officers designated under section 75, as the Commissioner deems necessary, and in the presence of such of the scrutineers appointed under section 76 as choose to be present, but of no other person, shall:

(a) select and open 1 of the parcels of used ballot papers referred to in section 75(1)(e); and

(b) mark each ballot paper therein with a number in consecutive order, beginning with the number 1, so that no 2 ballot papers in that parcel bear the same number:

**PROVIDED THAT** the procedure set out in this subsection need not be delayed until the inquiries under section 77(2) have been completed, but the ballot papers from a particular polling booth are not to be counted until any inquiries in respect of ballot papers from that booth have been completed.

**(2)** When the ballot papers from the parcel so selected have been marked as aforesaid, the Commissioner shall make a record of the last number marked, and shall then, in the presence of his or her assistants (if any) and such of the scrutineers as choose to be present, but of no other person, deal with the ballot papers as follows:

(a) he or she shall reject as informal a ballot paper—

(i) that does not bear the official mark if there is reasonable cause to believe that it was not issued to a voter by a Presiding Officer; or

(ii) that does not clearly indicate the candidate for whom the voter desired to vote; or

(iii) that has anything not authorised by this Act written or marked thereon by which the voter can be identified; or

(iv) that purports to vote for more candidates than the number of candidates to be elected:

**PROVIDED THAT** no ballot paper is to be rejected as informal by reason only of some informality in the manner in which it has been dealt with by the voter if it is otherwise regular, and if in the opinion of the Commissioner the intention of the voter in voting is clearly indicated:

**PROVIDED ALSO THAT** no ballot paper is to be rejected as informal by reason only of some error or omission on the part of an official, if the Commissioner is satisfied that the voter was qualified to vote at the election:

(b) the Commissioner shall then count the number of votes received by each candidate, and the number of votes rejected as informal, and compare the result of that count with the certificate of the Presiding Officer in respect of the preliminary count, and shall, where necessary, amend that certificate, and every such certificate shall be initialled by the Commissioner;

(c) the Commissioner shall then make up and secure the parcel anew, and endorse thereon a memorandum specifying the number of ballot papers contained in the parcel, the number of votes received by each candidate, the number of informal ballot papers, the name of the polling place, and the number of the booth at which the votes were recorded; and the endorsement shall be signed by the Commissioner.

**(3)** After the ballot papers from 1 parcel have been dealt with in the manner aforesaid, those from the remaining parcels

are to be successively dealt with in like manner, the marking of the ballot papers to commence with the number 1 in the case of each parcel.

**(4)** The final count of the number of votes under this section is to be conducted by the Commissioner and if he or she so chooses, with the assistance only of his or her full time staff.

**80. Declaration of result of poll – (1)** When all the ballot papers have been dealt with as aforesaid the Commissioner, having ascertained the total number of votes received by each candidate, shall immediately declare the result of the poll including the number of votes received by each candidate by giving public notice thereof in Form 9 and report the result of the poll to the Head of State. Thereupon the Head of State shall:

(a) receive from the Commissioner the return of the writ issued by the Head of State to the Commissioner to conduct elections; and

(b) by warrant under his or her hand declare the successful candidate or candidates to be elected.

**(2)** Where there is an equality of votes between candidates and the addition of a vote would entitle 1 of those candidates to be declared elected, the Commissioner shall immediately apply to a District Court Judge for a recount under section 81, and that section applies accordingly, except that no deposit is necessary.

**Recount**

**81. Application to District Court Judge for recount – (1)** Where any candidate has reason to believe that the declaration by the Commissioner of the number of votes received by a candidate is incorrect, and that on a recount thereof the first-mentioned candidate might be found to be elected, he or she may, within 3 days after the public notice of the result of the election, apply to a District Court Judge for a recount of the votes.

**(2)** An application is to be accompanied by a deposit of $500.

**(3)** The District Court Judge shall cause a recount of the votes to be commenced within 3 days after receiving the application, and shall give notice in writing to the

Commissioner and to each of the candidates or their scrutineers of the time and place at which the recount is to be made.

**(4)** The recount is to be made in the presence of the District Court Judge or of an officer appointed by him or her for the purpose, and shall as far as practicable be made in the manner provided in the case of the original count:

**PROVIDED THAT** no person is to be present at the recount except the District Court Judge or the officer appointed by the Judge, his or her assistants (if any), the Commissioner and his or her assistants (if any) and the scrutineers appointed under section 76.

**(5)** In a case where on a recount under this section there is an equality of votes between candidates and the addition of a vote would entitle 1 of those candidates to be declared elected the Commissioner shall determine by lot which candidate is to be elected.

**(6)** The District Court Judge has all the powers that the Commissioner had on the original count, and may reverse a decision made by the Commissioner in the exercise of those powers.

**(7)** If on the recount the District Court Judge finds that the declaration of the result of the poll was incorrect the Judge shall order the Commissioner to make an amended declaration of the result of the poll by giving public notice thereof in Form 9 and to give an amended report of the result of the poll to the Head of State. Thereupon the Head of State shall, by warrant under the head of State's hand, revoke the previous warrant and declare the successful candidates to be elected.

**(8)** The District Court Judge:

(a) may make such order as to the costs of and incidental to the recount as the Judge deems just; and

(b) subject to any such order, shall direct the deposit made under this section to be returned to the person who paid it.

**82. Ballot papers and certificate to be compared on recount** – **(1)** At a recount made as aforesaid the Commissioner shall produce to the District Court Judge all the used ballot papers, together with the certificate stating the total number of ballot papers used at the election.

**(2)** If on comparing the number of ballot papers stated in the certificate with the ballot papers used at the election the District Court Judge finds that any of the ballot papers have been lost, stolen, or in a way interfered with during the interval between the official count and the recount, the official count made by the Commissioner is to be deemed to be correct, and the result of the poll declared accordingly. Where in any such case there is an equality of votes between candidates and the addition of a vote would entitle 1 of those candidates to be declared elected, the Commissioner shall determine by lot which candidate is to be elected.

### Disposal of ballot papers

**83. Disposal of ballot papers, rolls, counterfoils, accounts, books or other papers** – **(1)** As soon as practicable after polling day the Commissioner shall enclose in separate packets in the following manner all the parcels transmitted to him or her by the several Presiding Officers or made up and secured by himself or herself, that is to say, the Commissioner shall:

(a) enclose in one or more separate packets all the parcels of used ballot papers, and all counterfoils corresponding to those ballot papers; in 1 or more other separate packets all parcels of unused and spoilt ballot papers; in another all parcels of ballot papers set aside under section 74 and section 78; and in 1 or more other separate packets all parcels containing ballot paper accounts, copies of rolls (except the master roll), books, or other papers, as provided in this Act;

(b) properly secure the several packets, and endorse them with a description of the contents thereof respectively; and the name of the territorial or urban constituency, the name of the polling place and number of the polling booth; and the date of the polling; and shall sign the endorsement; and shall immediately forward the packets to the Registrar of the Supreme Court;

(c) also at the same time properly secure and transmit to the Registrar of the Supreme Court a parcel

containing all ballot papers printed for the election and not used by the Commissioner or distributed for use to a Presiding Officer.

**(2)** The Registrar of the Supreme Court shall immediately give or send to the Commissioner a receipt under his or her hand for the said packets and parcel.

**(3)** The Commissioner shall send the master roll to the Commissioner, and the Commissioner shall keep it until the close of the next general election. A registered voter may inspect a master roll at the Commissioner's office without payment of a fee at a time when the office is open for the transaction of business.

**84. Disposal of packets – (1)** The packets and parcel are to be safely kept for 1 year unopened, unless a Court of competent jurisdiction orders them, or any of them, to be opened.

**(2)** At the end of 1 year the packets and parcel are to be destroyed unopened in the presence of the Registrar of the Supreme Court and the Clerk of the Legislative Assembly.

**85. Papers taken from parcels as evidence in certain cases – (1)** A ballot paper, and a copy of a roll, and a book purporting to be taken from any such parcel as aforesaid, and having written thereon respectively, under signed by the Registrar of the Supreme Court, a certificate of the several particulars by this Act required to be endorsed on the parcel, is conclusive evidence in a Court or before a Committee of the Legislative Assembly that it was so taken and that it, if a ballot paper was deposited and, if a roll or book, was kept or used at the election and booth to which the endorsement and the writing relate.

**(2)** A ballot paper so certified is to be evidence of a vote given at the poll, and of the correspondence of the number appearing on the ballot paper with the number appearing on any roll so certified as of the same election and booth, according to the tenor of the ballot paper.

**(3)** But in the case of the ballot papers set aside or selected by a Presiding Officer or by the Commissioner, the correspondence shall be evidence only of some person having voted in the name appearing on the roll.

## Maintenance of order at elections

**86. Presiding Officers to maintain order** – **(1)** A Presiding Officer shall maintain order and keep the peace at the polling place or booth where he or she is conducting the poll, and may, without any other warrant than this Act:

(a) cause to be arrested and taken before a District Court Judge a person reasonably suspected of committing or attempting to commit at the polling place or booth any of the offences mentioned in section 92; or

(b) cause to be removed a person who obstructs the approaches to a polling booth, or wilfully and unnecessarily obstructs the proceedings at the polling, or conducts himself or herself in a disorderly manner, or causes a disturbance, or wilfully acts in any manner in defiance of the lawful directions of the Presiding Officer.

