Tonga

ELECTORAL REGULATIONS 2010

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OATH OF OFFICE 11

ELECTORAL REGULATIONS 2010

ELECTORAL ACT 1989

IN EXERCISE of the powers conferred by section 41 of the Electoral Act 1989, the Electoral Commission with the approval of Cabinet makes the following Regulations:

1 Oath of Office - Electoral Officers, Returning Officers, and persons acting for the Electoral Commission

(1) All persons holding a position within the Electoral Commission or acting on behalf of or for the Electoral Commission shall take an oath of office.

(2) The oath shall be administered by a Commissioner of the Electoral Commission, where practical to do so. Where the person is remote to the Commission the oath may be administered by a Magistrate, Police Officer or Member of the Clergy.

(3) Completed oaths shall be forwarded to the Commission and be retained by the Commission until the officer or person acting is no longer in or acting for the Commission.

(4) The oath of office shall be in the form set out in the Schedule.

2 Retention of the Roll of Electors

(1) The roll used at a polling station on polling day shall be returned to the Commission after the close of the poll in accordance with the instructions issued by the Supervisor of Elections or the Commission.

(2) The roll of electors used at polling stations in each constituency at the election of the Legislative Assembly shall be destroyed 6 months after the date of the election unless there is a Petition under Part V of the Act.

(3) Where there is a petition under Part V of the Act, the roll(s) of electors for that constituency or constituencies, as the case may be, shall be retained until the outcome of the Petition is known and avenues of appeal exhausted.

3 Keeping of Ballot Boxes and Ballot Papers

(1) The Commission shall retain all Ballot Boxes from one election until the next in good order and securely stored.

(2) The Commission shall, as the need arises, repair or replace Ballot Boxes.

(3) The Commission shall decide the size, shape and material of ballot boxes used in elections.

(4) The ballot papers for each constituency at the election of the Legislative Assembly shall be destroyed 6 months after the date of the election unless there is a Petition under Part V of the Act.

(5) Where there is a Petition under Part V, the ballot papers for that constituency or constituencies, as the case may be, shall be retained until the outcome of the Petition is known and avenues of appeal exhausted.

4 Special assistance to Blind or Physically Handicapped Electors

(1) Where any voter satisfies the returning officer that his sight is so impaired or that the voter is so physically handicapped that he is unable to vote without assistance, the returning officer or an assistant returning officer shall assist the voter.

(2) The voter and the returning officer or assistant returning officer shall enter an unoccupied voting cubicle and at the voter’s direction the returning officer or assistant returning officer shall mark, fold, and deposit the voter's ballot paper into a ballot box.

(3) The assistance of an elector shall be observed by the police officer stationed at the polling station.

(4) Should a police officer not be within the polling station or be otherwise engaged the assistance to the elector and the marking of their vote shall be observed by a person nominated by the voter, who cannot be a candidate for election.

5 Provision of Identity Card

(1) An elector on polling day shall, at the time of having their name checked against the roll at the polling station, produce to the Returning Officer their National Identity Card.

(2) An elector who is not able to produce their National Identity Card as he have lost, misplaced or cannot locate it and cannot produce another form of identity

satisfactory to the Returning Officer is to follow the requirements of section 14 of the Electoral Act.

6 Printing and publication of electoral advertisements, notices etc.

(1) A person shall not print, publish or distribute or cause, permit or authorize to be printed, published or distributed, an electoral advertisement, handbill, pamphlet, poster or notice unless:

(a) the name and address of the person who authorized the advertisement, handbill, pamphlet, poster or notice appears at the end thereof; and

(b) in the case of an electoral advertisement, handbill, pamphlet, poster or notice that is printed otherwise than in a newspaper, the name and place of business of the printer appears at the end thereof.

(2) A person shall not produce, publish or distribute or cause, permit or authorise to be produced, published or distributed during the election period a radio or video recording unless the name and address of the person who authorised the radio or video recording appears at the end of it.

(3) A person who contravenes subsection (1) or (2) commits an offence and shall be liable upon conviction to:

(a) if the offender is a natural person, a fine not exceeding $1,000;

(b) if the offender is a body corporate, to a fine not exceeding $5,000.

(4) Subsection (1) does not apply in relation to:

(a) T-shirt, lapel button, lapel badge, pen, pencil or balloon;

(b) business or visiting cards that promote the candidacy of any person in an election for the Legislative Assembly; or

(c) letters and cards: that bear the name and address of the sender, and that do not contain a representation or purported representation of a ballot paper for use in an election for the Legislative Assembly.

