

ELECTORAL AMENDMENT BILL 2014

SAMOA

Arrangement of Provisions

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|---------------------------------|---|
| 1. Short title and commencement | 9. Section 97A amended |
| 2. Section 5 amended | 10. Section 106 amended |
| 3. Sections 8 and 9 substituted | 11. Schedule amended |
| 4. Section 16 amended | 12. General amendments |
| 5. Section 19 amended | 13. Consequential amendments and transitional regulations |
| 6. Section 25F inserted | |
| 7. Section 35 amended | Schedules |
| 8. Section 94 amended | |

2014, No.

A BILL INTITULED

AN ACT to amend the Electoral Act 1963 (“principal Act”).

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

1. Short title and commencement-(1) This Act may be cited as the Electoral Amendment Act 2014.

(2) This Act commences on the date of assent by the Head of State, subject to section 1(2), (3) and (4) of the Constitution Amendment Act (No.2) 2014.

2. Section 5 amended - For section 5 of the principal Act:

(a) for subsection (3)(c) substitute:

“(c) does not have a statutory declaration, in Form 1A of 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) or satisfies village service requirements (or both);” and

(b) after subsection (4) insert:

“(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 two (2) years.”.

3. Sections 8 and 9 substituted - For sections 8 and 9 of the principal Act substitute:

“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 body listed in the schedules to the Public Finance Management Act 2001 or 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.”.

4. Section 16 amended - For section 16(1) and (2) of the principal Act, substitute:

“16. Qualifications and transfer of electors-(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.”.

5. Section 19 amended - For section 19 of the principal Act, substitute:

“19. Qualifications of urban voters - Subject to the Constitution and this Act, an adult person is qualified to be registered as an urban voter if the person is a Samoa citizen listed in Column 3 of Schedule 2.”.

6. Section 25F inserted - After section 25E of the principal Act, insert:

“25F. Voter must register in 1 constituency only-(1) A person qualified to be registered as a voter under this Act must only register as such in one (1) constituency only, even if the person holds more than one (1) Matai title in different constituencies.

(2) If a voter is registered in two (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."

7. Section 35 amended - For section 35 of the principal Act, after subsection (1) insert:

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

8. Section 94 amended - In section 94(5) of the principal Act for "imprisonment for a term not exceeding three (3) months" substitute "a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months, or both".

9. Section 97A amended - For the proviso to section 97A of the principal Act substitute:

"but the presentation is to be made, within 12 months, after the date of declaration of results of poll under section 80."

10. Section 106 amended - In section 106 of the principal Act:

- (a) for subsection (1), for "7 working days" substitute "10 working days"; and
- (b) for subsection (2), for "7 days" substitute "10 working days".

11. Schedule amended - In the Schedule of the principal Act, for Form 1A and Form 3 substitute:

**“FORM 1A
(Sections 5(3)(c) and (6)(d)(ii), 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 in Samoa for a period equalling or exceeding three (3) years and therefore satisfies the three (3) year residential requirement in accordance with section 5(3)(b) of the Electoral Act 1963; or
- (b) I have rendered services to our village (*list village or villages, including any sub-village*) in accordance with the customs of our village and therefore satisfies the village service requirements as defined in section 5(3A) 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.

SWORN atthis)
day of 20__)
)

Before me:

.....
Barrister and Solicitor
of the Supreme Court of Samoa

FORM 3
(Section 35(1))

VOTERS ROLL FOR TERRITORIAL CONSTITUENCIES

VOTERS ROLL FOR TERRITORIAL CONSTITUENCY OF <i>(insert name and number of constituency)</i>					
Number on Roll	Matai Title	Surname	Christian /First Name	Village or Nu'u	Occupation or Description
”					

12. General amendments-(1) In the principal Act or any other enactment:

- (a) for “individual voter” (in all its grammatical variations), substitute “urban voter”;
- (b) for “individual voters roll” (in all its grammatical variations), substitute “urban voters roll”;
- (c) for “Deputy Commissioner” (Elections), substitute “Assistant Commissioner”;
- (d) for “Deputy Electoral Officer”, substitute “Assistant Electoral Officer”;
- (e) for “Deputy Returning Officer”, substitute “Assistant Returning Officer”;
- (f) for “Deputy Registrar”, substitute “Assistant Registrar”;
- (g) for reference to “elector”, “an elector or voter”, “elector and voter” (with all its grammatical variations) substitute “voter” (with all its grammatical variations);
- (h) for reference to “electoral roll” substitute “territorial constituency roll” (with all its grammatical variations);

(i) for reference to “constituency” in the context of territorial or individual voters substitute “territorial constituency” or “urban constituency” (with all its grammatical variations), as the case may be.