**(2)** All constables shall aid and assist the Presiding Officer in the performance of his or her duty.

**87. Adjournment of poll** – Where the polling at a polling place cannot start or has to be suspended whether by reason of riot or open violence, natural disaster, or any other cause, the Presiding Officer shall:

(a) adjourn the taking of the poll at that polling place to the following day, and if necessary from day to day until the poll can be taken; and

(b) immediately give public notice of the adjournment in such manner as he or she thinks fit:

**PROVIDED THAT** the poll shall not be kept open for more than 10 hours in all at any polling place.

## Custody of ballot papers

**88. Prevention of irregularities as to ballot papers** – In order to prevent the commission at an election of irregularities in respect of the improper possession of ballot papers the following shall apply:

(a) the Commissioner shall give to the person printing the ballot papers a receipt specifying the total

number of ballot papers received by him or her, and it shall be the duty of the printer to see that all copies of the ballot papers other than those delivered to the Commissioner are immediately destroyed;

(b) a Presiding Officer shall give to the Commissioner a receipt specifying the total number of ballot papers received by him or her, and is to be personally responsible for the safe custody of all such ballot papers from the time they are received by him or her until they are disposed of in accordance with this Act;

(c) a Presiding Officer is to be personally responsible for the safe custody of all ballot papers used at the polling booth at which he or she presides from the time a ballot paper was placed in the ballot box by the voter until the parcel of used ballot papers has been delivered to the Commissioner as in this Act provided and the Presiding Officer has obtained from the Commissioner a receipt in writing for the parcel, which receipt the Commissioner is in all cases required to give on such delivery;

(d) in like manner the Commissioner is to be personally responsible for the safe custody of all ballot papers used at the polling booth at which he or she presides, and of all parcels of used ballot papers for which he or she has given a receipt to a Presiding Officer, until they have been sent by him or her to the Registrar of the Supreme Court as aforesaid;

(e) a person who fails to take reasonable steps to secure the safe custody of all ballot papers for which he or she is responsible, with the result that any such ballot paper is removed from his custody, is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 1 year;

(f) a person is liable on conviction to a fine not exceeding 50 penalty units who wilfully or negligently allows a copy of a ballot paper

printed by him or her to come into the possession of a person other than the Commissioner;

(g) a person is liable on conviction to a fine not exceeding 40 penalty units who obtains possession of or has in his or her possession a ballot paper other than the one given to him by the Commissioner or a Presiding Officer for the purpose of recording his or her vote, or retains a ballot paper in his or her possession after leaving a polling booth.

**Offences at elections**

**89. Interfering with or influencing voters – (1)** A person commits an offence and is liable on conviction to a fine not exceeding 50 penalty units who at an election:

(a) in a way interferes with a voter either in the polling booth or while on his or her way thereto, with the intention of influencing him or her or advising him or her as to his or her vote;

(b) at a time on polling day before the close of the poll in or in view or hearing of a public place holds or takes part in a demonstration or procession having direct or indirect reference to the poll by any means whatsoever;

(c) at a time on polling day before the close of the poll makes a statement having direct or indirect reference to the poll by means of a loudspeaker or public address apparatus or cinematograph apparatus;

(d) at a time on polling day before the close of the poll, prints or distributes or delivers to a person anything being or purporting to be an imitation of a ballot paper to be used at the poll and having thereon the names of the candidates or any of them, together with a direction or indication as to the candidate for whom a person should vote, or in a way containing any such direction or indication, or having thereon a matter likely to influence a vote;

(e) at a time on polling day before the close of the poll exhibits in or in view of a public place, or publishes, or distributes, or broadcasts, a statement advising or intended or likely to influence a voter as to the candidate for whom he or she should vote;

**PROVIDED THAT** this paragraph shall not apply to a statement in a newspaper published before 6 pm of the day before polling day:

**PROVIDED ALSO THAT** where a statement is so exhibited before polling day in a fixed position not in view of a polling place it is not an offence to leave it so exhibited on polling day:

**PROVIDED FURTHER THAT** the Commissioner may at a time on polling day cause to be removed or obliterated a statement to which this paragraph applies which is exhibited within half a mile of a polling place, and may recover all expenses incurred in so doing from the persons by whom or by whose direction the statement was exhibited, as a debt due by them jointly and severally to the Government:

(f) at a time on polling day before the close of the poll prints or distributes or delivers to a person a card or paper (whether or not it is an imitation ballot paper) having thereon the names of the candidates or any of them;

(g) exhibits or leaves in a polling booth a card or paper having thereon a direction or indication as to how a person should vote or as to the method of voting;

(h) at a time on polling day before the close of the poll, within, or at the entrance, to, or in the vicinity of, a polling place or booth—

(i) gives or offers to give to a person a written or oral information as to a name or number on the main roll or a supplementary roll being used at the election;

(ii) permits or offers to permit a person to examine a copy for the main roll or a

supplementary roll being used at the election.

**(2)** It is not an offence against this section for a person to wear or display (whether on his or her person or not) a party emblem.

**(3)** Nothing in this section applies to an official statement or announcement made or exhibited under the authority of this Act.

**90. Publishing defamatory matter at election time** – A person is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 6 months who at a time after public notice has been given by the Commissioner under section 45 or 47 and before the close of the poll publishes or exposes, or causes to be published or exposed, to public view a document or writing or printed matter containing an untrue statement defamatory of a candidate and calculated to influence the vote of a voter.

**91. Erasing or altering official mark on ballot paper** – A person is liable on conviction to a fine not exceeding 50 penalty units who erases, obliterates, or alters any official mark, stamp, or writing on any ballot papers, or places thereon any writing, print or other matter which might lead persons to believe that it was put thereon by an official or person duly authorised in that behalf.

**92. Offences in respect of ballot papers and ballot boxes** – **(1)** A person commits an offence who:

(a) forges, or counterfeits, or fraudulently defaces, or fraudulently destroys any ballot paper, or the official mark on a ballot paper;

(b) without due authority supplies a ballot paper to a person;

(c) fraudulently puts into a ballot box a paper other than the ballot paper that he or she is authorised by law to put therein;

(d) fraudulently takes out of a polling booth a ballot paper;

(e) without due authority destroys, takes, opens, or otherwise interferes with a ballot box, or box or

packet or parcel of ballot papers, then in use for the purposes of an election, or in course of transmission by post or otherwise, or thereafter whenever the same may be kept as a record of the election.

**(2)** A person who commits an offence against this section is liable on conviction:

(a) if an officer appointed under this Act, to imprisonment for a term not exceeding 2 years;

(b) if any other person, to imprisonment for a term not exceeding 6 months.

**(3)** A person who attempts to commit an offence against this section is liable on conviction to imprisonment for term not exceeding one-half of the longest term to which a person committing the offence may be sentenced.

**93. Property to be stated as being in Commissioner** – In a prosecution for an offence in relation to any ballot boxes, ballot papers, or marking instruments at an election the property in the boxes, papers, and instruments may be stated as being in the Commissioner.

**94. Infringement of secrecy** – **(1)** An official, clerk, scrutineer, interpreter, and constable in attendance at a polling booth shall maintain and aid in maintaining the secrecy of the voting in the booth, and shall not communicate to a person, except for some purpose authorised by law, any information likely to defeat the secrecy of the ballot.

**(2)** No person, except for some purpose authorised by law, shall:

(a) interfere with or attempt to interfere with a voter when marking his or her vote;

(b) attempt to obtain in a polling booth information as to the candidate for whom any voter in a booth is about to vote or has voted;

(c) communicate at any time to any person any information obtained in a polling booth as to the candidate for whom a voter at the booth is about to vote or has voted, or as to the consecutive number on the ballot paper given to a voter at the booth.

**(3)** A person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at the counting as to the candidate for whom a vote is given in a particular ballot paper.

**(4)** No person shall directly or indirectly induce a voter to display his or her ballot paper after he or she has marked it, so as to make known to a person the name of a candidate for or against whom he or she has voted.

**(5)** A person who commits an offence against this section is liable to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months, or both.

## PART 9
## CORRUPT AND ILLEGAL PRACTICES

### Corrupt practices

**95. Personation** – **(1)** A person is guilty of a corrupt practice who commits, or aids or abets, counsels, or procures the commission of, the offence of personation.

**(2)** A person commits the offence of personation who:

(a) votes as some other person, whether that other person is living or dead or is a fictitious person; or

(b) having voted at an election, votes again at the same election; or

(c) having voted at an election in a territorial or urban constituency, votes again in another territorial or urban constituency.

**(3)** For the purpose of this section a person is taken to have voted if the person has applied for a ballot paper for himself or herself, or has marked a ballot paper for himself or herself, whether validly or not.

**(4)** It is the duty of the Commissioner to institute a prosecution against a person whom the Commissioner believed to have committed the offence of personation, or to have aided, abetted, counselled, or procured the commission of, that offence by a person, at the election for which he or she is Commissioner.

**96. Bribery – (1)** In this section, "voter" includes a person who has or claims to have a right to vote.

**(2)** A person is guilty of a corrupt practice who commits the offence of bribery.

**(3)** A person commits the offence of bribery who, directly or indirectly by himself or herself or by any other person on his or her behalf:

(a) gives any money or procures an office to or for a voter, or to or for any other person on behalf of a voter, or to or for any other person, in order to induce a voter to vote or refrain from voting; or

(b) corruptly does any such act as aforesaid on account of a voter having voted or refrained from voting; or

(c) makes any such gift or procurement as aforesaid to or for s person in order to induce that person to procure, or endeavour to procure, the return of a person at an election or the vote of a voter,−

or who, upon or in consequence of any such gift or procurement as aforesaid, procures, or engages, promises, or endeavours to procure, the return of a person at an election or the vote of a voter.

**(4)** For the purposes of this section:

(a) references to giving money shall include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure, any money or valuable consideration;

(b) references to procuring an office shall include references to giving, procuring, agreeing to give or procure or to endeavour to procure, an office, place, or employment.

**(5)** A person commits the offence of bribery who:

(a) advances or pays or causes to be paid any money to or to the use of any other person with the intent that that money or a part thereof is to be expended in bribery at an election; or

(b) knowingly pays or causes to be paid any money to a person in discharge or repayment of any money wholly or in part expended in bribery at an election.

