

# ELECTORAL AMENDMENT BILL (No. 3) 2015

## SAMOA

### Explanatory Memorandum

#### **Objects and reasons:**

The Bill seeks to amend the Electoral Act 1963 (Principal Act).

The objects of the Bill are:

- (a) to provide a period of at least 3 years (up to the day the nomination paper is lodged with the Commissioner) for a candidate to render village service requirements;
- (b) to address the inconsistency in the Act on the terms of imprisonment relating to -
  - (i) grounds for disqualifications for candidates for Members of Parliament under section 5(5)(b)(i), which is 4 years; and
  - (ii) vacancy of seats of Members of Parliament under section 10(e), which is 2 years;
- (c) to give discretionary power to the Commissioner for re-photographing of voters from 10 to 15 years;
- (d) to provide for the right of descendants (including their spouses) of persons who is or was on the roll for the Vaimauga and Faleata Territorial Constituencies (TC) on or before the 2011 Generals Elections to register on those TC rolls, despite that they do not have kinship to those TCs. The descendants must reside in those TCs for at least 6 months to qualify.

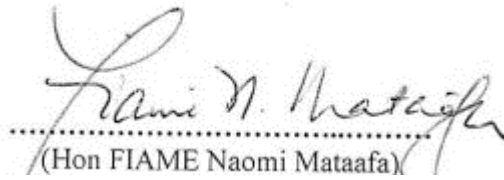
#### **Clauses:**

**Clause 1:** - provides for the short title and commencement. It will commence on the date of assent by the Head of State.

**Clause 2:** - amends section 5 as follows:

- in subsection (3A), in order to specify a period in which the village service is to be carried out (i.e. at least 3 years up to the day the nomination paper is lodged with the Commissioner); and
- in subsection (5)(b)(i) in order to be consistent with section 10(e) so that the term “jurisdiction” refers to “Samoa or another country”.

- Clause 3:** - amends section 10(e) in order to be consistent with section 5(b)(i) for the term 2 years to be 4 years and the reference to “American Samoa” to be a reference to “another country”.
- Clause 4:** - amends section 25B to give discretion to the Commissioner to require re-photographing of voters after 10 to 15 years.
- Clause 5:** - amends Schedule 2 Act by adding a new requirement specified under paragraph (d) of the objects of the Bill stated above.
- Clause 6:** - deals with consequential amendments to forms, as set out in Schedule 1.



.....  
(Hon FIAME Naomi Mataafa)

**MINISTER FOR JUSTICE  
AND COURTS ADMINISTRATION**

**ELECTORAL AMENDMENT BILL (No. 3) 2015**

**SAMOA**

Arrangement of Provisions

1. Short title and commencement
2. Section 5 amended
3. Section 10 amended
4. Section 25B amended
5. Schedule 2 amended
6. Amendments to forms

---

**2015, No.**

**A BILL INTITULED**

**AN ACT to amend the Electoral Act 1963 (“principal Act”).**

**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 (No. 3) 2015.

(2) This Act commences on the date of assent by the Head of State.

**2. Section 5 amended** - For section 5 of the principal Act:

- (a) in subsection (3A) after “particular village” add “, at least 3 years ending with the day on which the nomination paper is lodged with the Commissioner”; and
- (b) in subsection (5)(b)(i), for “a jurisdiction” substitute “Samoa or another country”.

**3. Section 10 amended** - For section 10 of the principal Act, in paragraph (e):

- (a) for “American Samoa” substitute “another country”;
- (b) for “2 years or upwards” substitute “4 years or more”.

**4. Section 25B amended** - In section 25B of the principal Act, for subsections (1I) and (1J) substitute:

“(1I) The Commissioner:

- (a) may require a registered voter to be re-photographed under this section after 10 to 15 years from the date on which the person was last photographed under this section, at a time and place and in a manner determined by the Commissioner, by public notice; and
- (b) shall substitute the photograph taken under paragraph (a) for any previous photograph of the voter taken, recorded or printed under this section.”.

**5. Schedule 2 amended** - In Schedule 2 of the principal Act:

(a) for column 2 -

- (i) in item 1, for “item 1” substitute “items 1 and 2”;
- (ii) after item 4, add:

“4A. As an exception to item 4, if a person:

- (a) has no kinship connection to the Vaimauga and Faleata territorial constituencies; and
- (b) is or was registered on the electoral roll (in either of those constituencies) on or before the 2011 general elections,

any of the person’s direct descendants (including the descendant’s spouse) residing in any customary land or other land for at least 6 months within any of the territorial constituencies within Vaimauga and Faleata territorial constituencies may choose to be registered in the Vaimauga or Faleata territorial constituency in which the descendant resides.”; and

(iii) in item 5 -

- (A) after “land” insert “(other than customary land)”; and
- (B) for “Vaimauga or Faleata constituency” appearing twice, substitute “Vaimauga or Faleata territorial constituency”; and

(b) for column 3 -

(i) in item 1, for “territorial constituency” substitute “urban constituency, subject to item 2 of this column”; and

(ii) item 2, after “land” insert “(other than customary land)”.

**6. Amendments to forms** - For Schedule 1 of the principal Act:

(a) for Form 1A substitute the form set out in the Schedule of this Act;

(b) for Form 1B -

(i) in paragraph 7, for “any jurisdiction” substitute “in Samoa or another country”;

(ii) in paragraph 9, for “10 years” substitute “5 years”;

(c) in paragraph 4 of Form 1D, for “American Samoa”, substitute “another country”, and for “2 years or upwards” substitute “4 years or more”;

(d) in Form 2 -

(i) in paragraph 4, for “American Samoa”, substitute “another country” and for “2 years or upwards” substitute “4 years or more”;

(ii) in the declaration, after paragraph (a), add:

“(aa) I have resided in the above residential address for a period of [...*months/years*]; and”.

**SCHEDULE**  
*(Section 6(a))*

**AMENDMENT TO FORM 1A**

**“FORM 1A**

*(Sections 5(3)(c), (4) and (6)(d)(ii), 19 and 50(1)(e))*

**DECLARATION ON RESIDENTIAL AND  
VILLAGE SERVICE REQUIREMENTS**

I, *(Insert full name of candidate, relevant Matai title and address)*  
solemnly and sincerely declare that:

- (a) I have resided *(Delete subparagraph that is not applicable) -*
  - (i) *(for candidates in territorial constituencies)* in Samoa for a period equalling or exceeding 3 years, and therefore satisfied the 3-year residential requirement under section 5(3)(b) of the Electoral Act 1963 (“the Act”);
  - (ii) *(for candidates in urban constituencies) -*
    - (A) in Samoa for a period equalling or exceeding 3 years, and therefore satisfied the 3-year residential requirement under section 5(4) of the Act; and
    - (B) at the above address within the *(East/West)* Urban Constituency for a period equalling or exceeding 6 months, and therefore satisfied the 6-month residential requirement under section 19 of the Act; and
- (b) I have rendered services to our village *(list village or villages, including any sub-village)* for at least 3 years (ending with the day on which my nomination paper is lodged with the Commissioner) pursuant to the customs of our village, and therefore satisfied the village service requirements as defined in section 5(3A) of the Act.

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

**SWORN** at .....this.....  
day of .....20.....

.....  
| .....  
| (*Candidate's signature*)

Before me:

.....  
*Barrister and Solicitor  
of the Supreme Court*

\_\_\_\_\_