



ELECTORAL BILL 2018

(NO. 4 OF 2018)



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A

BILL

Entitled

AN ACT TO REGULATE THE REGISTRATION OF ELECTORS AND THE ELECTION OF MEMBERS OF THE NATIONAL PARLIAMENT AND FOR RELATED PURPOSES.

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

ELECTORAL BILL 2018

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SCHEDULE 1

SCHEDULE 2

ELECTORAL BILL 2018

PART 1 PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Electoral Act 2018*.

2 Commencement

This Act commences as follows:

(a) the following provisions commence on a date or different dates appointed by the Minister by notice in the Gazette:

(i) section 12;

(ii) Part 4, Division 5;

(iii) Part 5, Division 4, Subdivision 2;

(b) the remainder of the Act commences on the date of assent by the Governor-General.

3 Definitions

In this Act:

“approved form” means a form approved under section 133(2);

“assistant registration officer” means a person appointed as such under section 23;

“assistant returning officer” means a person appointed as such under section 26;

“assistant revising officer” means a person appointed as such under section 24;

“ballot paper account” has the meaning given in section 81;

“campaign activity” has the meaning given in section 5;

“candidate” means a candidate for election;

“Commission” means the Electoral Commission established by section 57 of the *Constitution*;

“Commissioner” means the Commissioner of Elections appointed under section 57A of the *Constitution*;

“committee” means a committee appointed under section 15;

“constituency” has the meaning given in section 10;

“correctional centre” means a correctional centre established under the *Correctional Services Act 2007*;

“count” means the counting of votes in an election under Part 6;

“counting agent” means a person appointed as such under section 68;

“counting centre” means a place fixed for the counting of votes under section 98;

“Court” means the High Court;

“days” means consecutive days;

“election” means:

- (a) an election for one or more members of Parliament; and
- (b) includes the nomination of candidates, the voting and the counting of votes;

“election date” means the date appointed for an election under section 58;

“election manager” means a person appointed as such under section 25;

“election petition” has the meaning given in section 108;

“elector” means a person registered as an elector under Part 4;

“Electoral Office” means the Electoral Office established by

section 18;

“electoral official” means any of the following:

- (a) a person appointed under Part 3, Division 4;
- (b) the Commission and the Commissioner;
- (c) a staff member carrying out the functions or powers of an electoral official under a delegation;

“eligible elector”, in relation to pre-poll voting, has the meaning given in section 94;

“entitled person”, in relation to a constituency, means a person entitled to be registered as an elector in the constituency under section 55 of the *Constitution*;

“final list of electors” means a final list of electors for a constituency approved under section 48;

“general election” means an election held following a dissolution of Parliament;

“identification number” means the number assigned to an elector by the Commission and recorded on the register of electors under section 49;

“independent candidate” means a candidate who does not represent a political party;

“inquiry period” has the meaning given in section 43(1);

“invalid ballot paper” means a ballot paper that is invalid under section 101;

“invalidated votes list” has the meaning given in section 91(4);

“nomination” means the nomination of a person to stand as a candidate in an election;

“nomination period”, for an election, means the period mentioned in section 59(1) for nominating candidates for election;

“nomination place”, for a constituency, means a place declared

as such under section 59(2);

“nominator” means an elector who nominates a candidate for election under section 63;

“notice of election” means a notice of election published under section 72;

“objection” means an objection made under section 37, 38 or 39 to the inclusion or omission of a person on or from a provisional list of electors;

“objection period” has the meaning given in section 36;

“Office” means the Electoral Office;

“official mark” means a mark mentioned in section 82;

“ordinarily resident”, in a constituency, has the meaning given in section 4;

“political party” means a political party registered under the *Political Parties Integrity Act 2014*;

“polling agent” means a person appointed as such under section 68;

“polling assistant” means a person appointed as such under section 27;

“polling day”, for an election, means the election date;

“pre-poll voting” means voting held under Part 5, Division 4, Subdivision 2;

“pre-poll voting place” has the meaning given in section 93;

“pre-poll presiding officer” has the meaning given in section 93;

“presiding officer” means a person appointed as such under section 27;

“protested votes list” has the meaning given in section 91(3);

“province” includes Honiara City;

“Provincial Assembly”:

