

SAMOA

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2000, No. 8

AN ACT to amend various provisions of the Electoral Act 1963. *[6th July 2000]*

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 2000 and shall be read with and form part of the Electoral Act 1963 (“the principal Act”).

(2) This Act shall come into force on the day it is assented to by the Head of State.

2. Definition of offence – Section 2 of the principal Act is amended by inserting the following definition to the Interpretation section:

“offence” means any act or omission for which anyone can be punished under the Crimes Ordinance 1961 or under any other enactment and shall include any crime prescribed by law.”

3. Qualifications of members-(1) Section 5(3) of the principal Act is amended by deleting the phrase “12 months” and replacing it with the phrase “3 years”.

(2) Section 5(4) of the principal Act is amended by deleting the phrase “12 months” and replacing it with the phrase “3 years”.

(3) Section 5(6) of the principal Act is amended by inserting paragraph (c) as follows:

“(c) A person, who is appointed to a post in an international organisation overseas under Government sponsorship or nomination.”

(4) Section 5(7) is hereby added:

“(7) For the purposes of this section “resided in Samoa” shall mean a person -

(a) Who has established a principal place of residence in Samoa where the person lives for at least 10 months of each year for a consecutive three year period ending on nomination day; or

(b) Who operates a business, is engaged in a profession or occupation in which he spends at least 10 months of each year in Samoa and pays the

requisite taxes, duties and other fees or levies related to such activity; or

- (c) Who resides in a village and undertakes and contributes to all the necessary cultural requirements reflecting his status on a regular basis for at least 10 months of every year for a consecutive three year period ending on nomination day.”

(5) Section 5(8) is hereby added:

“(8) The calculation of the time periods provided in subsection (7) of this section shall not include any temporary absences by persons who are required to be absent from Samoa pursuant to the conduct of official duties where they are the holder of a Government position, post or office or a member or official of a representative body or an organisation which is based in Samoa.”

4. Vacancies – Section 10 of the principal Act is amended by deleting paragraph (j).

5. Proof of disqualification – Section 11 of the principal Act is amended as follows -

- (a) By deleting all references to paragraph (j);
- (b) By deleting the phrase “either of the grounds” where it appears in the section and replacing it with the words “the grounds”;
- (c) By deleting the word “paragraphs” where it appears in the section and replacing it with the word “paragraph”;
- (d) By deleting from subsection (4) the words “...the person with whom the member charged is alleged to have had sexual intercourse or ...”;
- (e) By deleting from subsection (5) the words “the person with whom the member charged is alleged to have had sexual intercourse, or”.

6. Registration of Political Parties – Part II of the principal Act is amended by inserting Part IIA as follows:

**“PART IIA
POLITICAL PARTIES**

15A. Registration of Political Parties-(1) Subject to this part of this Act, an eligible political party may be registered for the purposes of this Act.

(2) The Chief Electoral Officer shall establish and maintain a Register known as the Register of Political Parties, containing a list of Political Parties registered under this Part of the Act.

15B. Application for Registration-(1) An application for the registration of an eligible political party may be made to the Chief Electoral Officer -

- (a) By the Secretary of the party; or
- (b) By a Member of Parliament who is a current financial member of that party.

(2) An application for the registration of an eligible political party -

- (a) Shall be in writing; and
- (b) Shall be signed by the applicant; and
- (c) Shall -
 - (i) set out the name of the party; and
 - (ii) if the party wishes to be able to use for the purposes of this Act an abbreviation of its name; set out the name of that abbreviation; and
 - (iii) set out the name and address of the applicant and the capacity in which he or she makes the application; and
 - (iv) where the applicant is not the Secretary of the party set out the name and address of the Secretary of the party; and
 - (v) be accompanied by a declaration made by the applicant in the manner provided by section 19 of the Oaths, Affidavits and Declarations Act 1963, that the party has at least

100 current financial members who are eligible to enroll as electors or voters.

(3) Upon receipt of an application for the registration of a political party, the Chief Electoral Officer shall deal with the application in accordance with this part of this Act and determine whether the party can be registered.