(5) In this section:

"**address**" of a person means an address , including a full street and Village or locality, at which the person can usually be contacted during the day. It does not include a post office box.

"**electoral advertisement, handbill, pamphlet, poster or notice**" means an advertisement, handbill, pamphlet, poster or notice that contains electoral matter, but does not include an advertisement in a newspaper announcing the holding of a meeting.

"**electoral matter**" means matter which is intended or likely to affect voting in an election.

"**electoral radio or video recording**" means a radio or video recording that contains electoral matter.

7 Publication of electoral advertisements on the internet

(1) A person commits an offence if:

(a) either the person publishes an electoral advertisement on the internet or the person causes, permits or authorises an electoral advertisement to be published on the internet;

(b) the electoral advertisement is intended to affect voting in an election;

(c) the electoral advertisement is paid for by the person or another person; and

(d) the name and address of the person who authorised the advertisement do not appear at the end of the advertisement.

(2) Any person who is convicted of an offence under this regulation shall be liable to:

(a) if the offender is a natural person, pay a fine not exceeding $1,000; or

(b) if the offender is a body corporate, pay a fine not exceeding $5,000.

(3) In this section:

"**address**" of a person means an address, including a full street address and Village or locality, located in Tonga, at which the person can usually be contacted during the day. It does not include a post office box.

8 Elector to vote at a designated polling station

(1) An elector at an election shall only vote at the polling station designated for his village.

(2) The Commission will inform electors of their designated polling station by public notice.

(3) There will be a designated polling station in each District for electors residing there temporarily and on the roll in another District.

9 Voting by Commission staff

An elector at an election who is a Returning Officer or an Assistant Returning Officer at a polling station may vote at either –

(a) the polling station designated for his village; or

(b) the polling station where he is situated on polling day.

10 Death of a Candidate

(1) Where a candidate for election in a Constituency dies between the close of Nominations and the polling day, the election for that Constituency shall continue.

(2) The Supervisor of Elections shall, where possible, arrange for the ballot papers for the constituency to be reprinted. If that is not possible the Supervisor of Elections will arrange for the name of the deceased candidate and the vote circle opposite the name to be struck through on all ballot papers for that constituency.

(3) Ballot papers reprinted shall have the space where the name of the deceased candidate would have been and the voting circle blacked out.

(4) The Supervisor of Elections shall publicly announce the death of the candidate and arrange with Returning Officers at each polling station in the constituency to make voters aware of the candidate's death.

11 Determination of order of names on a ballot paper

(1) Under section 9(5) of the Electoral Act a Returning Officer shall determine, if there are a greater number of candidates than vacant seats, the order in which the names of candidates are to appear on ballot papers to be used in the election.

(2) The position on the ballot paper shall be determined by a draw by lot, with the number drawn by a candidate being their position on the ballot paper.

(3) The Returning Officer shall, at the close of nominations for the election, at the place where nominations were received publicly produce and before all persons present at that place:

(a) a list of the names of candidates, in the order their nominations were received; and

(b) read out that list.

(4) The Returning Officer shall then:

(a) on pieces of paper of equal size, color and texture mark each with a different number, equal to the number of candidates;

(b) fold each piece paper equally to the same size, each of which is marked with a different number, and place into a container large enough to allow all the pieces of paper to move about freely; and

(c) ask each candidate in the order in which they nominated to draw from the container one piece of folded paper and hand it to the Returning Officer who shall unfold the paper and announce the number, which shall be the number position the candidate shall appear on the ballot paper.

(5) Where the candidate cannot be present they can authorize a person to act for them. Such authorization shall be in writing and given to the Returning Officer prior to the draw.

(6) Should a candidate not be present and have not authorized a person to act for them a Police Officer shall draw from the container on behalf of the candidate.

Made at Nuku'alofa on this 6th day of October 2010.

Electoral Commission

SCHEDULE

(Regulation 1)

OATH OF OFFICE

I, ……, swear before God that I will execute my office or the duties directed or given in accordance with the Electoral Act, the Electoral Commission Act and the regulations.

I will act only in accordance with the directions required under the relevant Act(s) and directions or notices given by the Electoral Commission and or the Supervisor of Elections and no other person or agency.

I shall not engage in political activity or aid or support a candidate standing for election. So help me God!

…….

Dated this ……**.....day of** ……..... **20**....

Before me…….....(signature)

Position Held…….....

Sworn at…….....(location or place)