- (a) means a Provincial Assembly established by the *Provincial Government Act 1997*; and
- (b) includes the Honiara City Council established by the *Honiara City Act 1999*;

“provisional list of electors”, for a constituency, has the meaning given in section 35(1);

“public inquiry” means a public inquiry into an objection;

“register of electors” means the register of electors mentioned in section 49;

“Registrar” means the Registrar of Political Parties within the meaning of the *Political Parties Integrity Act 2014*;

“registration” means registration as an elector;

“registration centre” means a place declared as such under section 31;

“registration manager” means a person appointed as such under section 22;

“registration officer” means a person appointed as such under section 23;

“registration period” means a period for the registration of electors set under section 31;

“returning officer” means a person appointed as such under section 26;

“revising officer” means a person appointed as such under section 24;

“spoilt ballot paper” means a ballot paper cancelled under section 87;

“staff member” means staff member of the Electoral Office;

“status petition” has the meaning given in section 109;

“tendered ballot paper” means a ballot paper mentioned in section 88;

“tendered votes list” has the meaning given in section 88;

“vacancy petition” has the meaning given in section 110;

“voter” means an elector voting at an election.

4 **Meaning of “ordinarily resident”**

- (1) For section 55(2)(b) of the *Constitution*, a person is **“ordinarily resident”** in a constituency if:
 - (a) the person has been continuously residing in the constituency for at least 6 months; or
 - (b) the person is taken to have been residing in the constituency under subsection (2).
- (2) A person is taken to have been residing in a constituency even if the person is not residing in the constituency if the person is entitled to be or is a member of a group, tribe or line indigenous to the constituency.
- (3) For subsection (1)(a):
 - (a) a person resides at a place if the person has chosen to make the place his or her usual place of residence; and
 - (b) a person’s usual place of residence is not affected only by temporary absences from the place, even if an absence involves occasional or regular residence at another place; and
 - (c) a person is not taken to be residing in a place only because the person owns a dwelling at the place.

5 **Meaning of “campaign activity”**

- (1) A **“campaign activity”** is any activity that is intended, calculated or likely to:
 - (a) affect the result of an election; or
 - (b) influence an elector in relation to the casting of his or her vote

at an election.

- (2) Without limiting subsection (1), a campaign activity may be any of the following:
- (a) conducting a demonstration or procession;
 - (b) making or publishing a statement, speech or advertisement;
 - (c) conducting a public opinion poll;
 - (d) distributing anything (including a document that imitates a ballot paper) that has on it:
 - (i) the names of candidates and any direction or indication as to the candidate a person should vote for; or
 - (ii) anything else intended, calculated or likely to influence a person's vote;
 - (e) displaying the name of a candidate or political party, emblem, slogan, logo or symbol;
 - (f) distributing ribbons, streamers, rosettes, or items of a similar nature in a candidate's or political party's colours;
 - (g) making oral representations to a person.
- (3) However, the following are not campaign activities:
- (a) broadcasting or publishing an advertisement as a community service, other than an advertisement broadcast or published by or on behalf of a candidate or political party;
 - (b) broadcasting or publishing news in relation to an election by a news organisation.

PART 2 ELECTORAL SYSTEM, RIGHTS AND CONSTITUENCIES

6 First-past-the-post voting system

The first-past-the-post voting system applies in Solomon Islands.

7 Right to be an elector

A person is entitled to be registered as an elector in a constituency if the person:

- (a) is entitled to be registered under section 55(1) of the *Constitution*; and
- (b) is not disqualified from being registered as such under section 55(2) or (3) of the *Constitution*.

Note

Under section 55(1) of the Constitution, a person is entitled to be registered if the person is a citizen of Solomon Islands who is at least 18 years of age. However, section 55(2) and (3) limit the entitlement to registration.

Section 55(2) stipulates that a person cannot be registered in more than one constituency, and cannot be registered in any constituency in which the person is not ordinarily resident. In addition, there are circumstances outlined in section 55(3) in which a person will be disqualified from registration entirely, mostly related to criminal offences and sentences.

8 Right to be a candidate

A person is qualified to be a candidate for election as a member of Parliament if the person:

- (a) is qualified for election under section 48 of the *Constitution*; and
- (b) is not disqualified for election under section 49 of the *Constitution*.

