



Monday 21st September 2020
MEMBERS PRE-SITTING BRIEFING

A total of 45 Members convened at the Conference Room of Maota Tofilau Eti Alesana (MTEA), Mulinu'u on Monday 21 September 2020 for their Members Pre Sitting Briefing. The Hon Speaker took lead of the Briefing which had only one Bill on the agenda; the Electoral Amendment Bill (No.2) 2020. The Electoral Commissioner presented on the background of the Bill with the assistance of the Attorney General who provided clarification and answers to the queries and concerns raised by Members during the briefing.

(1) ELECTORAL AMENDMENT BILL (NO.2) 2020

Presenter: *Faimalomatumua Mathew Lemisio*
Electoral Commissioner

The Commissioner elaborated that the Bill essentially provides areas to further enhance the roles, functions and Electoral Commission to meet its mandated duties listed in the Electoral Commission Act 2019. The Commissioner then listed the four main objectives the Bill provides for:

- i. Provide for more fair application of the law to a person intending to contest for elections from constituencies affected in the re-defining of the electoral boundaries under the electoral boundaries under the *Electoral Constituencies Act 2019*;
- ii. Provide for fair application of the law to a person intending to contest in the general elections but has been impacted by the Corona Virus Disease 2019 (COVID-19) travel restrictions;
- iii. To address administrative gaps to improve the law that the Electoral Commission were faced with during by-elections since the principal Act was passed; and
- iv. To ensure the integrity of Monotaga is intact for purpose of elections.

The following notes the issues and concerns raised by Members:

- Peseta Vaifou queried the application of the law when a matai title from Upolu (specifically Leauvaa and Samalaeulu) who have the same titles 'Tuala' and 'Sala'. The Member is concerned with the application of the law in such a scenario where the candidate runs from another electoral constituency different from that which the Monotaga was made due to the re-defining of boundaries.

The Commissioner clarified that regardless of the re-defining of boundaries, as long as the Monotaga requirement is satisfied a candidate is eligible to contest in the upcoming elections, regardless of whether the Monotaga was made in the village the applicant is running in or not. Furthermore, the Commissioner added that this application is only valid for the 2021 General Elections.

- Hon Fiame Naomi Mataafa, again queried the re-definition of constituencies (change of boundaries); she sought clarification from the Commissioner in regards to the principle of the amendment to cater for Urban seats but has in some way become inapplicable to other electoral constituencies.

The Commissioner attempted to clarify to the Hon Member that Urban seats will be dissolved come the next general election, however in order to satisfy the Monotaga requirement candidates who held Urban Seats and all other territorial seats may use a matai title which meets the Monotaga requirement regardless of what village that Monotaga is made.

- Another member queried how the Monotaga requirement is tested; to which the Commissioner responded that the Office of the Electoral Commission takes the date when the candidate registers in the Office and counts back 305 days in a year for the last 3 years to ensure the 3 year Monotaga is satisfied.
- The Deputy Speaker sought classification from the Commissioner on how the Monotaga is determined/assessed

The Commissioner asserted that the Office of the Electoral Commission utilises the statutory declaration made by the Pulenuu and Members for the Village Council on the candidate.

- Hon Faumuina Tiatia Liuga stated that the Office should be mindful when assessing the eligibility of the candidates to contest in the General Election and asserted that there are no proper record keeping of monotaga in the villages as this varies depending on the village/constituency
- Lealaillepule Rimoni Aiafi made the following queries and suggestions:
 - How many voters have registered?
 - To open the transportation of voters to and from voting booths as this assists the electoral process.
 - Campaigning needs further defining as there have been certain members who have already dressed in garments show-casing their political party.
 - Reconsider the fines and penalties for individuals who do not register and those who do not vote; the Member disagreed with the amount of fines; if a

voter does not register the fine is \$2000 while the registered voter who does not vote is fined \$100. Lealailepule requested that the fines be reviewed.

The Commissioner responded that the transportation of voters to and from polling booths is not allowed as this is prohibited in the Act; secondly the issue of campaigning by certain Political Party members has been addressed by the Office and a letter has been issued to inform the respective Political Party of policies and provisions of the Act.

- Members also queried grounds which warrant the vacation of a Member's seat;
- Another query was made in regards to changing political parties after the registration in October 2020. Furthermore, the question was also raised whether the political party which a candidate registers in on October 2020 can be changed before taking the Oath of Allegiance.

The Commissioner clarified that the party which the candidate declares to be running under during the registration of candidacy is binding right through taking the Oath of Allegiance and the Parliamentary Term; however, if an Individual member chooses to join a party before taking the Oath of Allegiance this can be done without triggering a by-election.

The Commissioner clarified that the process for registration of candidacy is declared and if these statements are incorrect the candidate can be taken to Court and fined for declaring false information (this also affects the Members of the Village Council who have given statutory declarations on the candidate).

- The Member for Faasaleleaga No.2 queried that all candidates who wish to contest in the upcoming General Elections should make every effort to come into the country and become acquainted with the constituency, rather than staying abroad until the specified time frame of 14 days before elections.
- The Member also raised the need to review the fines for none-registered voters and registered voters who do not vote.
- Another issue was raised in regards to the registration of children for candidates.

In reference to s. 18 of the transferral of children for candidates, once the nomination is closed, a 7-day period is afforded for the transferral of children for candidates.

- Nafotoa queried the 14 days of withdrawal for candidates; the Member disagrees with this provision as the timeframe does not align with the amendment on the registration of candidates and suggested that the timeframe be moved forward to be in line with the withdrawal period.
- Alaiasa queried whether the form filled during the registration of candidacy also declares the Political Party which the candidate intends to run?

The Commissioner confirmed that this is the case.

The Attorney General, Mareva Betham-Annandale spoke to further clarify the grounds which warrants a vacation of a Member's seat. Whether a Member resigns, withdraws or changes his/her Political Party, or puts him/herself out to join another political party, these are the grounds to vacate a seat.

The Attorney General noted that a policy decision can be made to change the guiding legislation by Parliament to ensure consistency between the Constitution and the Electoral Act.

- Members made several suggestions in regards to the registration of candidacy:
 - (i) Declaration of being an Independent member or affiliated to a Political Party should be binding right throughout the taking of the Oath of Allegiance and the Parliamentary Term.
 - (ii) Resignation from a political party warrants the vacancy of the seat and the member is eligible to contest in the by-election, however resignation from Parliament should prohibit such an individual to contest in the by-election.
 - (iii) Proposal to make necessary changes to better reflect current practices and to have mandated legislations aligned; such as the Constitution, Electoral Act and Standing Orders.
 - (iv) The Minister of Finance acknowledged Members and the Commissioner who presented on the Bill together with the assistance of the Attorney General, and then recommended to the Minister and the Office of the Electoral Commission to take necessary steps for the policy direction to implement the changes needed to enhance the Electoral Process.

The Commissioner concluded his presentation and thanked the Hon Speaker and Members for their comments, recommendations and concerns raised on the Electoral Amendment Bill (No.2) 2020.

The Hon Speaker concluded with a prayer and the Members Briefing adjourned at 12:40pm