

ELECTORAL AMENDMENT BILL (No. 2) 2020

SAMOA

Arrangement of Provisions

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2020, No.

A BILL INTITULED

AN ACT to provide for the amendment of the Electoral Act 2019 (“principal Act”) and related purposes.

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

1. Short title and commencement:

This Act may be cited as the Electoral Amendment Act (No. 2) 2020 and commences on the date of assent by the Head of State.

2. Section 8 amended:

Section 8 of the principal Act is amended as follows:

(a) in subsection (1), by substituting paragraphs (d) and (e) as follows:

“(d) has rendered a monotaga in respect of the registered matai title under paragraph (c) -

(i) within a village in a constituency which the person intends to run as a candidate; and

(ii) for a consecutive three (3) years ending on the day in which the nomination paper is lodged with the Commissioner; and

(e) has resided in Samoa for a minimum of three (3) years ending with the day on which the nomination paper is lodged with the Commissioner; and”;

(b) in subsection (2), for “The Commissioner may disqualify a person” substitute with “A person is disqualified”; and

- (c) in subsection (3) -
 - (i) in paragraph (d):
 - (A) substitute “125” with “60”; and
 - (B) substitute the fullstop with “; or”; and
 - (ii) insert a new paragraph (e) as follows:

“(e) particularly for the residential requirement under subsection (1)(e), a person who satisfies the Commissioner to be affected by travelling restrictions of a declared pandemic or natural disaster.”; and

- (d) in subsection (4), substitute “paragraph (d)” with “paragraphs (d) and (e)”.

3. Section 9 repealed:

Section 9 of the principal Act is repealed.

4. New section 46A inserted:

After section 46 of the principal Act insert new section 46A as follows:

“46A. Person absent from Samoa during nomination period:

- (1) A person who intends to contest in the general elections 2021 and is absent from Samoa during the nomination period under section 45 due to the Corona Virus Disease 2019 (COVID-19) travel restriction, must nominate in writing to the Commissioner a person to execute on his or her behalf all of the requirements for the purpose of the nomination process.
- (2) A person nominated under subsection (1) must provide to the Commissioner:

- (a) a proof of his or her identity; and
 - (b) the notarised nomination papers prepared by the absentee that are required to be submitted under sections 46 and 47; and
 - (c) the nomination fee.
- (3) This section expires the day after the Commissioner gives a public notice pursuant to section 84 to declare the results of the poll for the general elections 2021.”.

5. Section 47 amended:

Section 47 of the principal Act is amended by inserting the following subsections (3) and (4):

- “(3) A candidate or a person who claims a right to be a candidate may by motion challenge the decision of the Commissioner to accept or reject the nomination of a candidate under this section in the Supreme Court, for an order to qualify or disqualify a candidate:
- (a) for the general elections -
 - (i) it must be filed no later than 12 noon of the 7th day after nomination; and
 - (ii) must be decided by the Court within 20 working days after filing of the motion; or
 - (b) for the by-election -
 - (i) it must be filed no later than 12 noon of the 3rd day after nomination; and
 - (ii) must be decided by the Court within five (5) working days after filing of the motion.
- (4) An order made under subsection (3) is final and is not subject to any review or appeal.”.

6. Section 53 amended:

Section 53 of the principal Act is amended by inserting a new subsection (4) as follows:

“(4) Despite subsection (1), the nomination of a candidate that is accepted under section 46A, is deemed withdrawn from nominations if the candidate is not in Samoa, at 12.00 noon on the 14th day, before the polling day.”.

7. Section 58 amended:

Section 58(4) of the principal Act is amended as follows:

(a) by inserting 2 new paragraphs (f) and (g) as follows:

“(f) the registered matai title that meets the consecutive three (3) years monotaga requirement must be the first matai title in the order of matai titles on the ballot paper; and

(g) any other registered matai title from the same constituency that does not meet the consecutive three (3) years monotaga requirement may also be included in the ballot papers;”;

(b) by renumbering the current paragraph (f) as paragraph (h).