Note

Under section 48 of the Constitution, a person is qualified for election if the person is a citizen of Solomon Islands who is at least 21 years of age. However, section 49 outlines a range of disqualifying factors.

9 Right to vote

An elector has the right to vote in an election in accordance with section 56(1) of the *Constitution*.

Note

Section 56(1) of the Constitution outlines the circumstances in which a person is prevented from voting, mostly related to criminal offences and sentences. In addition, section 56(2) prevents a person from voting at an election in a constituency in which the person is not registered.

10 Electoral constituencies

- (1) A “**constituency**” is an electoral constituency approved by Parliament (on the recommendation of the Constituency Boundaries Commission) by resolution under section 54 of the *Constitution*.
- (2) For information purposes, the constituencies approved by Parliament are set out in Schedule 1.
- (3) The Commission may amend Schedule 1 by regulation to reflect any changes to the list of constituencies approved by Parliament.

PART 3 ADMINISTRATION

Division 1 Electoral Commission

11 General functions and powers

The functions and powers of the Commission are as follows:

- (a) its functions and powers under section 58 of the *Constitution*;
- (b) its functions and powers under the *Political Parties Integrity Act 2014*;
- (c) to promote public awareness of this Act and the *Political Parties Integrity Act 2014*, including conducting education and information programmes;
- (d) to initiate, sponsor, and carry out study or research necessary for the performance of its functions and the exercise of its powers;
- (e) to supervise the registration of electors and the conduct of elections;

- (f) any other functions or powers specified in this Act or any other written law.

Note

The Electoral Commission is established by and appointed under section 57 of the Constitution.

Under section 137(4) of the Constitution, the Commission is not subject to the direction or control of any other person or authority, except where otherwise provided by the Constitution.

12 Functions relating to Provincial Assemblies

The Commission may carry out the registration of electors and the conduct of elections for Provincial Assemblies.

Note

Under section 2, this section does not commence until the date appointed by the Minister by notice in the Gazette.

13 Deputy Chairperson

The members of the Commission may elect a member (other than the Commissioner) to be the Deputy Chairperson.

Note

The Chairperson of the Commission is appointed under section 57 of the Constitution.

14 Meetings

The procedures for meetings of the Commission are as follows:

- (a) the Chairperson of the Commission convenes and chairs meetings;
- (b) the Deputy Chairperson convenes and chairs meetings if the Chairperson is absent;
- (c) if, for any reason, the Chairperson and the Deputy Chairperson are absent from a meeting, the members present may elect one of them (other than the Commissioner) to chair the meeting;
- (d) a quorum for a meeting is 3 members;
- (e) the chair of the meeting has a deliberative vote and, if the

votes are equal, has a casting vote;

- (f) the Commission may determine any other meeting procedures.

15 Committees

- (1) The Commission may appoint committees for the purpose of advising the Commission in the exercise of its powers and the performance of its functions.
- (2) A committee is subject to the directions of the Commission.
- (3) A member of the Commission may be appointed to a committee.
- (4) The Commission may determine the functions of a committee, which may include advising the Commission in relation to any of the following:
 - (a) the registration of electors and the conduct of elections generally;
 - (b) ensuring that appropriate funding is provided to register electors and conduct elections;
 - (c) coordinating plans and resources provided by government agencies for the registration of electors and the conduct of elections;
 - (d) initiating and adopting of policies that would:
 - (i) result in an integrated approach towards assisting the Office during the registration of electors and the conduct of elections; or
 - (ii) encourage cooperation and sharing of Government resources, including to help provincial governments in the registration of electors and the conduct of elections;
 - (e) building networks and partnerships with non-governmental organisations, civil society groups and the private sector to help in the registration of electors and the conduct of elections;

- (f) any other matter the Commission requires assistance with.
- (5) A committee may co-opt additional members.

Division 2 Commissioner of Elections

16 Functions and powers

The functions and powers of the Commissioner are as follows:

- (a) to manage the Commission in the performance of its functions and the exercise of its powers;
- (b) to manage the Office, its staff members and electoral officials;
- (c) to develop and formulate policies on the conduct of elections and the regulation of political parties for consideration by the Commission and the Government;
- (d) any other function or power specified in this Act or any other written law.