(4) No application for registration will be accepted after the day on which the writs for a election or by-election are issued.

(5) No application for registration will be accepted where in the opinion of the Chief Electoral Officer the name of the proposed party or any proposed abbreviation of such -

- (a) Is indecent or offensive; or
- (b) Is excessively long; or
- (c) Is likely to cause confusion or mislead electors; or
- (d) Contains any reference to a title or Honour or similar form of identification.

15C. Registration-(1) Where the Chief Electoral Officer determines that a political party should be registered, the Chief Electoral Officer shall -

- (a) Register the party by entering in the register -
 - (i) the name of the party; and
 - (ii) if an abbreviation of the name of the party was set out in the application, that abbreviation and;
- (b) Give written notice to the applicant that the party has been registered; and
- (c) Cause notice of the registration of the party to be published in the Gazette.

(2) When an application for registration is refused the Chief Electoral Officer shall give the applicant written notice of the refusal and the reasons for such refusal.

(3) It shall be the duty of the Secretary of any political party registered to -

- (a) Supply the address for service of all correspondence under this part of the Act to the Chief Electoral Officer;

- (b) Notify the Chief Electoral Officer immediately of any changes in the address for service of correspondence;
 - (c) Notify the Chief Electoral Officer immediately whenever a new Secretary of the party is appointed;
 - (d) Notify the Chief Electoral Officer if the number of current financial members falls below 100.
- (4) The Chief Electoral Officer may amend the details of the Register from time to time when there have been any changes pursuant to subsection (3).
- (5) Where a registered political party seeks to change its name or its abbreviation, no amendment to an existing registered party may be made but a fresh application for registration must be submitted to the Chief Electoral Officer for his consideration.

15D. Inspection of Register – Members of the public are entitled to inspect the register during working hours on any day on which the Office of the Chief Electoral Officer is open.

15E. Cancellation of registration-(1) The Chief Electoral Officer shall cancel the registration of any registered political party -

- (a) As the result of a request on behalf of the party made by the Secretary or other Office holder;
 - (b) Where the Chief Electoral Officer becomes aware that the number of current financial members falls below 100.
- (2) Where registration of a political party is cancelled the Chief Electoral Officer -
- (a) Shall give written notice to the applicant and the Secretary of the political party with the reasons for cancellation;
 - (b) Cause notice of the cancellation to be published in the Gazette.”

7. Qualifications of electors – Section 16 of the principal Act is amended by deleting paragraph (g) of subsection (2).

8. Compulsory registration of electors and voters – Section 18 of the principal Act is amended by inserting section 18B as follows:

“18B. Compulsory registration of electors and voters-

(1) Every person qualified to be registered as an elector or a voter under this Act shall (if he is in Samoa), make application in the prescribed form to the Registrar of Electors for registration as an elector or voter within one month after the date upon which he first becomes qualified to be registered as an elector or voter.

(2) Every person commits an offence against this section who being required by this section to apply for registration as an elector or voter, during any period, knowingly and wilfully fails to do so.

(3) No person who applies for registration as an elector or voter shall be liable to prosecution for an earlier failure to apply for registration.

(4) Every person who commits an offence against this section shall be liable to a fine not exceeding one penalty unit for a first conviction and to a fine not exceeding two penalty units on any subsequent conviction.”

9. Qualifications of voters – Section 19(1) of the principal Act is hereby amended by adding the words “or grandchild” after the words “is the child” which appears in paragraph (b)(i) of the section.

10. Nomination fee – Section 49 of the principal Act is amended by deleting the figure “\$100” and replacing it with the figure “\$300”.

11. Affiliation with Registered Political Party – Section 56A of the principal Act is repealed and replaced by the following section -

“56A. Name of Political Party – Where a name is shown on a nomination paper or other document in which a candidate lists a registered political party, the Chief Electoral Officer may

require confirmation of such candidates eligibility to claim that accreditation.

(2) No unregistered political party shall be recognised by the Chief Electoral Officer.”