**(6)** Subsections (7) and (8) do not extend or are to be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election.

**(7)** A voter commits the offence of bribery if before or during an election he or she directly or indirectly, by himself or herself or by any other person on his or her behalf, receives, or agrees or contracts for, any money, gift, loan, or valuable consideration, office, place, or employment for himself or herself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

**(8)** A person commits the offence of bribery if after an election he or she directly or indirectly, by himself or herself or by any other person on his or her behalf, receives any money or valuable consideration on account of a person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

**97. Treating – (1)** A person is guilty of a corrupt practice who commits the offence of treating.

**(2)** A person commits the offence of treating who corruptly by himself or herself or by any other person on his or her behalf, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing any food, drink, entertainment, or provision to or for a person:

(a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or

(b) for the purpose of corruptly procuring himself or herself to be elected; or

(c) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

**(3)** A voter who corruptly accepts or takes any such food, drink, entertainment, or provision also commits the offence of treating.

**97A. Conduct of "*O'o*" and "*Momoli*"** – Despite the other provisions of this Act, the traditional presentation of "O'o" and "Momoli" by a Member or Candidate or a person acting on

behalf of such Member or Candidate shall not be considered as treating or bribery or an illegal or corrupt activity or practice but the presentation is to be made, within 12 months, after the date of declaration of results of poll under section 80.

**97B. Conduct of "*tautua faaauau*"** – **(1)** Despite the other provisions of this Act, the traditional service or assistance of "tautua faaauau" by a Member or a person acting on behalf of such Member shall not be considered as treating or bribery or an illegal or corrupt activity or practice, where the service or assistance is given before 90 days prior to the expiry of Parliament at 5 years from the date of the last preceding General Elections or given after the close of Poll on polling day.

**(2)** For the purposes of this section, "tautua faaauau" means the provision of service or assistance in a form or manner rendered or given to a person or organisation provided such service or assistance:

(a) is considered to be culturally appropriate or expected; and

(b) is not excessive in the circumstances; and

(c) is not a "O'o" or "Momoli".

**(3)** This section does not apply to the provision of service or assistance at a funeral or to the Member 's church minister.

**98. Undue influence** – **(1)** A person is guilty of a corrupt practice who commits the offence of undue influence.

**(2)** A person commits the offence of undue influence who:

(a) directly or indirectly, by himself or herself or by any other person on his or her behalf, makes use of or threatens to make use of force, violence or restraint, or inflicts or threatens to inflict, by himself or herself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against a person, in order to induce or compel that person to vote for or against a particular candidate or to vote or refrain from voting, or on account of that person having voted for or against a particular candidate or having voted or refrained from voting; or

(b) by abduction, duress, or a fraudulent device or contrivance, impedes or prevents the free

exercise of the franchise of a voter, or thereby compels, induces, or prevails upon a voter either to vote or to refrain from voting;

(c) by himself or herself or any other person on his or her behalf withholds a Certificate of Identity belonging to another voter and in doing so induces that voter to vote for a particular candidate, or prevents that voter from voting for a particular candidate or from voting in that election.

## Illegal practices

**99. Procurement of voting by unqualified voters** – A person is guilty of an illegal practice who induces or procures to vote at an election a person whom he or she knows at the time to be disqualified or prohibited, whether under this Act or otherwise, from voting at that election.

**99A. Illegal activities during period of election** – **(1)** In this section, "period of election" means the period during an election or by-election, commencing on the day after the Commissioner gives public notice of polling day and ending at the close of the Poll on polling day.

**(2)** A candidate who, during a period of election except at a funeral, directly or indirectly, by himself or herself or by any other person on his or her behalf renders or makes presentation of any food, beverage, money or other valuable to a territorial or urban voter at a ceremony or activity is guilty of an illegal practice.

**(3)** A voter who, during a period of election except at a funeral, obtains or attempts to obtain, directly or indirectly by himself or herself or by any other person on his or her behalf, any food, beverage, money or other valuable from a candidate for election, is guilty of an illegal practice.

(4) (*Repealed by section 27 of the Electoral Amendment Act 2009, No.21*)

## General provisions

**100. Cinematograph films** – **(1)** For the purposes of this section, "cinematograph film" or "film" includes a screen advertisement of a description.

**(2)** For the purposes of this Act, the exhibition of a cinematograph film except on polling is not taken to constitute bribery or treating or an illegal practice, and a payment or contract for payment in respect of any such exhibition is not taken to constitute an illegal practice despite that the film may be wholly or mainly an advertisement.

**101. Punishment for corrupt or illegal practice** – A person who is guilty of a corrupt practice or an illegal practice is liable on conviction:

(a) in the case of a corrupt practice, to imprisonment for a term not less than 2 years and not exceeding 4 years or to a fine not less than 20 penalty units and not exceeding 50 penalty units, or both such imprisonment and fine; or

(b) in the case of an illegal practice, to imprisonment for a term not exceeding 3 years or to a fine not exceeding 20 penalty units, or both such imprisonment and fine; and

(c) a conviction under this Part is to be recorded as a criminal conviction by the Ministry of Police and Prisons Services.

**102. Persons charged with corrupt practice may be found guilty of illegal practice** – A person charged with a corrupt practice may, if the circumstances warrant that finding, be found guilty of an illegal practice; and a person charged with an illegal practice may be found guilty of that offence despite that the act constituting the offence amounted to a corrupt practice.

**103. Time limit for prosecutions** – A prosecution against a person for a corrupt practice or an illegal practice shall be commenced within 7 days after the day on which the Commissioner has publicly notified the result of the poll:

**PROVIDED THAT** where the person charged has been reported by the Supreme Court in its report on the trial of an election petition to have been proved guilty of the offence, a

prosecution shall commence within 6 months after the offence was committed or within 3 months after the date of the report, whichever period is the later to expire.

## PART 10
## ELECTION PETITIONS

**104. Method of questioning election** – **(1)** No election and no declaration of result or report to the Head of State is to be questioned except by petition complaining of an unlawful election or unlawful declaration or report (in this Act referred to as an election petition) presented in accordance with this Part.

**(2)** A petition complaining of no declaration or report is taken to be an election petition, and the Supreme Court may:

(a) make such order thereon as the Court thinks expedient for compelling a declaration or report to be made; or

(b) allow the petition to be heard as provided with respect to ordinary election petitions.

**105. Election petitions** – **(1)** An election petition may be presented to the Supreme Court by 1 or more of the following persons:

(a) a person claiming to have had a right to be elected or returned at the election;

(b) a person alleging himself or herself to have been a candidate at the election:

**PROVIDED THAT** no petition can be filed by a person who polled less than 50% of the total number of votes polled by a person elected or returned at the election.

(c) the Commissioner, in considering the public interest, in his or her own motion—

(i) on the question of whether a candidate is qualified to be a candidate; or

(ii) where there are allegations of breaches of this Act.

**(2)** The member whose election or result is complained of shall be the respondent to the petition, and if the petition complains of the conduct of any official the Commissioner or Commissioner, as the case may be, shall also be a respondent.

**(3)** The petition shall be in such form and state such matters as are prescribed by rules of Court, and be signed by the petitioner or all the petitioners if more than one.

**(4)** The petitioner shall:

(a) present his or her petition by filing it in the Office of the Supreme Court at Apia; and

(b) serve a copy of it on each respondent thereto.

**(5)** The petition shall be served personally, or in such other manner as may be prescribed by rules of Court.

**106. Time for presentation of election petition – (1)** Subject to this section, an election petition is to be presented within 10 working days after the day on which the Commissioner has publicly notified the result of the poll.

**(2)** If the petition questions the election or result upon an allegation of corrupt practice and specifically alleges a payment of money or other reward to have been made by the member or on his or her account or with his or her knowledge and consent since the day of such public notification in pursuance or furtherance of the alleged corrupt practice, it may be presented within 10 days after the date of the payment.

**(3)** For the purposes of this section an allegation that an election is avoided under section 113 is taken to be an allegation of corrupt practices, even if the offences alleged are or include offences other than corrupt practices.

**107. Security for costs – (1)** At the time of presenting an election petition or within 3 days after the expiration of the time limited for the presentation of the petition the petitioner shall give security to the satisfaction of the Commissioner or the Court for all costs which may become payable by him or her to a witness summoned on his or her behalf or to any respondent.

**(2)** The security shall be an amount of $2,000 and given by recognisance to the Government entered into by a number of sureties not exceeding 5 or by a deposit of money, or partly in 1 way and partly in the other.

**(3)** If no security is given as required by this section no further proceedings shall be taken on the petition.

**107A. Statutory declaration by petitioner** – **(1)** At a time a petitioner presents an election petition, the petitioner shall also produce statutory declarations:

(a) made by himself or herself in Form 10 of the Schedule 1, that the petitioner has not engaged in a corrupt or illegal practice; and

(b) made by the petitioner's witnesses in Form 11 of the Schedule 1, that to the best of the witness' knowledge, the petitioner had not engaged in a corrupt or illegal practice.

**(2)** Where in the course of a petition hearing, a counter petition produces evidence accepted beyond reasonable doubt by the Court that a declaration under subsection (1) is false in a material particular, the Court may make a finding, in addition to any other findings available to the Court under this Act, that the person who made the false declaration has committed an offence and is liable to the penalties provided under section 23 of the Oaths, Affidavits and Declarations Act 1963.

**108. More than 1 petition relating to same election** – Where more petitions than 1 are presented relating to the same election or result, all those petitions are to be dealt with as 1 petition.

**109. Rules of Court** – **(1)** Rules of Court may be made in the manner prescribed by the Judicature Ordinance 1961 for the purposes of this Part.

**(2)** All rules made under this section are to be laid before the Legislative Assembly within 28 days after the date of the making thereof, if the Assembly is then in session, and if not, are to be laid before the Assembly within 28 days after the date of the commencement of the next ensuing session.

## Trial of election petition

**110. Court and place of trial** – An election petition is to be tried by 2 or more judges of the Supreme Court at such place nominated by the Court.

**111. Trial of petition** – **(1)** An election petition is to be tried in open Court without assessors, and notice of the time and

place of trial is to be given not less than 7 days before the day of trial.