Note

The Commissioner is appointed under section 57A of the Constitution.

17 Impartiality and independence

In carrying out his or her powers and functions, the Commissioner:

- (a) must act impartially and in accordance with the law; and
- (b) is not subject to the direction or control of any other person, except policy directions of the Commission.

Division 3 Electoral Office

18 Establishment and functions

- (1) The Electoral Office is established.
- (2) The functions of the Office are:
 - (a) to provide the administrative and logistical framework for the registration of electors and the conduct of elections; and

- (b) to be the secretariat for the Commission; and
 - (c) any other function specified in this Act or any other written law.
- (3) The Office initially consists of a Registration and Elections Division and a Political Parties Division.
- (4) However, the Commission may determine the administrative structure of the Office and may alter its administrative Divisions.

19 Staff

- (1) The Public Service Commission may, in consultation with the Commissioner, appoint the staff members of the Office.
- (2) The staff members of the Office are public officers subject to the directions of the Commissioner in the performance of their functions.

20 Funds

For the purposes of the *Public Financial Management Act 2013*:

- (a) the Office is taken to be a Government agency, with a head of revenue and expenditure in the national budget prepared in accordance with that Act; and
- (b) the Commissioner is the accountable officer for the Commission, as the person in charge of the day to day operations of the Office.

21 Annual report

- (1) The Commissioner must prepare and give to the Minister and the Speaker of Parliament a report on the performance of the Office's functions during each financial year, including the following:
- (a) a report on the activities of the Office during the year;
 - (b) the Office's accounts for the financial year, as prepared in accordance with the requirements of the *Public Financial Management Act 2013*.
- (2) The report must be given to the Minister by 31 March following the end of the financial year.

- (3) The Minister must table a copy of the report in Parliament within 12 sitting days after the Minister receives it.

Division 4 Electoral officials

Subdivision 1 Appointment

22 Registration managers

- (1) The Commissioner may, during a registration period, appoint a person to be the registration manager for a province.
- (2) The function of the registration manager is to coordinate registration of electors in all the constituencies in that province.
- (3) A registration manager is subject to the directions of the Commissioner.

23 Registration officers and assistants

- (1) The Commissioner may appoint a person to be the registration officer for a constituency.
- (2) The function of the registration officer is to register electors in the constituency.
- (3) A registration officer is subject to the general directions of the Commissioner, but is not subject to any direction in relation to a decision on an application for registration.
- (4) A registration officer may, with the approval of the Commissioner, appoint assistant registration officers.
- (5) The function of assistant registration officers is to assist in the registration of electors.
- (6) Assistant registration officers are subject to the directions of the appointing registration officer.

24 Revising officers and assistants

- (1) The Commissioner may appoint a person to be the revising officer for a constituency.

- (2) The function of the revising officer is to deal with objections to the inclusion or omission of persons on or from lists of electors in the constituency.
- (3) A revising officer is subject to the general directions of the Commissioner, but is not subject to any direction in relation to a decision on an objection.
- (4) A revising officer may, with the approval of the Commissioner, appoint assistant revising officers.
- (5) The function of an assistant revising officer is to assist the revising officer in his or her functions.
- (6) Assistant revising officers are subject to the directions of the appointing revising officer.

25 Election managers

- (1) The Commissioner may appoint a person to be the election manager for a province.
- (2) The function of the election manager is to coordinate elections in all the constituencies in that province.
- (3) An election manager is subject to the general directions of the Commissioner.

26 Returning officers and assistants

- (1) The Commissioner may appoint a person to be the returning officer for a constituency.
- (2) The function of the returning officer is to conduct elections in that constituency.
- (3) A returning officer is subject to the general directions of the Commissioner, but is not subject to any direction in relation to:
 - (a) whether the nomination of a candidate is valid; or
 - (b) whether a ballot paper is valid.
- (4) A returning officer may, with the approval of the Commissioner, appoint assistant returning officers.

- (5) The function of an assistant returning officer is to assist the returning officer to conduct elections in the constituency.
- (6) Assistant returning officers are subject to the directions of the appointing returning officer.