(2) In sections of the principal Act listed in column (1) of Schedule 1 of this Act, for matters in column (2), substitute the corresponding matters in column (3).

(3) Schedule 2 of this Act sets out in details other consequential amendments. Matters in column (2) of Schedule 2 are to be substituted with matters in column (3) or repealed in their entirety. Matters in column (4) of Schedule 2 are new matters to be inserted into their respective sections.

(4) In the principal Act, renumber the current Schedule as “Schedule 1” and after that Schedule, insert Schedule 2 as set out in Schedule 3 of this Act.

13. Consequential amendments and transitional regulations-(1) In the Territorial Constituencies Act 1963:

- (a) in the Long Title, delete “territorial”;
- (b) in section 1, delete “Territorial”;
- (c) after section 2, add:

“**2A. Prescribing urban constituencies** - The boundary of the two (2) urban constituencies referred to in Article 44(1)(b) of the Constitution is set out in Part 2 of the Schedule of this Act.”;

(d) for section 3 -

- (i) renumber the current provision as subsection (1); and
- (ii) after the current provision, insert:

“(2) For election of Members of Parliament for the six (6) constituencies prescribed under subsection (1):

(a) for Vaimauga West Constituency No.2 -

- (i) one (1) Member of Parliament is to be elected from the villages of Vaiala (including sub-villages of Vaipuna, Vini,

Levili and Fa'atoia), Moataa (including sub-villages of Vaivase-uta, Vaivase-tai and Matafagatele), Maagiagi (including sub-villages of To'omatagi) Alaoa and Ataga; and

(ii) one (1) Member of Parliament is to be elected from the villages of Matautu, Tanugamanono (including sub-villages of Leufisa, Papaloloa, Papauta and Tanumaleko), Vailima (including sub-villages of Tiapapata, Letava and Afiamalu) and Apia (including the sub-villages of Aai o Niue, Aai o Fiti, Alamagoto, Fugalei, Lalovaea, Leifiifi, Lelata, Leone, Ma'agao, Maluafou, Matafele, Moto'otua, Mulinuu, Sogi, Saleufi, Savalalo, Tauese, Taufusi, Togafuafua and Vaisigano);

(b) for A'ana North No.1 Constituency No.7 -

(i) one (1) Member of Parliament is to be elected from the village of Faleasi'u (including the sub-village of Sapulu); and

(ii) one (1) Member of Parliament is to be elected from the village of Fasito'outa (including the sub-village of Satui and Mataili'ili);

(c) for the Safata Constituency No.13 -

(i) one (1) Member of Parliament is to be elected from the villages of Vaiee, Nuusuatia, Lotofaga, Sataoa and Saanapu; and

(ii) one (1) Member of Parliament is to be elected from the villages of Mulivai, Fusi, Fausaga and Tafitoala;

(d) for the Falealili Constituency No.15 -

(i) one (1) Member of Parliament is to be elected from the village of Utulaelae, Sapo'e, Salani, Salesatele and Siuniu; and

(ii) one (1) Member of Parliament is to be elected from the villages of Sapunaoa, Satalo, Malaemalu, Tafatafa, Matautu, Vaovai, Poutasi and Saleilua;

(e) for the Faasaleleaga No.1 Constituency No.23 -

(i) one (1) Member of Parliament is to be elected from the villages of Salelavalu, Iva, Vaiafai, Vaisaulu, Lalomalava and Safua; and

(ii) one (1) Member of Parliament is to be elected from the village of Salelologa;

(f) for the Salega Constituency No.37 -

(i) one (1) Member of Parliament is to be elected from the villages of Fagafau, Faiaai, Fogatuli, Samata-i-uta and Samata-i-tai; and

(ii) one (1) Member of Parliament is to be elected from the villages of Fogasavaii, Sagone and Vaipua.