8. Section 141 amended:

In section 141(2) of the principal Act, for paragraphs (a) and (b), substitute as follows:

“(a) a Member becomes a Member of a political party according to section 140(1), 140(2) or 140(3)(a) and that Member resigns or withdraws from or changes his or her political party during the Parliamentary term; or

- (b) a Member becomes an independent Member according to section 140(3)(b) or 140(4) and that Member joins a political party during the Parliamentary term; or”.

9. Section 152 amended:

Section 152 is amended by substituting “48” with “46”.

10. Section 156 amended:

Section 156 of the principal Act is amended as follows:

- (a) by renumbering the current provision as subsection (1); and
- (b) by substituting paragraph (c) as follows:

“(c) for the purpose of section 8(1)(d) -

- (i) a Member representing an Urban Constituency must render monotaga for a consecutive three (3) years in respect of any of his or her registered matai title regardless of where the matai title is registered; or
- (ii) a person contesting for elections from an Electoral Constituency listed in Column 2 of the Schedule, satisfies the requirements of that section if:
 - (A) the person has a registered matai title in the corresponding Territorial Constituency listed in Column 1 of the Schedule; and
 - (B) the person has rendered monotaga for a consecutive three (3) years through the matai title that is registered in the Territorial Constituency listed in Column 1 of the Schedule.”;

- (c) by inserting new subsections (2), (3) and (4) as follows:

- “(2) For the purpose of subsection (1)(c):
- (a) “monotaga” means the compulsory service assistance or contribution (such as, contribution in form of cash, kind or goods) rendered for customary, traditional activities, events, functions or similar purposes pursuant to the customs of a particular village in the corresponding Territorial Constituencies in Column 1 of the Schedule; and
- (b) it only applies to the general elections 2021.
- (3) Nothing in section 8(1)(e) regarding residential requirement applies to a person who satisfies the Commissioner to be affected by travelling restrictions due to the Corona Virus Disease 2019 (COVID-19) for the general elections 2021.
- (4) Section 58(4)(f) and 58(4)(g) does not apply to a person that subsection (1)(c) applies to.”.

11. Schedule inserted:

The principal Act is amended by inserting the following Schedule:

“SCHEDULE
(Section 156(1)(c)(ii))

Column 1	Column 2
Territorial Constituency	Electoral Constituency
Vaimauga Sisifo 1	Vaimauga 2 Vaimauga 3 Vaimauga 4
Vaimauga Sisifo 2	Vaimauga 2 Vaimauga 3 Vaimauga 4
Faleata Sasae	Faleata 1

Faleata Sisifo	Faleata 2 Faleata 3 Faleata 4
Sagaga le Falefa	Sagaga 1 Sagaga 4
Aana Alofi No. 3 Aiga i le Tai	Aana Alofi 4
Aiga i le Tai	Aiga i le Tai
Safata Sisifo Gagaemauga No. 2	Safata 1
Safata Sasae Safata Sisifo	Safata 2
Vaa o Fonoti Anoamaa Sasae	Vaa o Fonoti
Anoamaa Sasae Vaa o Fonoti	Anoamaa 1
Faasaleleaga No.1 Palauli le Falefa	Faasaleleaga 1
Palauli le Falefa	Palauli 2
Gagaemauga No. 1 Gagaemauga No. 2	Gagaemauga 1
Gagaemauga No. 1 Sagaga le Falefa	Sagaga 3".

12. Consequential amendments:

The Electoral Constituencies Act 2019 is amended as follows:

- (a) in section 1(2) by substituting "section 4" with "sections 4 and 5"; and
- (b) in section 2(2), insert after "sub villages" the words "and of such, Regulations may prescribe additional villages and sub villages"; and
- (c) in section 5, after "rolls", insert the words "and the nomination of candidates".

13. Transitional provision:

For the purpose of section 8(3)(e) of the principal Act, a pandemic declared under an enactment before the commencement of this Act, is deemed valid at the commencement of this Act.