27 Presiding officers and polling assistants

- (1) The returning officer for a constituency may, with the approval of the Commissioner, appoint:
 - (a) a person to be the presiding officer for a polling station in the constituency; and
 - (b) polling assistants for the polling station.
- (2) The function of a presiding officer is to manage the conduct of an election at the polling station.
- (3) A presiding officer is subject to the general directions of the appointing returning officer.
- (4) The function of a polling assistant is to assist the presiding officer to manage the conduct of the election at the polling station.
- (5) Polling assistants are subject to the directions of the presiding officer.
- (6) A presiding officer:
 - (a) may authorise a polling assistant to carry out at a polling station any function or power of the presiding officer under this Act; but
 - (b) must not authorise a polling assistant to carry out the power to order the removal of a person from the polling station.

Subdivision 2 Administrative matters

28 Appointment requirements

- (1) A person with power to appoint an electoral official must:
 - (a) ensure that:

- (i) the person appointed is suitably qualified or experienced for the position; and
 - (ii) the person appointed is a fit and proper person to carry out the functions and powers of the position; and
 - (iii) the person is appointed on merit; and
 - (iv) there is, as far as possible, a gender balance at all levels of electoral officials; and
- (b) give the person appointed a signed letter of appointment specifying their duties.
- (2) An electoral official must show his or her letter of appointment if requested by a person.
- (3) The Commissioner must publish notice of each appointment in the Gazette.
- (4) However, the validity of an appointment is not affected only because notice of the appointment is not published in the Gazette.

29 **Remuneration**

An electoral official is entitled to the remuneration fixed by the Commission after consulting the Permanent Secretary responsible for finance.

30 **General complaints about electoral officials**

- (1) Any of the following persons (the **“complainant”**) may lodge a written complaint with the Commission against a decision, action or inaction of an electoral official (the **“respondent”**) in relation to the person:
- (a) a political party; or
 - (b) a candidate; or
 - (c) a person seeking to be nominated as a candidate.
- (2) The complaint must:
- (a) set out the decision, action or inaction and the alleged facts;

and

- (b) be lodged within 2 days after the complainant becomes aware of the decision, action or inaction; and
 - (c) include the name, position, political party (if any), and contact information of the complainant.
- (3) The Commission must:
- (a) record the complaint in a register of complaints; and
 - (b) give the complainant and the respondent a fair hearing; and
 - (c) decide the complaint:
 - (i) if the complaint relates to a decision that a nomination is invalid under section 64 – within 24 hours after receiving it; or
 - (ii) if the complaint relates to any other matter – within 3 days after receiving it; and
 - (d) give its decision in writing to the complainant and the respondent, including the relevant facts and reasons for the decision.
- (4) Despite section 14(d), the Commission may be represented by a panel of at least 2 members to hear and decide the complaint.
- (5) In deciding the complaint, the Commission may:
- (a) reverse, alter or amend the decision, action or inaction; and
 - (b) order any decision or inaction to be taken or action to cease.
- (6) A complaint that could be dealt with under section 90 or 104 must first be exhausted under that section before the complaint can be pursued again under this section.

PART 4 REGISTRATION OF ELECTORS

Division 1 Preparation for registration

31 Registration period and centres

- (1) The Commission must set a period for the registration of electors:
 - (a) before each general election; and
 - (b) at any other time it considers appropriate.
- (2) The Commission may extend a registration period at any time before it ends.
- (3) During a registration period, the Commission must declare places to be registration centres where electors can register in person.
- (4) The Commission may declare a place outside a constituency to be a registration centre for the constituency, provided there is also at least one registration centre in the constituency.
- (5) A registration centre may be for registration of electors from one or more constituencies.
- (6) The Commission may declare a part of a correctional centre to be a registration centre for one or more constituencies.

Note

Section 55(3)(a) of the Constitution limits the circumstances in which a person who is serving a sentence of imprisonment is entitled to register as an elector.

32 Registration notice

- (1) The registration officer for a constituency must publish notice of the registration period and centres for the constituency.
- (2) The notice must:
 - (a) be published as soon as possible after the Commission appoints the registration period; and
 - (b) state the registration period; and
 - (c) list the registration centres for the constituency; and

- (d) specify that an entitled person who is not already an elector may be registered as an elector during the registration period.

Note

See section 132 for requirements in relation to the publication of notices under this Act.