(3) The Commissioner may determine the references to each of the constituencies under the provisions of subparagraphs of subsection (2).”.

(e) in the Schedule -

(i) renumber the current Schedule as **“PART 1 - BOUNDARIES FOR TERRITORIAL CONSTITUENCIES”**;

and

(ii) after the current Schedule insert:

**“PART 2 - BOUNDARIES FOR
URBAN CONSTITUENCIES**

URBAN CONSTITUENCY EAST

All that area of land bounded for under the Vaimauga East Territorial Constituency No.1 and the Vaimauga West Territorial Constituency No.2 set out in Part 1 of this

Schedule, which includes the following villages and sub-villages: Fagali'i, Lauli'i, Letogo, Vaialele, Aai Niue, Aai o Fiti, Afiamalu, Alamagoto, Apia, Faatoia, Fugalei, Lalovaea, Leifiifi, Lelata, Leone, Letava, Leufisa, Levili, Ma'agao, Maagiagi, Malifa, Maluafou, Matafele, Matautu-Tai, Matautu-Uta, Moata'a, Moto'otua, Mulinu'u, Palisi, Papaloloa, Papauta, Saleufi, Savalalo, Sogi, Tamaligi, Tanugamanono, Tanumaleko, Tauese, Taufusi, Tiapapata, Togafu'afu'a, To'omatagi, Tufuiopa, Vaiala, Vailima, Vaimea, Vaipuna, Vaisigano, Vaivase-Tai, Vaivase-Uta, Vaoala and Vini.

URBAN CONSTITUENCY WEST

All that area of land bounded for under the Faleata East Territorial Constituency No.3 and the Faleata West Territorial Constituency No.4 set out in Part 1 of this Schedule, which includes the following villages and sub-villages: Alafua, Lepea, Lotopa, Moamoa, Pesega, Seese, Sinamoga, Tuaefu, Tuanaimato, Tulaele-Tai, Ululoloa, Vailoa, Vaimoso, Elise-Fou, Falelauniu, Lalonea, Puipaa, Safune, Saina, Siusega, Talimatau, Tanumapua, Tapatapao, Tulaele-Uta, Vaigaga, Vaitele and Vaiusu.”.

(2) In any other enactment, for “Territorial Constituencies Act 1963” substitute “Constituencies Act 1963”.

(3) For paragraph (n) of section 5 of the Public Holidays Act 2008, substitute:

“(n) the Electoral Commission, the Electoral Commissioner, officers, staff of or other persons engaged or directed by the Commission or Commissioner working on public holidays during general elections or other elections for Members of Parliament.”.

(4) For section 45 of the Police Service Act 2009, after subsection (6) insert:

“(7) This section is subject to the Electoral Act 1963 in relation to resignation of any person under this Act to stand as a candidate for election as a Member of Parliament.”.

(5) For section 10 of the Prisons and Corrections Act 2013, after subsection (2) insert:

“(3) This Act is subject to the Electoral Act 1963 in relation to resignation of any person under this Act to stand as a candidate for election as a Member of Parliament.”.

(6) For section 56 of the Public Service Act 2004, after subsection (3) insert:

“(4) This section is subject to the Electoral Act 1963 in relation to resignation of any person under this Act to stand as a candidate for election as a Member of Parliament.”.

(7) In the Plebiscite Act 1990:

(a) for section 2 -

(i) for the definitions of “Chief Returning Officer”, “Plebiscite Administrator”, “Registrar” and “Returning Officer” substitute:

““Chief Returning Officer” means the person designated as such under section 6(3)(a), and includes a Returning Officer authorised pursuant to section 26(2) to exercise the powers, duties, and functions of the Chief Returning Officer;

“Electoral Commissioner” means the person appointed as such under an Act of Parliament;

“Registrar” means the person designated as such under section 6(3)(b), and includes any person authorised to exercise the powers, duties, and functions of the Registrar;

“Returning Officer” means a Returning Officer specified under section 6(1), and includes an Assistant Returning Officer;”;

(ii) insert:

““Commission” means the Electoral Commission established under an Act of Parliament;”;

(b) for sections 5 and 6, substitute:

5. Electoral Commissioner - The Electoral Commissioner is responsible for the conduct of a plebiscite under this Act.

6. Chief Returning Officer, Assistant Registrar and other officers-(1) Returning Officers, Assistant Registrars and other officers of the Electoral Commission have the powers and duties conferred on them by this Act and any other powers and duties as are authorised in writing by the Electoral Commissioner.