12. Polling places – Section 59 of the principal Act is amended by adding the following subsection 1A -

“1A. The Chief Electoral Officer may also designate polling places for any constituency which may be located outside the territorial boundaries of such constituency where considered appropriate.”

13. Polling – Section 70 of the principal Act is hereby amended by inserting the following section 70E -

“70E. Employees to have time off to vote-(1) Every elector or voter shall be given reasonable time for the purpose of voting and it shall not be lawful for any employer to make any deduction from any remuneration payable to any such worker in respect of such absence.

(2) Subject to subsection (1) where an elector or voter has not had a reasonable opportunity to vote before commencing work, every employer shall allow such employee to leave his work for the sole purpose of voting not later than 12 noon on a working day for the remainder of the day.

(3) Subject to subsections (1) and (2) where an elector or voter is required to work after 12:00 noon of polling day for the purpose of carrying on any essential work or service his employer shall allow the worker to leave his work for a period not exceeding 2 hours for the purpose of voting.”

14. Voter blind or unable to read or write – Section 73(5) of the principal Act is amended by adding the words “or to a fine not exceeding 5 penalty units or to both” after the words “...exceeding 3 months”.

15. Scrutiny of the rolls – Section 76 of the principal Act is amended by deleting subsection (2) and replacing it with the following -

“(2) The Chief Electoral Officer (and his assistants) or such Returning Officers as designated by the Chief Electoral Officer to scrutinise the particular roll, shall be present at the scrutiny in addition to one person appointed as scrutineer by each candidate.”

16. Counting the votes – Section 79 of the principal Act is amended by adding the words “and such Returning Officers designated under section 76 of this Act” after the words “with such assistants”.

17. Fee for recount – Section 81 of the principal Act is amended by deleting the figure “\$30” in subsection (2) and replacing it with the figure “\$500”.

18. Exception to Illegal activities – Section 99A of the principal Act is amended by inserting subsection (4) as follows-

“(4) For the purposes of Part IX of this Act the provision of light refreshments in the form of food and drink by, or on behalf of, any candidate during the hours of polling during an election shall not be an illegal or corrupt practice subject to the following conditions -

- (a) The food and / or drink is provided or presented not less than 100 metres from any polling place; and
- (b) The food and / or drink provided or presented to each individual does not amount to more than \$10.00 in total value.”

19. Punishment for corrupt or illegal practice – Section 101 of the principal Act is amended by -

- (a) Deleting the figure \$400 from paragraph (a) and replacing it with the phrase “20 penalty units”;
- (b) Deleting the figure \$200 from paragraph (b) and replacing it with the phrase “10 penalty units”.

20. *(omitted by Committee of the Whole Assembly).*

21. Increase in security for costs – Section 107 of the principal Act is amended by deleting the figure “\$100” which appears in subsection (2) and replacing it with the figure “\$2,000”.

22. Court and place of trial – Section 110 is amended by repealing the section and replacing it with the following -

“110. Court and place of trial – Every election petition shall be tried by two or more judges of the Supreme Court at such place nominated by the Court.”

23. Increases in penalties – The following sections in the principal Act setting out monetary penalties are amended as follows -

- (a) Section 12 is amended by deleting the figure “\$50” in subsection (2) and replacing it with the phrase “1 penalty unit”.
- (b) Section 14 is amended by deleting the figure “\$60” and replacing it with the phrase “1 penalty unit”.
- (c) Section 24 is amended by deleting the figure “\$40” in subsection (1) and replacing it with the phrase “1 penalty unit”.
- (d) Section 25E is amended by deleting the figure “\$100” in subsection (2) and replacing it with phrase “2 penalty units”.
- (e) Section 32 is amended by deleting the figure “\$40” in subsection (4) and replacing it with the phrase “1 penalty unit”.
- (f) Section 40 is amended by deleting the figure “\$500” and replacing it with the phrase “8 penalty units”.
- (g) Section 41 is amended by deleting the figure “\$500” in subsection (1) and replacing it with the phrase “8 penalty units”.
- (h) Section 42 is amended by deleting the figure “\$40” and replacing it with the phrase “1 penalty unit”.