Division 2 Registration and changes to registration

33 Applying for registration

- (1) A person may apply for registration during a registration period.
- (2) The application:
 - (a) must be made in Form 1 to the registration officer for the constituency in which the person seeks to be registered; and
 - (b) may be made:
 - (i) personally at a registration centre for the constituency; or
 - (ii) in another way permitted by the regulations; and
 - (c) must be accompanied by the evidence prescribed by regulation of the person's qualifications for registration in the constituency and identity.
- (3) The registration officer for the constituency must:
 - (a) approve the application if satisfied:
 - (i) of the applicant's identity; and
 - (ii) that the applicant is an entitled person in relation to the constituency; or
 - (b) otherwise, refuse the application.
- (4) If the officer approves the application, the officer must give the Commission the applicant's completed application form, endorsed as approved by the officer.

34 **Changes to registration**

- (1) An elector may apply to the registration officer for a constituency during a registration period:
 - (a) for the elector's registration to be transferred to the constituency from another constituency; or
 - (b) to amend any of the elector's details recorded in the register of electors.
- (2) The application must be:
 - (a) made in the approved form; and
 - (b) accompanied by evidence sufficient to support the application.
- (3) The registration officer must:
 - (a) approve an application:
 - (i) under subsection (1)(a) – if satisfied that the applicant is an entitled person in relation to the other constituency; or
 - (ii) under subsection (1)(b) – if satisfied that the changed detail is correct; or
 - (b) otherwise, refuse the application.

35 **Provisional list of electors**

- (1) The Commission must, within 40 days after the end of the registration period, make an alphabetical list for each constituency (a "***provisional list of electors***") consisting of the following:
 - (a) the name of each person whose application for registration in the constituency was approved under section 33 during the registration period;
 - (b) the name of each person whose application for transfer of registration to the constituency was approved under section 34;
 - (c) the name of each person who was already registered in the constituency before the registration period.

- (2) In preparing the list, the Commission may correct any duplications in registration that appear to have been made by mistake.
- (3) As soon as practicable after a list is made, the Commission must give a copy of the list to the registration officer and the revising officer for the constituency.
- (4) The registration officer must publish the list within:
 - (a) 14 days after the officer receives it; or
 - (b) the alternative period set by the Commission.

Note

See section 132 for requirements in relation to the publication of notices under this Act.

Division 3 Objections in relation to provisional list of electors

Subdivision 1 Making an objection

36 Objection period

- (1) The “***objection period***” is the period set by the Commission within which objections may be made in relation to a provisional list of electors.
- (2) The Commission must:
 - (a) set an objection period of at least 10 days beginning no earlier than the date the list is published; and
 - (b) must publish notice of the objection period before the period begins.

Note

See section 132 for requirements in relation to the publication of notices under this Act.

- (3) The Commission may extend the objection period.

37 Objection to omission from list

A person may object to the omission of their name from a provisional list of electors for a constituency if:

- (a) the person applied during the registration period for:
 - (i) registration in the constituency; or
 - (ii) transfer of their registration from another constituency to the constituency; and
- (b) the person's name is not on the provisional list of electors for the constituency.

38 Objection to inclusion on list by elector

An elector may object to the inclusion of a person on a provisional list of electors for a constituency on the basis that the other person:

- (a) is not an entitled person in relation to the constituency; or
- (b) is registered in another constituency; or
- (c) has died.

39 Objection to inclusion on list by Commission

The Commission must object to the inclusion of a person on a provisional list of electors for a constituency if, when making the list, the Commission considers that the person:

- (a) is not an entitled person in relation to the constituency; or
- (b) is currently registered in another constituency; or
- (c) has died.

40 How objection must be made

An objection must be made:

- (a) in the approved form, to the registration officer for the constituency; and
- (b) before the end of the objection period.

41 Notification of objections

- (1) A registration officer who does not receive any objections in relation

to a provisional list of electors by the end of the objection period must notify the Commission.

- (2) A registration officer who receives one or more objections in relation to a provisional list of electors must:
 - (a) within 4 days after the end of the objection period, send to the revising officer for the constituency each objection received; and
 - (b) within 10 days after the end of the objection period, publish:
 - (i) a list of each objection received; and
 - (ii) the name of the person who made the objection.

Note

See section 132 for requirements in relation to the publication of notices under this Act.