(2) A Returning Officer has in and about the polling place for which he or she is appointed all the powers and duties of a Chief Returning Officer, and, subject to any directions of the Electoral Commissioner, is subject to the authority and control of the Chief Returning Officer.

(3) The Electoral Commissioner may, for the purpose of this Act, designate in writing:

(a) Returning Officers of the Commission to be the Chief Returning Officer or Assistant Returning Officers; or

(b) the Assistant Registrar of the Commission to be Registrar.”.

(c) in that Act or any other enactment -

(i) for “Plebiscite Administrator”, substitute “Electoral Commissioner”;

(ii) for “Deputy Returning Officer” substitute “Assistant Returning Officer”.

(8) Regulations may be made, within 12 months from the commencement of this Act, under section 136 of the principal Act to deal with any transitional matters necessary to implement the amendments under this Act for the purposes of the next general elections.

SCHEDULE 1
(section 13(2))

GENERAL AMENDMENTS TO PENALTIES

Section amended <i>(Column 1)</i>	Delete <i>(Column 2)</i>	Substitute <i>(Column 3)</i>
12(2)	1	20
14	1	20
18B(4)	1	20
18B(4)	2	40
25B(1K)	1	20
25E(2)	2	40
32(4)	1	20
40	8	50
41(1)	8	50
42	1	20
43	1	20
68(2)	1	20
69(4)	2	40
70(5)	2	40
73(5)	5	30
88(e)	8	50
88(f)	8	50
88(g)	2	40
89(1)	8	50
90	8	50
91	8	50
136	2	20

SCHEDULE 2
(section 13(3))

Section (column 1)	Repeal (column 2)	Substitute (column 3)	Insert new provision (column 4)
2	Definition of “elector”		
	Definition of “electoral	“territorial constituency roll”	

	roll”	means the roll of the voters of a territorial constituency;	
2	Definition of “individual voters roll”	“urban constituency roll” means the roll of voters of an urban constituency;”	
2	Definition of “voter”	“voter” means person registered, or qualified to be registered, as: (a) a territorial voter on the territorial constituency roll; or (b) an urban voter on the urban constituency roll;”	
2	Definition of “roll”	“roll” or “voters roll” means a territorial constituency roll, an urban constituency roll, a main roll or a supplementary roll;”	
2			“kinship connection” means authentic kinship connections to the alaafaga or afioaga of the customary land within a territorial constituency;

2			“territorial voter” means a person registered as a voter under a territorial constituency roll
2			“urban voter” means a person registered as a voter under an urban constituency roll.”
5(1)	“an elector of a constituency”	“a voter of a territorial constituency”	
6	“an elector or voter who has been registered on an electoral or the individual voters’ roll”	“a voter who has been registered on a territorial or urban constituency roll”	
7	“elector of a constituency, he or she was not in fact registered as an elector of that constituency but was registered in error as an elector of	“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”	

	some other constituency”		
Part III Heading	“PART III REGISTRATION OF ELECTORS”	“PART III VOTERS REGISTRATION IN TERRITORIAL CONSTITUEN- CIES”	
16A(9)(a)	“an elector of a constituency”	“a territorial constituency voter”	
16A(9)(a)	“registration as an elector of another constituency”	“registration as a voter of another territorial constituency”	
16A(9)(b)	“registered as an elector of the other constituency”	registered as a voter of the other territorial constituency	
16A(9)(b)	“an elector of the original constituency”	“a voter of the original territorial constituency”	
17	subsection (4)		
Part IV Heading	“PART IV INDIVIDUAL VOTERS”	“PART IV VOTERS REGISTRATION IN URBAN CONSTITUEN- CIES”	
20	section 20		
25A(1)	“an elector in any constituency”	“territorial voter”	
25B(5)	“an elector”	“a territorial voter”	
25E(1)	“an elector in a constituency or as an individual voter”	“a territorial or urban voter”	