**(2)** The Court may in its discretion adjourn the trial, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on a lawful day until its conclusion.

**(3)** The trial of an election petition shall be proceeded with despite that the respondent may have become disqualified as a Member, or that Parliament may have been prorogued.

**(4)** Subject to this Act, the Court has jurisdiction to inquire into and adjudicate on a matter relating to the petition in such manner as it thinks fit, and in particular may at a time during the trial direct a recount or scrutiny of the votes given at the election, and shall disallow the vote of a person proved to have been guilty of a corrupt practice, or whose name has been wrongly placed or retained on the roll:

**PROVIDED THAT** the vote of a person who on polling day was entitled to be registered as a territorial or urban voter in question shall not be disallowed on the ground that his or her name has been wrongly placed or retained on any roll.

**(5)** On the trial of an election petition, unless the Court otherwise directs, a charge of a corrupt or illegal practice may be gone into, and evidence in relation thereto received before any proof has been given that any candidate was aware of or consenting to the corrupt or illegal practice.

**(6)** On the trial of an election petition complaining of an unlawful election declaration or report and claiming the seat for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he or she had presented a petition against the election of that person.

**(7)** In allocating a time for hearing an electoral petition the Court shall give priority to that petition over all matters before the Court which are not electoral petitions.

**112. Avoidance of election of candidate guilty of corrupt practice** – Where a candidate who has been elected at an election is proved at the trial of an election petition to have been guilty of a corrupt practice at the election his or her election shall be void.

**113. Avoidance of election for general corruption – (1)** Where it is reported by the Supreme Court on the trial of an election petition that corrupt or illegal practices committed in relation to the election for the purpose of promoting or procuring the election of a candidate thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, of his or her election, if he or she has been elected, the election shall be void.

**(2)** Except under this section, an election is not liable to be avoided by reason of the general prevalence of corrupt or illegal practices.

**113A. Rolls to be used in by-election when original election avoided** – Where as a result of the avoidance of an election under a decision of the Supreme Court in respect of an Election Petition it is necessary for a by-election to be held, and despite any other provision of this Act, the main roll and supplementary roll which were used at the election which has been avoided shall be used at the by-election without an amendment or addition:

**PROVIDED THAT** the Commissioner shall amend the Rolls used at the election which has been avoided by removing therefrom the names of any persons who have become disqualified for registration as voters under section 16B after the date of the election which has been avoided.

**114. Votes to be struck off for corrupt practices** – Where, on the trial of an election petition claiming the seat for a person, a candidate is reported by the Supreme Court to have been proved guilty of bribery, treating, or undue influence in respect of a person who voted at the election, there shall, on a scrutiny be struck off from the number of votes appearing to have been received by the candidate one vote for every person who voted at the election and is reported to have been proved to have been so bribed, treated, or unduly influenced.

**115. Real justice to be observed** – On the trial of an election petition, the Court:

(a) shall be guided by the substantial merits and justice of the case without regard to legal forms or technicalities;

(b) may admit such evidence as in its opinion may assist it to deal effectively with the case, despite that the evidence may not otherwise be admissible in the Supreme Court.

**116. Irregularities not to invalidate election** – No election shall be declared invalid by reason of:

(a) a failure to comply with the times prescribed for doing an act; or

(b) an omission or irregularity in filling up a form prescribed by this Act or by regulations made thereunder; or

(c) a want or defect in the appointment of an official or scrutineer; or

(d) an absence of, or mistake or omission or breach of duty by, an official, whether before, during, or after the polling,−

if the Court is satisfied that the election was so conducted as to be substantially in compliance with the law as to elections, and that the failure omission, irregularity, want, defect, absence, mistake, or breach did not affect the result of the election.

**117. Decisions of Court to be final** – All decisions of the Supreme Court under this Part shall be final and conclusive and without appeal, and shall not be questioned in any way.

**118. Certificate of Court as to result of election** – At the conclusion of the trial of an election petition the Court shall;

(a) determine whether the member whose election or return is complained of, or any and what other person, was duly elected or returned, or whether the election was void; and

(b) immediately certify in writing the determination to the Speaker and the determination so certified is final to all intents and purposes.

**119. Report of Court as to corrupt or illegal practice** – **(1)** Where in an election petition a charge is made of a corrupt or illegal practice having been committed at the election, the Court shall, in addition to giving a certificate and at the same time, report in writing to the Speaker as follows:

(a) whether a corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of a candidate at the election, and the nature of the corrupt or illegal practice;

(b) whether any of the candidates has been guilty by his or her agents of a corrupt or illegal practice in reference to the election;

(c) the names of all persons proved at the trial to have been guilty of a corrupt or illegal practice and whether they have received certificates of indemnity;

(d) whether there is reason to believe that corrupt or illegal practices have extensively prevailed at the election.

**(2)** In the case of someone who is not a party to the petition nor a candidate on behalf of whom the seat is claimed by the petition, the Court, before reporting him or her to have been proved guilty of a corrupt or illegal practice, shall:

(a) first cause notice to be given to him or her; and

(b) if he or she appears under the notice, give an opportunity of being heard and of calling evidence in his or her defence to show why he or she should not be so reported.

**(3)** For the purposes of this Act, if it is reported by the Court that a corrupt or illegal practice was committed with the knowledge and consent of a candidate he or she shall be treated as having been reported to have been proved guilty of that corrupt or illegal practice.

**(4)** If a candidate is reported to have been guilty by his or her agents of treating, undue influence, or any illegal practice, and the Court further reports that:

(a) no corrupt or illegal practice was committed at the election by the candidate with his or her knowledge or consent, and that the offences mentioned in the report were committed without the sanction or connivance of the candidate; and

(b) all reasonable means for preventing the commission of corrupt and illegal practices at the election were taken by and on behalf of the candidate; and

(c) the offences mentioned in the report were of a trivial, unimportant, and limited character; and

(d) in all other respects the election was free from a corrupt or illegal practice on the part of the candidate and of his or her agents,−

the candidate shall not be treated for the purposes of this Act as having been proved guilty of the offences mentioned in the report.

**120. Special report** – At the same time as it gives its certificate at the conclusion of the trial of an election petition, the Court may make a special report to the Speaker as to any matters arising in the course of the trial an account of which, in the judgment of the Court, ought to be submitted to the Legislative Assembly.

**121. Signature and effect of certificate and report – (1)** The certificate and a report of the Court at the conclusion of the trial of an election petition is to be signed by the Presiding Judge.

**(2)** On being informed by the Speaker of the certificate and a report of the Court, the Legislative Assembly shall:

(a) order the same to be entered in the Journals of the Assembly; and

(b) give the necessary directions for confirming or altering the result or for issuing a public notice for a new election, or for carrying out the determination, as the circumstances may require.

**(3)** Where the Court makes a special report the Legislative Assembly may make such order in respect of that report as it thinks proper.

## Witnesses

**122. Summons and examination of witnesses – (1)** Witnesses may be summoned and sworn on the trial of an election petition in the same manner, as nearly as circumstances admit, as in the trial of an ordinary action.

**(2)** The Supreme Court may by order require a person who appears to the Court to have been concerned in the election to

attend as a witness, and a person who refuses to obey any such order is guilty of contempt of Court.

**(3)** The Court may examine a person so required to attend or a person in Court, although the person is not called or examined by a party to the petition.

**(4)** After the examination of a witness under subsection (3) by the Court, the witness may be cross-examined by or on behalf of the petitioner and each respondent, or any of them.

**123. Certificate of indemnity to witness – (1)** A person called as a witness on the trial of an election petition shall not be excused from answering a question relating to an offence at or connected with the election on the ground that the answer thereto may incriminate or tend to incriminate himself or herself, or on the ground of privilege:

**PROVIDED THAT**:

(a) an answer by a person to a question put by or before the Court shall not, except in the case of a criminal proceeding for perjury in respect of the evidence, be admissible in evidence against him or her in any proceeding, civil or criminal;

(b) a witness who answers truly all questions which he or she is required by the Court to answer shall be entitled to receive a certificate of indemnity stating that he or she has so answered.

**(2)** Where a person has received a certificate of indemnity in relation to an election, and a legal proceeding is at a time instituted against him or her for an offence committed by him or her at or in connection with the election previously to the date of the certificate, the Court having cognisance of the case shall on production of the certificate stay the proceeding, and may in its discretion award to the said person such costs as he or she has been put to in the proceeding.

**(3)** Nothing in this section is taken to relieve a person receiving a certificate of indemnity from an incapacity under this Act or from any proceedings to enforce any such incapacity (other than a criminal prosecution).

**Costs**

**124. Expenses of witnesses – (1)** The reasonable expenses incurred by a person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses on the trial of civil actions, may be allowed by the Court.

**(2)** Any such expenses, if the witness was called and examined by the Court, are deemed to be part of the expenses of the Court, and in other cases are deemed to be costs of the petition.

**125. Costs of petition – (1)** All costs of and incidental to the presentation of an election petition, and to the proceedings consequent thereon, except such as are by this Act otherwise provided for shall be defrayed by the parties to the petition in such manner and in such proportions as the Supreme Court may determine; and in particular any costs which in the opinion of the Court have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or respondent, and any needless expenses incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom they were caused or incurred, whether those parties are or are not on the whole successful.

**(2)** If a petitioner fails for 6 months after demand to pay to a person summoned as a witness on his or her behalf, or to a respondent, a sum certified to be due to him or her for costs, and the failure is within 1 year after the demand proved to the satisfaction of the Supreme Court, s person who has under this Act entered into a recognisance relating to the petition shall be held to have made default in the recognisance, and it shall be dealt with in manner provided by section 15 of the Government Proceedings Act 1974.

**126. Costs payable by persons proved guilty of corrupt or illegal practice – (1)** Where on the trial of an election petition it appears to the Court that a person has been guilty of a corrupt or illegal practice, the Court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceedings before the Court in relation to that offence or to that person to be paid by that person to such other person or persons as the Court thinks fit.