- (3) The registration officer must make all reasonable attempts to give the person who is the subject of the objection notice of the objection.

Subdivision 2 Dealing with objections

42 Public inquiry to be held

An objection must be dealt with by way of a public inquiry to determine whether the objection is upheld.

43 Time and place of public inquiry

- (1) The Commission must set a period of at least 10 days within which a public inquiry is to be held (the ***“inquiry period”***).
- (2) The inquiry must be conducted by:
 - (a) the revising officer for the relevant constituency; or
 - (b) if the revising officer is unable to conduct it, an assistant revising officer for the constituency.
- (3) The officer conducting the inquiry may determine:

- (a) the place the inquiry is to be held, which must be within the constituency; and
 - (b) the date and time at which the inquiry will be held, which must be within the inquiry period.
- (4) At least 4 days before the date of the inquiry, the officer must:
- (a) publish notice of the place, date and time of the inquiry; and
 - (b) give written notice of the place, date and time of the inquiry to:
 - (i) the person (which may be the Commission) who made the objection; and
 - (ii) in the case of an objection to the inclusion of a person's name on a provisional list of electors – that person.

Note

See section 132 for requirements in relation to the publication of notices under this Act.

- (5) The officer may adjourn the inquiry from time to time and change its location, provided that:
- (a) the inquiry is completed within the inquiry period; and
 - (b) at least 4 days before each hearing of the inquiry, the officer publishes and gives notice of the location and time of the hearing in accordance with subsection (4).

44 Conduct of inquiry

In conducting the inquiry, the officer may do any of the following:

- (a) summon a person to appear and give evidence or to produce a document to the inquiry;
- (b) require a person at the inquiry to give any information the officer considers necessary for the purpose of the inquiry;
- (c) administer oaths and take evidence on oath.

45 Who may be present at public inquiry

- (1) Any member of the public may attend a hearing of a public inquiry.
- (2) The following persons are entitled to appear at and present oral or written evidence to a public inquiry:
 - (a) the person (which may be the Commission) who made the objection;
 - (b) in the case of an objection to the inclusion of a person's name on a provisional list of electors – that person;
 - (c) a representative of a person mentioned in paragraph (a) or (b).

46 Decision on objection

- (1) The officer conducting a public inquiry must consider the evidence presented at the inquiry before making a decision on the objection.
- (2) In the case of an objection to the omission of a person's name from a provisional list of electors list, the officer must:
 - (a) if the officer is satisfied on the evidence that the person is entitled to be included on the list – order that the person's name be inserted on the list; or
 - (b) otherwise – dismiss the objection.
- (3) In the case of an objection to the inclusion of a person's name on a provisional list of electors, the officer must:
 - (a) if the officer is satisfied on the evidence that the person is not entitled to be included on the list – order that the person's name be deleted from the list; or
 - (b) otherwise – dismiss the objection.
- (4) The officer may order a person to pay costs of the inquiry or of witnesses if:
 - (a) the officer dismisses the objection; and
 - (b) the officer considers that the objection was frivolous or

vexatious.

- (5) An order made under subsection (4) is taken to be an order of a Magistrates' Court for the purpose of its execution.

47 Record of decisions

The officer who conducts a public inquiry must, as soon as practicable after the inquiry is concluded:

- (a) record the officer's decision (including reasons for it) in the approved form; and
- (b) send the Commission the record of the decision and the notice of objection to which the decision relates.

48 Final list of electors

- (1) The Commission must, as soon as reasonable practicable after receiving the record of a decision ordering the amendment of a provisional list of electors, amend the list in accordance with the order.
- (2) The Commission must approve a final list of electors for a constituency as soon as practicable:
 - (a) after receiving notice under section 41 that no objections were made in relation to the provisional list of electors for the constituency; or
 - (b) if one or more objections were made – after receiving the record of decision on each objection and, if necessary, amending the provisional list of electors accordingly.

Division 4 Register of electors

49 Register of electors

- (1) The register of electors is constituted by the final lists of electors for each constituency.
- (2) The register of electors is evidence of whether a person is entitled to vote at an election in the absence of evidence to the contrary.

- (3) The Commission must keep the register of electors in the form it approves, which may be electronic.
- (4) The Commission must assign a unique identification number to each person on the register, and record that number with the person's name.

