

SAMOA

Arrangement of Provisions

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2013, No. 17

AN ACT to amend the Constitution of the Independent State of Samoa to provide for a minimum number of women Members of Parliament, and to exclude officers and employees of the Attorney-General from the Public Service. *[25th June 2013]*

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

1. Short title and commencement-(1) This Act may be cited as the Constitution Amendment Act 2013 and shall be read with and form part of the Constitution.

(2) Except for section 2, this Act commences on the date of assent by the Head of State.

(3) Section 2 commences on polling day of the next general election as appointed by the Head of State under Article 64 of the Constitution.

2. Members of the Legislative Assembly - In Article 44 of the Constitution:

(a) in clause (1), for “The” substitute “Subject to the provisions of this Article, the”; and

(b) after clause (1), insert:

“(1A) Subject to this Article, women Members of the Legislative Assembly shall:

- (a) Consist of a minimum of 10% of the Members of the Legislative Assembly specified under clause (1) which for the avoidance of doubt is presently five (5); and
- (b) Be elected pursuant to clause (1) or become additional Members pursuant to clause (1B), (1D) or (1E).

(1B) If, following any general election:

- (a) All members elected under clause (1) are men, the prescribed number of women candidates (if any) with the highest number of votes shall become additional Members; or
- (b) Less than the prescribed number of women candidates are elected under clause (1), the remaining prescribed number of women candidates (if any) with the highest number of votes shall become additional Members for the purposes of clause (1A).

(1C) Clause (1B) does not apply if the prescribed number of women are all elected under clause (1).

(1D) If the seat of an additional Member becomes vacant, it shall, despite Article 48, be filled by the woman candidate (if any) who has the next highest number of votes at the last election or general election.

(1E) Subject to Article 48, if a seat under clause (1) held by a woman becomes vacant, to which a man is elected to fill that vacant seat, the woman candidate (if any) with the highest number of votes from that election or the last election or general election shall become the additional Member.

(1F) If, in the selection of the required number of women under clause (1B), (1D) or (1E), two (2) or more candidates have equal number of votes, the additional Member shall be selected by lot before the Electoral Commissioner with the presence of the candidates or their authorised representatives and at least two (2) police officers.

(1G) If a woman candidate becomes an additional Member of a constituency (irrespective of a woman candidate being elected to that constituency), no other woman candidate from the same constituency shall become an additional Member unless there is no other woman candidate from any other constituency to make up the required prescribed number.”; and

(c) for clause (4), substitute “(4) Members of the Legislative Assembly (including additional Members) shall be known as Members of Parliament.”; and

(d) after clause (4), insert:

“(5) In this Article, unless the context otherwise requires:

“Additional Member” means a woman who is a Member of Parliament by virtue of clause (1B), (1D) or (1E) for the purposes of clause (1A);

“Highest number of votes” means the percentage of the total valid votes in a constituency polled by a woman candidate;

“Prescribed number” means the minimum number of women Members of Parliament specified under clause (1A).”.

3. Interpretation of the “Public Service” - For Article 83(g) of the Constitution, substitute:

“(g) Attorney-General, and officers and employees of the Attorney-General, whose office shall be called the Office of the Attorney-General; or”.

**The Constitution Amendment Act 2013
is administered by the Ministry of the Prime Minister.**

Printed by the Clerk of the Legislative Assembly,
by authority of the Legislative Assembly.