**(2)** All costs so ordered to be paid may be recovered as a debt due by the person by whom they are ordered to be paid to the person or persons to whom they are ordered to be paid.

## Withdrawal and abatement of petition

**127. Withdrawal of petition** – **(1)** A petitioner shall not withdraw an election petition without the leave of the Supreme Court upon special application to be made in the prescribed manner.

**(2)** No such application shall be made until the prescribed notice of the intention to make it has been given in the territorial or urban constituency to which the petition relates.

**(3)** Where there are more petitioners than one, an application to withdraw the petition shall not be made except with the consent of all the petitioners.

**(4)** If a petition is withdrawn, the petitioner is to pay the costs of each respondent.

**128. Substitution of new petitioner** – **(1)** On the hearing of an application for leave to withdraw a petition, a person who might in the first instance have presented the petition may apply to the Court to be substituted as a petitioner.

**(2)** The Court may, if it thinks fit, substitute any such applicant as petitioner, and may, if the proposed withdrawal is in the opinion of the Court the result of a corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs incurred by the substituted petitioner, and that to the extent of the sum named in the security the original petitioner is liable to pay the costs of the substituted petitioner.

**(3)** If the Court does not so direct, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner within 3 days after the order of substitution.

**(4)** Subject as aforesaid, a substituted petitioner shall as nearly as may be stand in the same position and be subject to the same liabilities as the original petitioner.

**129. Report on withdrawal** – In a case of the withdrawal of an election petition the Supreme Court shall make a report to the Speaker stating whether in its opinion the withdrawal of the petition was the result of a corrupt arrangement or in consideration of the withdrawal of any other election petition and, if so, the circumstances attending the withdrawal.

**130. Abatement of petit**ion – **(1)** An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

**(2)** The abatement of a petition does not affect the liability of the petitioner or any other person to the payment of costs previously incurred.

**(3)** On the abatement of a petition, notice of the abatement shall be given in the prescribed manner, and within 28 days after notice is given a person who might have been a petitioner in respect of the election may apply to the Supreme Court in the prescribed manner. On any such application the Court may, if it thinks fit, substitute the applicant accordingly.

**(4)** Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition.

**130A. Offence to pay money to stop petition** – A person who pays money or attempts to pay money to:

(a) prevent the instigation of an election petition; or

(b) cause a withdrawal of an election petition, —

commits an offence and is liable upon conviction to a fine not exceeding 20 penalty units or to imprisonment for a term not exceeding 6 months, or both.

**General provisions**

**131. Withdrawal and substitution of respondent before trial – (1)** If before the trial of an election petition a respondent other than the Commissioner:

(a) dies; or

(b) gives the prescribed notice that he or she does not intend to oppose the petition; or

(c) has his or her seat declared vacant in a report from the Speaker to the Head of State,−

notice thereof shall be given in the prescribed manner and,

within 28 days after the notice is given, a person who might have been a petitioner in respect of the election may apply to the Supreme Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly, except that the number of persons so admitted shall not exceed 3.

**(2)** A respondent who has given the prescribed notice that he or she does intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings thereon, and shall not sit or vote in the Legislative Assembly until the Assembly has been informed of the report on the petition.

**(3)** Where a respondent has given the prescribed notice as aforesaid, the Court shall report that fact to the Speaker.

**132. Submission of report to Attorney-General** – Where the Supreme Court reports that certain persons named have been proved at the trial of an election petition to have been guilty of a corrupt or illegal practice the report is to be laid before the Attorney-General.

## PART 11
## MISCELLANEOUS PROVISIONS

**133. Service of notices** – **(1)** A notice under this Act may be served on a person by delivering it to that person, and may be delivered to him or her either personally or by leaving it at his or her place of residence as stated on a roll or by posting it by registered letter addressed to him or her at that place of residence.

**(2)** A notice so posted is taken to have been served at the time when the registered letter would in the ordinary course of post be delivered.

**(3)** Where a notice is sent by registered letter addressed to a person at his or her place of residence as stated on a roll, with a special request that the letter be returned to the sender at the expiration of 15 days if the person to whom the letter is addressed cannot be found, the return of the letter by the Post Office is deemed sufficient proof that the person has quitted that place of residence.

**134. Commissioner exempt from Court fees** – The Commissioner shall be exempt from the payment of any Court fees in respect of any proceedings under this Act.

**135. Validation of irregularities** – Where anything is omitted to be done or cannot be done at the time required by or under this Act, or is done before or after that time, or is otherwise irregularly done in matter of form, or sufficient provision is not made by or under this Act, the Head of State acting on the advice of Cabinet may, by notice in the Gazette, at a time before or after the time within which the thing is required to be done, extend that time, or validate anything so done before or after the time required or so irregularly done in matter of form, or make other provision for the case as the Head of State thinks fit:

**PROVIDED THAT** this section does not apply with respect to the presentation of an election petition or to the giving of security for costs in relation to an election petition.

135A. (*Repealed by section 5(2)(e) of the Electoral Amendment Act 2005 (No. 3)*)

**136. Regulations** – **(1)** The Head of State acting on the advice of Cabinet may make regulations necessary or expedient for giving full effect to this Act and for the due administration thereof.

**(2)** Regulations made under this section may prescribe penalties for offences against the regulations, not exceeding imprisonment for a term of 3 months or a fine of 20 penalty units, or both.

**(3)** All regulations made under this section are to be laid before the Legislative Assembly within 28 days after the date of the making thereof if the Assembly is then in session, and, if not, are to be laid before the Assembly within 28 days after the date of the commencement of the next ensuing session.

137. *(Deleted as obsolete)*

**SCHEDULE 1**

**FORM 1**

*(Sections 63, 64(2), 70D(5) and 107A)*

**DECLARATION BY RETURNING OFFICER, ASSISTANT RETURNING OFFICER, POLL CLERKS, SCRUTINEERS AND OTHER OFFICERS:**

**I,**.A.B. (Insert full residential address and occupation or description), solemnly and sincerely declare that I will well and truly serve in the office of:

* Returning Officer
* Assistant Returning Officer
* Poll Clerk
* Interpreter
* Scrutineer for C.D., a candidate; at the poll for the ..... Constituency or Representative of the Urban Voters and that I will not do anything forbidden by section 94 of the Electoral Act 1963.

**AND** I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths, Affidavits and Declarations Act 1963.

**Declared** at ....….... this ..... day of ..... 20 ..... before me.
**E.F.** **A.B.**
* Commissioner
* Returning Officer
* Assistant Returning Officer
* (Occupation or description of a ) person authorised to take a statutory declaration by section 21 of the Oaths, Affidavits and Declarations Act 1963.
* Delete whichever do not apply.
~ Section 94 of the Electoral Act 1963 is to be printed on the back of this form and must be read by or to the declarant.

**FORM 1A**

*(Sections 5(3)(c), (4) and (6)(d)(ii), 19 and 50(1)(e))*

**DECLARATION ON RESIDENTIAL AND VILLAGE SERVICE REQUIREMENTS**

I, (*Insert full name of candidate, relevant Matai title and address)* solemnly and sincerely declare that:

(a) I have resided *(Delete subparagraph that is not applicable)* —
(i) (*for candidates in territorial constituencies*) in Samoa for a period equalling or exceeding 3 years, and therefore satisfied the 3-year residential requirement under section 5(3)(b) of the Electoral Act 1963 ("the Act");
(ii) (*for candidates in urban constituencies*)—
(A) in Samoa for a period equalling or exceeding 3 years, and therefore satisfied the 3-year residential

requirement under section 5(4) of the Act; and

(B) at the above address within the (*East/West*) Urban Constituency for a period equalling or exceeding 6 months, and therefore satisfied the 6-month residential requirement under section 19 of the Act; and

(b) I have rendered services to our village (*list village or villages, including any sub-village*) for at least 3 years (ending with the day on which my nomination paper is lodged with the Commissioner) pursuant to the customs of our village, and therefore satisfied the village service requirements as defined in section 5(3A) of the Act.

And I make this solemn declaration conscientiously believing it to be true and by virtue of the Oaths, Affidavits and Declarations Act 1963.

**SWORN** at ……this……
day of ……..20……

……
(*Candidate's signature*)

Before me:
……..
*Barrister and Solicitor of the Supreme Court*

**FORM 1B**
*(Section 5(6)(d)(ii))*

**DECLARATION BY CANDIDATE**

I, …….. (*full name*) of
……. (*village*)
……...(*occupation*)

Solemnly and sincerely declare:

**1. I** am a registered matai voter as shown under Number…….. Page ……., of the Main or Supplementary Electoral Roll, for the Electoral District of ……

**2. I** am a Matai whose title has already been confirmed and registered on the List of Matai that is at the Office of the Registrar of Titles at Mulinuu.

**3. I** am a citizen of Samoa.

**4. I** am not disqualified from being a Candidate for Election in accordance with the provisions of the Constitution of the Independent State of Samoa or any other law.

**5(1) I** have been in Samoa at least 240 days or more in each year for the past 3 years up to today as detailed in the Annex to this Declaration; or

**5(2) I** have been in Samoa for at least 240 days or more in each year for the past 3 years up to today and as detailed in the Annex to this Declaration apart from a period of 125 days or more in which I was away from Samoa for medical treatment as declared in the Annex to this Declaration.

**5(3) I** am exempt from the provisions of residing in Samoa in accordance with section 5(6)(a) or section 5(6)(b) or section 5(6)(c) of the Electoral Act 1963.

**6. I** am not a person who has been declared bankrupt.

**7. I** have not been convicted in Samoa or another country within the previous 8 years, of an offence punishable by death or by imprisonment for a term of 4 years or more.