26(1)	“roll for a constituency, or individual voters”	“territorial or urban constituency roll”	
32(5)	Full stop at end of paragraph (b)	Semi-colon	“(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.
32	Subsection (6)		
35(3)	“electoral and individual voters’ rolls”	“territorial constituency and urban constituency rolls”	
36A(1)(a)	“electoral roll for the constituency or Individual Voters”	electoral roll for the territorial or urban constituency”	
36A(1)(a)(i)	“the constituency or Individual Voters”	the territorial or urban constituencies”	
36A(2)	“constituency or Individual Voters is writ day in relation to an election in that	“territorial or urban constituencies is writ day in relation to an election in those constituencies”	

	constituency or for Individual Voters”		
38(3)	“electoral roll for a constituency”	“territorial constituency roll”	
39AA(1)(a)	“an elector”	“territorial voter”	
48(1)	“constituency or for the individual voters, by not less than two (2) registered electors of that constituency, or by two (2) registered voters”	“territorial or urban constituency by at least two (2) registered voters of that constituency”	
50(1)(b)	“registered elector of a specified constituency, or, registered as an individual voter”	“registered voter of that territorial or urban constituency”	
50(1)(c)	“two (2) registered electors of the constituency for which the nomination is made, or, in the case of an individual voter, by at least two (2) registered voters”	“two (2) registered voters of that territorial or urban constituency”	

70A	“the main roll or a supplementary roll for a constituency or on the main or supplementary individual voters’ roll as the case may be and who is qualified to be registered as an elector for the constituency or as an individual voter shall be qualified to vote at an election in that constituency or as an individual voter as the case may be”	“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”	
99(2)	“an elector of his or her constituency or to an individual voter”	“a territorial or urban voter”	
111(4) (proviso)	“an elector or voter of the constituency or individual voters”	“a territorial or urban voter”	
Form 1D	“Declaration of Personal Details for application to be registered as an Elector”	“Declaration of Personal Details for application to be registered as a territorial voter”	

Form 1D	<p>“I am currently registered on the roll of (Insert constituency) or the individual voters roll 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;</p> <p>(a) I am not currently registered on any roll as either an elector or a voter;”</p>	<p>“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;</p> <p>(b) I am not currently registered on any roll as either a territorial or urban voter;</p>	
Form 5	<p>“WE, the undersigned registered electors of the Constituency, registered individual voters, nominate (Name), of (Residence and occupation), a registered elector of the Constituency, a registered</p>	<p>“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)</p>	

	individual voters, with his (or her) consent, as a candidate at the election of a member of Parliament for the Constituency, Individual Voters”	consent, as a candidate at the election of a member of Parliament for the (<i>territorial/urban</i>). Constituency”	
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SCHEDULE 3
(Section 13(4))

“SCHEDULE 2
(Sections 16(1) and 19)

**PERSONS QUALIFIED FOR REGISTRATION AS VOTERS
UNDER THE TERRITORIAL OR URBAN CONSTITUENCIES**

Item No.	TERRITORIAL CONSTITUENCY (Column 1)	URBAN CONSTITUENCY (Column 2)
1	Persons residing on customary land and other land (except for item 1 of Column 2) within the territorial constituency.	Persons (whether or not Matai title holders) residing on any land other than customary land within the boundary of the territorial constituency.
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 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	Persons whose name is validly registered in the individual voter roll before the commencement of the Electoral Amendment Act 2014 are treated as registered under the urban constituency in which the person resides.

	to Matai title acquired by a brother or sister of a voter from or through the spouse of the brother or sister.	This provision applies only to the 2016 General Elections.
4	Persons residing on customary land within Vaimauga and Faleata constituencies who have no kinship connections to those territorial constituencies are to be registered in the territorial constituencies in which they have kinship connections.	Persons registered in the individual voters roll who reside in a territorial constituency outside the boundary of the 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.
5	Persons residing on land within urban constituencies who have kinship connections to Vaimauga or Faleata constituency who choose to be registered in the Vaimauga or Faleata constituency in which they have kinship connections.	
