



**Monday 18 January 2021**  
**MEMBERS PRE-SITTING BRIEFING**

On Monday 18 January 2021, the final Pre-Sitting briefing for Members of the 16<sup>th</sup> Parliamentary Term (2016 - 2021) took place at the Conference Room of Maota Tofilau Eti Alesana (MTEA), Mulinu. A total of 32 Members convened to discuss the ***Electoral Amendment Bill 2021*** which was the sole paper on the Briefing Agenda. The Electoral Commissioner presented an overview of the Bill and also responded to queries and concerns raised by Members.

**(1) ELECTORAL AMENDMENT BILL 2021**

**Presenter:** *Faimalomatumua Mathew Lemisio*  
*Electoral Commissioner*

The Electoral Commissioner began his presentation by clarifying that the Bill seeks to address certain issues which came about from the electoral challenges on candidacy nominations. Furthermore, it also provides a means to improve electoral requirements and processes for possible by-elections after the 2021 general elections.

The Commissioner went through the amendments provided in the Bill and stated that there are certain terms which will be re-defined to ensure it is interpreted correctly (such as the term 'monotaga', 'minimum of three years' and 'organization')

The Bill also provides consistency in reference to 'lodgement date', as well as amending section 8 of the Principal Act to provide special exemptions to the term of 3 consecutive years, such as:

- Seeking medical treatment overseas;
- Travelling abroad for up to 60 days to act as a caregiver to spouse, de facto, child, parent, or sibling;
- Travelling overseas on duty-travel whether as a government official or a member of an organization;
- Whether an individual is affected by restrictions due to pandemic or natural disaster; and
- Empowering the Commissioner to make amends on a decision already given due to certain factors such as administrative error or so forth.

The Hon Prime Minister further emphasised that the Bill solely provides clarity for what already exists to ensure the Courts who interpret the laws understand the intention of the law, rather than misinterpreting certain provisions of the Act.

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*Queries raised by Members:*

- The Member for Aiga i le Tai was the first to comment on the Bill; Susuga Mulipola acknowledged the amendments proposed by the Commissioner and noted his disappointment as he felt the Bill failed to re-define the offences and penalties section of the Act which have somewhat affected his candidacy nomination for the upcoming elections.
- Afioga Faumuina Tiatia Liuga commented on the Bill and stated that he is one Member who almost always stands before court after general elections. He then raised the importance of empowering the Commissioner and his Office with the authority to make necessary decisions in times of elections as this would save time and money for candidates who stand before courts and await the judiciary's interpretation of the laws. Afioga Faumuina stated that the intentions of the Act are at times misinterpreted by the Courts thus causing further confusion.
- The Hon Prime Minister informed the Members that the Bill will be progressed under urgency in the House and therefore it is not realistic to propose multiple amendments which warrant Committee scrutiny and consideration at such a short time span; thus the amendments provided in the Bill are to accommodate the necessary changes needed by the Office of the Electoral Commission.
- Afioga Lealailepule Rimoni Aiafi commented on the new definition of the term 'monotaga - *'tautua e faamalosia'* from the current definition *'tautua le motusia'* The Member suggested that the term should be properly defined to avoid ambiguity and misinterpretation by the Courts. *Case in point was the Afega village which is divided (i.e. Afega Uta and Afega Tai) and the candidate who did not have the endorsement of the Pulenu'u of the somewhat official part of Afega has been allowed to contest in the upcoming elections.*
- Hon Tuitama Talalelei Tuitama queried whether it was not befitting for the Land and Titles Court to deal with determining whether the term monotaga is satisfied by candidates as these are matai Title matters.
- Afioga Laufo Fonotoe Pierre Laufo raised the need to properly outline and draft statutory declaration forms required to fill in for persons leaving the country for duty travel or for medical conditions, as he picked up certain loopholes which can also be used by others to challenge a decision by the Electoral Commissioner; therefore, leading to misinterpretation of the law by the Courts.
- Hon Lautafi Fio Selafi Purcell suggested that those leaving for seasonal work should also be included in the temporary absence provision of the Act.

- Several Members raised the issue of re-defining the term monotaga, suggesting that it should be “tautua le motusia or tautua faaaauau” instead of the proposed amendment “tautua faamalosia”.
- Other members spoke on the principle behind the fines of \$1,000 for individuals who have not registered and \$100 for those who do not vote. The fine should be increased to ensure voters take their voting role more seriously. One member suggested that the penalty for those that do not vote should be raised to \$500 tala.

*The Commissioner acknowledged the Hon Speaker for chairing the briefing and Hon. Members for their time and interest on the Bill and concluded his presentation.*

The Hon Speaker concluded with a prayer and the Members Briefing adjourned at  
12:10pm