**8. I** am not a person against whom an Inpatient Treatment Order has been made under the Mental Health Act 2007.

**9. I** have not been convicted in Samoa of a corrupt practice within the preceding 5 years.

**10. I** believe that I am eligible to be a Candidate for the Electoral District of ……

**AND I** make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths, Affidavits and Declarations Act 1963.

**SWORN** at Mulinuu this …….. )
day of ……..... 20__ )

…….
Before me:
(Person authorised under section 21 of the Oaths, Affidavits And Declarations Act 1963)

**ANNEX to FORM 1B**

**CANDIDATE: DETAILS OF BEING IN SAMOA AND MEDICAL TREATMENT**

**1. Section 5(4)**

(i)

| **PERIOD (Past 3 years)** | **NUMBER OF DAYS IN SAMOA** | **CONFIRMING DOCUMENT** |
|---|---|---|
| | | |
| | | |
| | | |

(ii) Confirmation giving details of being in Samoa as shown in Passport; and

**2. Section 5(6)(d)(i)**

(i)

| **PERIOD (Past 3 years)** | **NUMBER OF DAYS OUT OF SAMOA FOR MEDICAL TREATMENT** |
|---|---|
| | |
| | |
| | |

**Confirmation of Medical Treatment by Two Doctors:**

**Declaration by First Doctor:**

I, …….. (full name) solemnly and sincerely declare:

(i) That I am a qualified medical practitioner;
(ii) That I have examined and medically treated ……. (full name of candidate);
(iii) That …… (full name of candidate) was required to obtain and did obtain medical treatment for ……. (details of condition) outside of Samoa for the following period (s) in the (3) year period ending on …… (date of declaration by candidate)

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths, Affidavits and Declarations Act 1963.

**SWORN** at ……. …..this )
day of …….. 20__ )

……
Before me:
(Person authorised under the Oaths, Affidavits And Declarations Act 1963)

**Declaration by Second Doctor:**

I, …….. (full name) solemnly and sincerely declare:

(i) That I am a qualified medical practitioner;
(ii) That I have examined and medically treated ……. (full name of candidate);
(iii) That …… (full name of candidate) was required to obtain and did obtain medical treatment for ……. (details of condition) outside of Samoa for the following period (s) in the 3 year period ending on …… (date of declaration by candidate)

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths, Affidavits and Declarations Act 1963.

**SWORN** at ……. …..this )
day of …….. 20__ )

……
Before me:
(Person authorised under the Oaths, Affidavits And Declarations Act 1963)

**FORM 1C**
*(Section 15A)*

**APPLICATION FOR REGISTRATION OF POLITICAL PARTY**

**To the Electoral Commissioner:**

I, ……
*(full name)*

of……
*( (not P.O. Box), & phone number)*
□ Secretary

**Make application for registration of** ……..
*(name of Political Party)*

……
*abbreviation of name, office address (not P.O. Box) & phone number)*

**SECRETARY ……**
*(name, office address (not P.O. box) & phone number)*

**Under Part 2A of the Electoral Act 1963**

***Signature*:**

**Secretary**…… Date: ……

**FORM 1C - Part B - Part 2A**

**POLITICAL PARTY DECLARATION**

**Under Part 2A of the Electoral Act 1963**

**I,** ……
*(full name)*
of ……
*(not P.O. Box) & phone number)*

solemnly and sincerely declare that

……
*( name of Political Party)*

has 8| current financial members eligible to enrol as voters who are listed on the List attached to this Declaration.
And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths, Affidavits and Declarations Act 1963.

**SWORN** at ……. …..this )
day of …….. 20__ )

……
Before me:
(Person authorised under the Oaths, Affidavits And Declarations Act 1963)

**FORM 1D**
**(Sections 25B(1) and (4))**

Declaration of Personal Details for application to be registered as a territorial voter

"1, AB (Insert residential address; occupation and description) solemnly and sincerely declare that:

(a) I am entitled to have my name entered on the roll of (insert territorial constituency);

I am currently registered on the territorial or urban constituency roll of (*Insert constituency*) and wish to make my election to change my constituency to (*Insert constituency*) and have not so changed in the preceding period after the last general election or;

(b) I am not currently registered on any roll as either a territorial or urban voter;

(c) All the details contained in this declaration are true and correct to the best of my knowledge.

**AND I** make this solemn declaration conscientiously, believing the same to be true and by virtue of the Oaths, Affidavits and Declarations Act 1963.

**DECLARED** at …… this day )
of ……20… )

……
Before me:
(Person authorised under the Oaths, Affidavits And Declarations Act 1963)

1. Are you a citizen of Samoa?.....

2. Have you attained the age of 21 years? .....

3. Are you an undischarged bankrupt? .....

4. Have you been convicted in Samoa or in another country of an offence punishable by death or by imprisonment for a term of 4 years or more or have you been convicted in Samoa or reported by the Supreme Court in its report on a trial of an election petition to have been proved of any practice declared to be a corrupt practice by the Electoral Act 1963? .....

5. If so, have you:

   (a) Received a free pardon?.....

   (b) Undergone the sentence or punishment to which you were adjudged for the offence?

6. Are you of sound mind and not subject to an order of medical custody under the Mental Health Act 2007?

7. What is (or was) the full name of your father? .....

8. If he is dead, when and where did he die?.....

9. What is the date of your birth?….....

10. What is your father's village of origin? .....

11. What are your grandfather's villages of origin? .....

12. Do you hold a Matai title?.....

13. If so, what are the details?

Title ..... Village .....
…… .....

14. If you do not hold a Matai title does or did any of your grandparents or your parents or your spouse hold Matai title?.....

15. If so, supply particulars:
Relationship (e.g. father etc.).....

Title .....

Village .....

16. Does or did any of your brothers or sisters hold a Matai title otherwise then through his or her spouse?

.....……

17. If so, supply particulars:
Name of brother/sister
….……
Title:
….……
Village:
….……

18. What is the full name of your father? ……..

19. What is the full name of your mother?……

20. Are you rendering service to a village?……

21. If so, what village?……

22. What is the nature of the service and who can confirm it?……

**SIGN HERE:** .....
**Signature of Witness:**.....
**Residential address of Witness:**.....
**Qualification of Witness:**.....

**FORM 2**
**(Sections 21 and 25B(4))**

To the Commissioner for Samoa I, (insert full names, full residential address and occupation or description) claim to have my name entered on the […….] Urban Constituency roll:

**A. That my answers to the following questions are true and correct:**

1. Are you a citizen of Samoa under the Citizenship Act 1972?

2. Have you attained the age of 21 years?

3. Are you an undischarged bankrupt?

4. Have you been convicted in Samoa or in another country of an offence punishable by death or by imprisonment for a term of 4 years or more or have you been convicted in Samoa of any practice declared to be a corrupt practice by the Electoral Act 1963?

5. If so, have you:

   (a) Received a free pardon?

   (b) Undergone the sentence or punishment to which you were adjudged for the offence?

6. Are you of sound mind and not subject to an order of medical custody under the Mental Health Act 2007?

7. Was your name entered on the European electoral roll on the 30th day of November 1963?

8. What is (or was) the full name of your father, mother, grandfather or grandmother?

9. If he or she is dead, when and where did he or she die?

10. Was your father's or mother's or grandparent's name entered on the European electoral roll on the 30th day of November 1963?

11. If not and if he died before the 30th day of November 1963, would he if alive on that day have qualified to have his name entered on the European electoral roll on that day?

12. Were you unborn or under the age of 21 years on the 30th day of November 1963?

13. Did you acquire your citizenship of Samoa by:

   (a) Naturalisation?

   (b) Birth?

14. If the latter:
   (a) Is your father, if alive, a citizen of Samoa?

(b) Would your father if alive at the date of the commencement of the Citizenship of Samoa Ordinance 1959 on the 8th day of September 1959 have automatically qualified to be a citizen of Samoa by virtue of a provision of that Ordinance?

15. Have you taken the oath of allegiance in the manner and form provided by section 12 of the Citizenship Act 1972?

I, AB (Insert residential address, occupation) solemnly and sincerely declare that:

(a) I am entitled to have my name entered on the [……] Urban Constituency roll; and

(aa) I have resided in the above residential address for a period of […… *months/years*]; and

(b) The details contained in this declaration are true and correct; and

(c) I am not registered on any other roll in Samoa.

**AND I** make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths, Affidavits and Declarations Act 1963.

**DECLARED** at ……this day )
of ……20…, )
……
Before me:
(Person authorised under the Oaths, Affidavits And Declarations Act 1963)

---

**FORM 3**
*(Section 35(1))*

**VOTERS ROLL FOR TERRITORIAL CONSTITUENCIES**

| **VOTERS ROLL FOR TERRITORIAL CONSTITUENCY OF** (*insert name and number of constituency*) | | | | | |
|---|---|---|---|---|---|
| **Number on Roll** | **Matai Title** | **Surname** | **Christian/First Name** | **Village or Nuu** | **Occupation or Description** |
| | | | | | |

**FORM 4**
*(Section 35 (2))*

**URBAN VOTERS' ROLL**

| **ROLL OF PERSONS ENTITLED TO VOTE FOR REPRESENTATIVES OF THE URBAN CONSTITUENCY** | | | | |
|---|---|---|---|---|
| Number on Roll | Title(s) or Surname | Christian Names | Residence | Occupation or Description |
| | | | | |

Commissioner

**FORM 5**
**(Section 48(1))**

**To the Commissioner for the Constituency** .....

**WE,** the undersigned registered voters of the Constituency (*insert territorial or urban constituency*), nominate ..... (Name), of (Residence and occupation), a registered voter of the (*territorial/urban*)..... Constituency, with his (or her) consent, as a candidate at the election of a member of Parliament for the (territorial/urban) ..... Constituency the poll for which is appointed for Saturday the ..... day of ..... 20 .....
Dated at ..... this ..... day of ..... 20 .....

(Signatures and full names, residences, and occupations of 2 or more voters nominating.)

I, (Name), being qualified to be a candidate and to be elected a member of Parliament in terms both of Part 2 of the Electoral Act 1963 and of any other enactment, consent to the above nomination.