- (i) Section 43 is amended by deleting the figure “\$40” and replacing it with the phrase “1 penalty unit”.
- (j) Section 68 is amended by deleting the figure “\$40” in subsection (2) and replacing it with the phrase “1 penalty unit”.
- (k) Section 69 is amended by deleting the figure “\$100” in subsection (4) and replacing it with the phrase “2 penalty units”.
- (l) Section 70 is amended by deleting the figure “\$100” in subsection (5) and replacing it with the phrase “2 penalty units”.
- (m) Section 88 is amended by -
 - (i) deleting the figure “\$500” in paragraph (e) and replacing it with the phrase “8 penalty units”;
 - (ii) deleting the figure “\$500” in paragraph (f) and replacing it with the phrase “8 penalty units”;
 - (iii) deleting the figure “\$100” in paragraph (g) and replacing it with the phrase “2 penalty units”.
- (n) Section 89 is amended by deleting the figure “\$500” and replacing it with the phrase “8 penalty units”.
- (o) Section 90 is amended by deleting the figure “\$500” and replacing it with the phrase “8 penalty units”.
- (p) Section 91 is amended by deleting the figure “\$500” and replacing it with the phrase “8 penalty units”.

24. Regulations – Section 136 of the principal Act is amended by deleting the figure “\$100” and replacing it with the phrase “2 penalty units”.

25. Certificates of Identity – Section 135A of the principal Act is amended by deleting the figure “10” in subsection (2) and replacing it with the figure “11”.

26. Issue of writs – Section 45 of the principal Act is hereby amended by inserting the following section 45C -

“45C. No writ to issue pending election petition – If after the petition has been presented against the return of any member representing a constituency, or individual voters, his seat becomes vacant on any of the grounds mentioned in section 5 of this Act, no writ to fill the vacancy shall be issued until after the petition has been disposed of, and not then if the Court determines that member was not duly elected and that some other person was duly elected.”

27. Schedule – The Schedule of the principal Act is amended by -

“(1) In respect of Form 1A by -

- (a) Deleting the first line of Form 1A commencing with the words “To the Registrar of electors and voters for Samoa; and inserting the following :
“Declaration of Personal Details for application to be registered as an Elector.”
- (b) Deleting the first full paragraph of Form 1A commencing with the words:
“I...of (village claimed full residential address, and occupation or description)...and inserting the following:
- (c) Inserting the following:
“1, AB (Insert residential address; occupation and description) solemnly and sincerely declare that:
 - (a) I am entitled to have my name entered on the roll of (insert territorial constituency);
 - (b) 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;

- (c) I am not currently registered on any roll as either an elector or a voter;
- (d) All the details contained in this declaration are true and correct to the best of my knowledge.

AND I make this solemn declaration conscientiously, believing the same to be true and by virtue of the Oaths, Affidavits and Declarations Act 1963.

DECLARED at this day)
).....
 of2000 before me)

SOLICITOR OF THE SUPREME COURT
OR REGISTRAR/DEPUTY REGISTRAR OF THE
SUPREME COURT

- (2) In respect of Form 2 by:
- (a) Amending question 8 by adding the words “mother, grandfather or grandmother,” after the words “...name of your father”;
 - (b) Amending question 9 by adding the words “or she” after the words “If he” and the words “or she” after the words “...where did he...”;
 - (c) Amending question 10 by adding the words “or mothers or grandparents” after the words “...fathers name”;
 - (d) Deleting the final two paragraphs which commence with words “SIGN HERE...” and if you are claiming through your mother..” respectively; and inserting the following:

“I, AB (Insert residential address, occupation) solemnly and sincerely declare that:

- (a) I am entitled to have my name entered on the individual voters roll; and

- (b) The details contained in this declaration are true and correct; and
- (c) I am not registered on any other roll in Samoa.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths, Affidavits and Declarations Act 1963.

DECLARED atthis day)
)
 of00, before me)

SOLICITOR OF THE SUPREME COURT
OR REGISTRAR/DEPUTY REGISTRAR OF THE
SUPREME COURT”
