

ELECTORAL COMMISSION BILL 2018

SAMOA

Explanatory Memorandum

1.0 Object and reasons:

1.1 The Electoral Commission Bill 2018 (“Bill”) seeks to establish the Electoral Commission and consolidate matters on the position of the Electoral Commissioner (Commissioner) dealt with under sections 3, 3A, 3B and 4 of the Electoral Act 1963 that are to be repealed by this Bill.

1.2 The objects of the Bill are:

- (a) to establish the Electoral Commission; and
- (b) to provide for the establishment of the position of Electoral Commissioner, the terms of appointment, resignation, termination and vacancy of the position of the Electoral Commissioner; and
- (c) to set out the appointment of staff of the Electoral Commission.

Clauses:

PART 1 - PRELIMINARY

Clause 1: - provides for the short title and commencement date of the Bill.

Clause 2: - provides for definitions of terms used within the Bill.

PART 2 - ELECTORAL COMMISSION

- Clause 3:** - provides for the establishment of the Electoral Commission.
- Clause 4:** - provides for the functions of the Electoral Commission.
- Clause 5:** - provides for the independence of the Electoral Commissioner when carrying out certain functions under this clause.
- Clause 6:** - provides for the Electoral Commissioner to prepare and provide a report within six (6) months of the return of the writ after a general election on the administration of that general election to the Legislative Assembly.

PART 3 - ELECTORAL COMMISSIONER

- Clause 7:** - provides for the establishment and appointment of the Electoral Commissioner.
- Clause 8:** - provides for the terms of appointment of the Electoral Commissioner.
- Clause 9:** - provides for the resignation, termination and vacancy of the office of the Electoral Commissioner.
- Clause 10:** - provides that the Electoral Commissioner, declare pecuniary interests and convictions upon his appointment.
- Clause 11:** - provides that the Acting Electoral Commissioner may be appointed by the Head of State acting on the advice of Cabinet, if the office of the Electoral Commissioner becomes vacant or if the Electoral Commissioner is unable to perform functions, duties and powers under this Bill.

PART 4 - ADMINISTRATION AND FINANCE

- Clause 12:** - sets out the appointments of staff of the Electoral Commission.
- Clause 13:** - provides for the secondment of public servants to the Electoral Commission.
- Clause 14:** - empowers the Electoral Commissioner to issue guidelines for employment under this Bill.
- Clause 15:** - provides for the remuneration of staff determined by the Commissioner with the approval of Cabinet.
- Clause 16:** - provides that the Electoral Commissioner must ensure a corporate plan is prepared pursuant to requirement applying to government agencies.
- Clause 17:** - provides that a member of staff must report any breach or suspected breach of any provision of the Act to the Electoral Commissioner and the Commissioner to report to the appropriate authority for investigation, prosecution or other action as case requires.
- Clause 18:** - provides that the funds of the Commission consist of monies appropriated by Parliament for this Bill. It also provides for the application of the Public Finance Management Act 2001 and the Audit Act 2013 to the funds of the Commission.
- Clause 19:** - provides that the Electoral Commissioner prepares and provides an annual report on the work of the office of the Electoral Commission to the Speaker for tabling in the Legislative Assembly.

PART 5 - MISCELLANEOUS

- Clause 20:** - provides for an Electoral Boundaries Committee, in the circumstances where boundaries of constituencies are required to be reviewed, the Head of State on the recommendation of Cabinet may appoint three (3) members of this Committee to review and provide a

report to the Legislative Assembly and Cabinet for approval.

- Clause 21:** - provides exemption from personal liability.
- Clause 22:** - empowers the Head of State to make regulations acting on the advice of Cabinet.
- Clause 23:** - repeals sections 3, 3A, 3B and 4 of the Electoral Act 1963 and provides for the transition and saving provisions.

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(Hon FAAOLESA Katopau Ainuu)

MINISTER OF JUSTICE AND COURTS ADMINISTRATIO AND
MINISTER RESPONSIBLE FOR THE ELECTORAL COMMISSION