My name will fit on the ballot paper; or

As my name is too long to fit on the ballot paper, I wish my given names to be shown on the ballot paper as ..... *(Complete the second alternative, unless the Commissioner agrees both that the candidate's name will fit on the ballot paper and that the second alternative is the alternative to be deleted).*

** The name of my political party is ..... or*

**I am an independent candidate.*

*(Signature, residence, and occupation of person nominated)*

**Delete words that do not apply.*

**FORM 6**
**(Section 52(1))**

**NOTICE OF WITHDRAWAL OF NOMINATION**

To the Commissioner for Samoa.

I (Insert full names) give notice that I withdraw my nomination as a candidate at the election of:

* Representative(s) of the ..... *territorial/urban constituency

the holding of which is appointed for the ..... day of ..... 20 ..... and for which I was nominated on the ..... day of ..... 20 .....

**Signature of Candidate: .....□□□□.**

**Received at the hour of : …□□ on the □□□.day of □□□□□□20□**
**Signature of Commissioner: □□□□□□□□□□□□**

**Delete words that do not apply*

**FORM 7**
**(Section 56(1))**

**VOTE HERE**

| | |
|---|---|
| **FAAOSO,** Pale<br>HUMAN RIGHT PROTECTION | |
| **FALEFA,** Sola<br>SAMOA NATIONAL DEVELOPMENT | |
| **SASULU,** Tolu<br>SAMOA LIBERAL | |
| **TUITUI,** Tolu<br>INDEPENDENT | |

**DIRECTIONS**

**(Read carefully before voting)**

1. Vote for only one candidate

2. Vote by putting a tick in the circle immediately after the name of the candidate you choose.

3. After voting, fold the ballot paper so that its contents cannot be seen and place it in the ballot box.

4. If you spoil this ballot paper, return it to the officer who issued it and apply for another.

5. You must not take this ballot paper out of the polling booth.

**FORM 8**
**(Section 56(8))**

**COUNTERFOIL OF BALLOT PAPER**

**Consecutive No.**

(To be entered here and also on the top right hand corner of the back of the voting paper).

Designation of Roll:
No. on Roll:
(to be entered here only)

(Stamp across the perforation so that the number ]
Official
of the polling booth shall appear on both the ] Booth
counterfoil and the voting paper.) ]
Stamp

Initials of Presiding Officer

**FORM 9**
**(Sections 80(1) and 81(7))**

**DECLARATION OF RESULT OF POLL**
**[…….] Territorial/Urban Constituency**

**I** declare the result of the poll taken on the ..... day of ..... 20 ..... for the election of a member(s) of Parliament for the …… Territorial/Urban Constituency to be as follows:

Candidates Votes Received

C.D. .....

E.F. .....

G.H. .....

I.J. □□□□□□□□□□□□□□□□□□□□
K.L. ..... _____

Total number of valid votes _____

Number of votes rejected as informal _____

I therefore declare the said C.D. to be elected.

**DATED** at ..... this ..... day of □□□..... 20 □□□.....

A.B.
**COMMISSIONER**

**FORM 10**
**(Section 107A(1)(a))**
**DECLARATION BY PETITIONER**

"I, AB (*Insert name, residential address, occupation and office*) solemnly and sincerely declare that I have not engaged in any corrupt practice or illegal practice within the meaning of the Electoral Act 1963.

**AND I** make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths, Affidavits and Declarations Act 1963.

**DECLARED** at …… this day )

of ……20__ )
……
Before me:
(Person authorised under the Oaths, Affidavits And Declarations Act 1963)

**FORM 11**
**(Section 107A(1)(b))**

**DECLARATION BY PETITIONER'S WITNESS**

"I, AB (*Insert residential address, occupation and description*) solemnly and sincerely declare that in respect of the Electoral Act 1963 and the most recent elections, to the best of my knowledge, the petitioner has not engaged in any corrupt or illegal practice.

**AND I** make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths, Affidavits and Declarations Act 1963.

**DECLARED** at……this …… day
of……20… […….]

……
Before me:

(Person authorised under the Oaths, Affidavits And Declarations Act 1963)

## SCHEDULE 2

*(Sections 16(1) and 19(1))*

### PERSONS QUALIFIED FOR REGISTRATION AS VOTERS UNDER THE TERRITORIAL OR URBAN CONSTITUENCIES

| Item No. | TERRITORIAL CONSTITUENCY (Column 2) | URBAN CONSTITUENCY (Column 3) |
|---|---|---|
| 1 | Persons residing on customary land and other land (except for items 1 and 2 of Column 3) within the territorial constituency. | Persons (whether or not Matai title holders) residing on any land other than customary land within the boundary of the urban constituency, subject to item 2 of this column. |
| 2 | Matai title holders residing outside the territorial constituency or within the urban constituencies. The holder of a single Matai title must be registered in the territorial constituency where the title exists. The holders of multiple Matai titles may choose to be registered in any of the territorial constituencies where the titles exist (but must choose once between general elections). | Persons (whether or not Matai title holders) residing on land (other than customary land) within urban constituencies who have kinship connections to Vaimauga or Faleata constituency who choose to be registered in the urban constituency in which they reside. |
| 3 | Spouse or parent or child or brother or sister (residing outside the territorial constituency) of a Matai may choose to be registered in the territorial constituency in which the Matai is registered. This provision does not apply to Matai title acquired by a brother or sister of a voter from or through the spouse of the brother or sister. | Persons whose name is validly registered in the individual voter roll before the commencement of the Electoral Amendment Act 2015 are treated as registered under the urban constituency in which the person resides. This provision applies only to the 2016 General Elections. |
| 4 | Persons residing on customary land within Vaimauga and Faleata constituencies who have no kinship | Persons registered in the individual voters roll who reside in a territorial constituency outside the boundary of the |

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| | connections to those territorial constituencies are to be registered in the territorial constituencies in which they have kinship connections. | urban constituency may choose to be registered in the territorial constituency of residence or in either of the urban constituencies. This provision applies only to the 2016 General Elections. |
| 4A. | As an exception to item 4, if a person:<br>has no kinship connection to the Vaimauga and Faleata territorial constituencies; and<br>is or was registered on the electoral roll (in either of those constituencies) on or before the 2011 general elections,–<br>any of the person's direct descendants (including the descendant's spouse) residing in any customary land or other land for at least 6 months within any of the territorial constituencies within Vaimauga and Faleata territorial constituencies may choose to be registered in the Vaimauga or Faleata territorial constituency in which the descendant resides. | |
| 5 | Persons residing on land (other than customary land) within urban constituencies who have kinship connections to Vaimauga or Faleata territorial constituency who choose to be registered in the Vaimauga or Faleata territorial constituency in which they have kinship connections. | |

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**REVISION NOTES 2008 – 2016**

This is the official version of this Act as at 31 December 2016.

This Act has been revised by the Legislative Drafting Division from 2008 – 2016 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008.*

The following general revisions have been made:

(a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.

(b) Amendments have been made to up-date references to offices,

officers and statutes. (e.g. "Civil List Act 1964" changed to "Remuneration Tribunal Act 2003" (the current law which repealed the former)

(c) Insertion of the commencement date.

(d) Gender neutral terms provided.

(e) Other minor editing has been done in accordance with the lawful powers of the Attorney General:

(i) Division of sections:
- Section 2 divided to create new subsection (1A),
- Section 77(2) & (2), 78(1) & (2), 79(1), 81(8), 87, 104(2), 118, 119(2) and 121(2) divided into new paragraphs.

(ii) "any", "every" and "each" changed to "a" and "an" where appropriate

(iii) "every person" and "any person" changed to "a person"

(iv) "public notice" and "publicly notify" have the same meaning

(v) Present tense drafting style:
- "shall", "shall be" and "will be" changed to "is" or "are" or "is to be" or "are to be" where appropriate
- "from time to time", "for the time being" and "hereby" deleted

(vi) Use of plain language:
- "in accordance with" and "pursuant to" changed to "under"
- "notwithstanding" changed to "despite"
- "thereupon" changed to "as a result"

(vii) "the foregoing provisions" changed to reference the actual provisions (where appropriate)

(viii) "and" and "or" inserted at the end of paragraphs (where appropriate)

(ix) Numbers in words changed to figures

(x) Removal of superfluous terms
- "the provisions of" and "all the provisions"
- "this section" deleted from "this Act and this section"
- "of this Act" deleted from "section…of this Act"
- "or constituencies" deleted from "constituency or constituencies" as the singular includes the plural
- "provisions" deleted from "the following provisions apply"
- "for the purposes of"

(xi) Offence provisions
- "punishable" changed to "liable to"
- offends against the provisions of" changed to "contravenes"
- "offends changed to "commits an offence"

(xii) "Members of Parliament" changed to "Members" or "members" accordingly (as per definition of "Member")

(xiii) "forthwith" changed to "immediately" where appropriate

(xiv) corrected grammatical, typographical and similar errors

(xv) Correction of cross references and provided complete references to relevant sections of repealing Acts

(xvi) Samoan words italicised

(xvii) "Commissioner" changed to "Registrar" where the section seems to refer to the Registrar of the Supreme Court (see sections 83 – 85) and where the section refers to the Registrar of the Births, Deaths and Marriages (see sections 30 and 31)

(xviii) corrected authorising provisions for the Forms in the Schedule 1

(xix) "etc." deleted from certain section headings and redrafted as complete sentences (see headings of sections 25B, 60 and 83)

(xx) arrangement of provisions and section headings made consistent

(xxi) section 8(3) revised as a result of the Public Bodies (Responsibility and Accountability) Amendment Act 2015

(xxii) Section 12 revised to change "Commissioner" in subsection (2)

(xxiii) Section 13 revised to change "Commissioner for Deaths and Births" to "Registrar General" as changed by the Statistics Act 2015

The following amendments have been made to specific sections of the Act to incorporate amendments made by Act of Parliament passed since the publication of the *Samoa Reprint 2007*:

*By the Electoral Amendment Act 2009, No.21:*

**Section 3A(1)** - Deleted the word "and" from the end of paragraph (h) and inserted paragraph (i) and renamed paragraph (i) as paragraph (j).

