

# ELECTORAL AMENDMENT BILL 2020

## SAMOA

### Explanatory Memorandum

#### 1.0 Object and reasons:

- 1.1 The Bill seeks to amend the Electoral Act 2019 (“principal Act”) and to give effect to FK (19) 46 dated 13 January 2020.
- 1.2 The object of the Bill is to strengthen provisions regarding the process for the conduct of elections in Samoa.

#### Clauses:

- Clause 1: - provides for the short title and commencement.
- Clause 2: - amends section 2 of the principal Act to insert new definition.
- Clause 3: - amends section 8 of the principal Act to:
- (a) provide for the Commissioner’s power to disqualify a candidate contesting for election if he or she does not meet qualifications to run as a candidate in the elections;
  - (b) require the candidate and three (3) matai’s of the candidate’s constituency to each provide statutory declarations to confirm that he or she satisfies the residency and monotaga requirements under section 3(2)(b) of the principal Act; and
  - (c) omit religious contributions in the definition of monotaga;

- (d) substitute the number of the fine and term of imprisonment imposed for making false declaration in the prescribed form.

**Clause 4:** - amends section 9 of the principal Act by substituting with a new section 9 to provide for the review of the Commissioner’s decision to disqualify a candidate under section 8(2).

**Clause 5:** - amends section 13 of the principal Act to insert a new subsection (8) relating to the offence of misleading the Commissioner and the duty of the Commissioner to institute prosecution against a person that the Commissioner believes breached the offence of misleading the Commissioner or committed the offence of aiding, abetting, counselling or procuring of the offence.

**Clause 6:** - repeals section 21(5) of the principal Act.

**Clause 7:** - amends section 43(2) of the principal Act by substituting “polling day” with “the commencement of the pre-polling period as designated under section 60(2)” as the new cut-off date for campaigns.

**Clause 8:** - amends section 61 of the principal Act by inserting new subsections to include additional persons qualified to pre-poll:

- (a) carers of pensioners and carers of persons living with disabilities; and
- (b) person confirmed to be employed in an Office providing essential services as listed under section 5 of the Public Holidays Act 2008.

**Clause 9:** - amends section 63 of the principal Act to:

- (a) provide for the requirement to publish within 12 months after every election the list of names and addresses of people who did not register to vote and registered to vote but did not vote; and

(b) substitute the period from “3” to “12” months for the Electoral Commissioner to issue a penalty notice to a person whose name appears on the published list of those who did not register to vote and registered but did not vote.

**Clause 10:** - amends section 65 of the principal Act to provide reasonable time off to vote for a voter employed in essential services during general elections or a voter required to work during by-election.

**Clause 11:** - amends section 73 of the principal Act to provide for the definition of an approved scrutineer and the restrictions that apply to an approved scrutineer when using polling booths.

**Clause 12:** - amends section 101 of the principal Act to change the period for the presentation of the traditional O’o or momoli from within “two, 2” to “three, 3” years after the date of the declaration of results of a poll under section 84.

**Clause 13:** - provides for consequential amendments to section (5)(n) of the Public Holidays Act 2008 and section (2) of the Electoral Commission Act 2019.

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(Hon FAAOLESA Katopau Ainuu)

**MINISTER OF JUSTICE AND COURTS ADMINISTRATION**  
**AND MINISTER RESPONSIBLE FOR THE**  
**ELECTORAL COMMISSION**