**Section 5** - Subsection (1) was amended by inserting the words "and is the holder of a matai title" between the words "individual voters' roll" and "is qualified".

- A new proviso was inserted after subsection (1).
- Subsection (3) was deleted and replaced with a new subsection (3).
- Subsection (4) was amended by replacing the words "has not" appearing between the words "or that person" and "resided in Samoa" with the words "fails to provide his or her statutory declaration to the Commissioner that the person has".
- Subsection (5)(b) was deleted and replaced with a new subsection (5)(b).
- Subsection (6)(d) was amended by:

(i) Deleting and replacing

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| | | subparagraph (ii) with a new subparagraph (ii); |
| | | (ii) Deleting the words "or other information referred to" in subparagraph (iii). |
| **Section 11** | - | Subsection (1) was amended by inserting "or 10(m)" after "10(k)". |
| | - | Subsection (3) was amended by inserting "or (m)" after "said paragraphs (k)". |
| **Section 12** | - | Deleted and substituted the words "or after conviction of an offence punishable by death or by imprisonment for a term of (2) years or upwards" with the words "or after conviction in any jurisdiction within the previous eight (8) years, of an offence punishable by death or by imprisonment for a term of four (4) years or more". |
| **Section 15A** | - | Inserted between the words "party may" and "be registered" the words "by application in Form 1C of the Schedule". |
| **Section 15B** | - | Subsection (1) was amended by inserting at the end of the word "Commissioner" the words "by the Secretary of the party.". |
| | - | Subsection (2)(c) was amended by deleting subparagraph (iv), renaming the current subparagraph (v) as subparagraph (iv), and replacing the number "100" with the number "8" in the new subparagraph (iv). |
| **Section 15F** | - | Subsections (5) and (6) were inserted at the end of this section. |
| **Section 16** | - | Deleted and substituted the entire subsection (3) with a new subsection (3) and inserted a subsection (4). |
| **Section 18C** | - | A new section inserted after section 18B. |
| **Section 19(2)** | - | Deleted and substituted "he or she:" with "the person is registered as an elector:". |
| | - | Deleted paragraphs (a) to (c) |
| **Sections 24 & 25** | - | These sections have been repealed. |
| ***Section 32A*** | - | *The figure four (4) will be changed to figure five (5) on 1 June 2011.* |
| **Section 34** | - | Deleted and replaced entirely with a new section 34. |
| **Section 44** | - | Deleted and replaced entirely with a new section 44. |
| **Section 45** | - | Deleted and replaced the word "warrant" and with the words "writ for general elections". |
| **Section 45A(1)** | - | Inserted a new paragraph (b) and renumbered current paragraphs (b) and (c) as paragraphs (c) and (d) respectively. |

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| **Section 47** | - | Deleted and replaced the words "Head of State" with the words "Deputy Speaker". |
| **Section 50** | - | Deleted the full stop (.) at the end of paragraph (b) and inserted ";or". |
| | - | Inserted paragraph (e) after paragraph (d). |
| | - | Deleted subsection (2). |
| **Section 52(1)** | - | Deleted and replaced with a new subsection (1). |
| **Section 65(1)** | - | Deleted and replaced "9 o'clock" with "8 o'clock". |
| **Section 70E** | - | Subsection (1) was amended by inserting the words "employed in the services and places of employment in section 5 of the Public Holidays Act 2008" between the words "or voter" and "shall be". |
| | - | Subsections (2) and (3) were deleted. |
| **Section 79** | - | Inserted subsection (4) after subsection (3). |
| **Section 80** | - | Deleted and replaced the second sentence in subsection (1) with a new insertion. |
| **Section 97B** | - | A new section inserted after section 97A. |
| **Section 99A** | - | Subsection (4) was deleted. |
| **Section 101** | - | Deleted and replaced paragraphs (a) and (b) with new paragraphs (a), (b) and (c). |
| **Section 103** | - | Deleted and replaced the first paragraph before the proviso with a new insertion. |
| **Section 105** | - | Deleted and replaced the full stop (.) at the end of paragraph (b) with a semi colon (;). |
| | - | Inserted paragraph (c) after the proviso to paragraphs (a) and (b). |
| **Section 106** | - | Inserted the word "working" between the figure "7" and the words "days after the day". |
| **Section 107A** | - | A new section inserted after section 107. |
| **Section 130A** | - | A new section inserted after section 130. |
| **Consequential Amendments** | - | The expression "section 34(1)" was replaced with the expression "section 34(1) and (2)" wherever it appeared. |
| | - | The expression "Form 1A" was replaced with the expression "Form 1D" wherever it appeared. |
| **Repeals** | - | The Electoral Regulations 2001 have been repealed. |
| **Schedules** | - | Form 1 was amended by deleting the figure "4" in the expression "Section 4, 63, 64". |
| | - | Forms 1A, 1B and 1C were inserted after Form 1. |
| | - | Form 1A was amended by substituting the expression "Section 12" with the expression "25B(3), and by deleting and replacing the heading "Form 1A" with the heading "Form 1D". |
| | - | Form 2 was amended by deleting clauses B and C. |

- Form 4 was amended by deleting and replacing the word "Surname" in the second column, with the words "Title(s) or Surname".
- Form 8 was amended by replacing the expression "Section 56(5)" with the expression "Section 58(8)".
- Forms 10 and 11 were inserted after Form 9.

The Electoral Amendment Act 2009 commenced on 27 October 2009. Section 5 of the same Act commenced on 10 March 2010 (as nominated by the Head of State), and section 15 commences on 01 June 2011.

*By the Electoral Amendment Act 2010, No.10:*

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| **Section 16(3)** | - | Subsection (3) was deleted and substituted with a new subsection (3). |
| **Section 18A** | - | Section 18 A was deleted and substituted with a new section 18A. |
| **Section 19(2)** | - | The former subsection (2) was repealed by section 5 of the Electoral Amendment Act 2010, No.10. |

*By the Electoral Amendment Act (No.2) 2010:*

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| **Section 19(2)** | - | A new subsection (2) was inserted. |
| **Section 34:** | - | Section 34 was amended by inserting "or eligible under the Act to transfer their registration within four (4) months up to polling day" after "within four (4) months up to polling day". |

The Electoral Amendment Act (No.1) 2010 commenced on 16 June 2010, and the Electoral Amendment Act (No.2) 2010 commenced on 16 August 2010.

*By the Audit Act 2013, No. 22:*

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| **Section 3A(1)(f)** | omitted "and audit report on such statements and accounts in a form approved and audited by the Controller and Chief Auditor" |

*By the Electoral Amendment Act 2015, No. 13:*

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| **Section 5:** | | Subsection (3)(c) was deleted and substituted with a new subsection (3)(c).<br>New subsections (4A) and (4B) were inserted after subsection (4). |
| **Section 8 and 9** | - | Deleted and replaced entirely with a new section 8. |
| **Section 16** | - | Subsection (1) and (2) was deleted and replaced with a new subsection (1). |

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| **Section 19** | - | Deleted and replaced entirely with a new section 19. |
| **Section 25F** | - | New sections 25F and 25G were inserted after section 25E. |
| **Section 35** | - | New subsection (1A) inserted after subsection (1). |
| **Section 94(5)** | - | Deleted and substituted the words "imprisonment for a term not exceeding three (3) months" with the words "a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months, or both". |
| **Section 97A** | - | Deleted and substituted the proviso with "the presentation is to be made, within 12 months, after the date of declaration of results of poll under section 80.". |
| **Section 106(1)** | - | Deleted and substituted the words "7 working days" with the words "10 working days". |
| **Section 106(2)** | - | Deleted and substituted the words "7 days" with the words "10 working days". |
| **Schedule** | - | Deleted and substituted Form 1A and Form 3 entirely with a new Form 1A and Form 3. |

By the *Electoral Amendment Act (No.2) 2015 (No.20)* commenced on 15 June 2015

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| **Section 5** | - | insertion of new subsections (9) and (10) |
| **Section 19** | - | substituted |
| **Section 45A** | - | amending subsections (1)(a) and (2). |

By the *Electoral Amendment Act (No. 3) 2015 (No.27)* commenced on 1 September 2015:

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| **Section 5** | - | in subsection (3A) inserted "at least 3 years ending with the day on which the nomination paper is lodged with the Commissioner" after "particular village"; and<br>in subsection (5)(b)(i) substituted "a jurisdiction" for "Samoa or another country". |
| **Section 10** | - | in paragraph (e) for "American Samoa" substituted with "another country" and substituted "2 years or upwards" with "4 years or more". |
| **Section 25B** | - | deleted subsection (1I) and (1J) and substituted with new subsection (1I). |
| **Schedule 2** | - | amendments made in column 2 items 1, and 5 and inserted a new item 4A, and in column 3, items 1 and 2. |
| **Amendments to forms** | | substituted a new Form 1A, for Form 1B<br>amendments in paragraphs 7 and 9, for Form 1D<br>amendment in paragraph 4, for Form 2, |

amendments in paragraph 4 and inserted a new paragraph (aa) in the declaration.

By the *Electoral Amendment Act (No. 4) 2015 (No. 36)* commenced on 1 September 2015:

**Section 19** - added new subsections (3) and (4).

**Section 22** - repealed**.**

By the *Electoral Amendment Act (No. 5) 2015 (No 37)* commenced on 2 September 2015:

**Section 5** - in subsection(3)(c) by substituting "or satisfies village service requirements (or both)" with "and satisfies village service requirements"; and substituted a new subsection (3A).

Lemalu Hermann P. Retzlaff
Attorney General of Samoa

*This Act is administered by*
*the Office of the Electoral Commissioner.*