50 Extracts from register

- (1) The Commissioner may, on written request and on payment of the prescribed fee, give a political party or candidate a list of electors for the constituency for which the candidate or party's candidate is seeking election.
- (2) The list of electors:
 - (a) must only contain the names of electors and the polling stations to which they have been assigned; and
 - (b) must not include any other personal information relating to an elector, including their residential address, finger print, photograph or date of birth.

51 Elector identification system

- (1) The Commission may establish any of the following identification systems for verifying the identity of electors:
 - (a) a manual or electronic finger printing system;
 - (b) identification cards with photographic images;
 - (c) photographic images inserted into the register of electors;
 - (d) any other system that is computerised, photographic or electronic.
- (2) The Commission may require electors to allow authorised electoral officials to take finger prints, photographs and other identification data for the purpose of an identification system.
- (3) The photograph of the face of an elector must:
 - (a) show a close up of the face and top of the shoulders of the elector; and

- (b) clearly show the elector's facial features from the tip of the chin to the uncovered crown of the head, including the left and right sides of the face.
- (4) The Commission may require an elector to take a new photograph every 10 years.

52 Notification of death of potential elector

- (1) The Registrar of Births and Deaths must notify the Commissioner in writing if the death of a person over the age of 18 years is registered under the *Births and Deaths (Registration) Act* (Cap. 168), within 14 days after the death is registered.
- (2) The Commission must delete the person's name from the register.

Division 5 Pre-registration of young persons

Note

Under section 2, this Division does not commence until the date appointed by the Minister by notice in the Gazette.

53 Entitlement to pre-registration

A person is entitled to be pre-registered as an elector in a constituency if the person:

- (a) is 17 years of age (a "**young person**"); and
- (b) would, if the person were 18 years of age or over, be entitled to be registered in that constituency.

54 Applications and forms

- (1) A young person may apply, during a registration period, to be pre-registered as an elector.
- (2) The application must be made and dealt with under Division 2 as if it were an application for registration.
- (3) A provisional list of pre-registered electors must be published under section 35 as if it were a provisional list of electors.

55 Objections and inquiries

An objection in relation to a provisional list of pre-registered electors may be made and dealt with under Division 3 as if it were an objection in relation to a provisional list of electors.

56 List of pre-registered electors

The Commission must approve a final list of pre-registered electors for each constituency under section 48 as if it were a final list of electors.

57 Transfer to final list of electors

The Commissioner must transfer the name of a young person from a list of pre-registered electors for a constituency to the final list of electors for the constituency:

- (a) when the person turns 18 years of age; or
- (b) if the young person will turn 18 years of age after the end of a registration period but on or before an election date – when the final list of electors is prepared for the purpose of that election.

PART 5 CONDUCT OF ELECTIONS

Division 1 Key dates in the conduct of an election

58 Election date

- (1) The date for a general election is appointed by the Governor-General by proclamation under section 74 of the *Constitution*.

Note

Under section 74 of the Constitution, the date set must be within 4 months after Parliament is dissolved.

- (2) For any other election, the Governor-General must, by Gazette notice, appoint an election date.
- (3) The proclamation or notice setting an election date must be published at least 56 days before the election date.

59 Nomination period and place

- (1) The period during which nominations of candidates for election must be made:
 - (a) begins the day after an election date has been set; and
 - (b) ends 42 days before the election date.
- (2) The Commission must, by Gazette notice, declare places to be nomination places where nominations can be made in person.
- (3) The Commission may declare a place outside a constituency to be a nomination place for the constituency, provided there is also at least one nomination place in the constituency.

60 Notices of election date and nomination period

- (1) The returning officer for a constituency must publish a notice stating:
 - (a) the election date and hours of voting; and
 - (b) the nomination period and each nomination place for the constituency; and
 - (c) the place at which, and the time by which a candidate may withdraw his or her nomination.
- (2) The returning officer must publish the notice as soon as possible, but within 7 days after the election date is appointed.

Note

See section 132 for requirements in relation to the publication of notices under this Act.

61 Power to defer part of an election

- (1) This section applies if the Commission is satisfied that, because of any unforeseen natural or man-made reason, it is not or will not be reasonably possible to:
 - (a) conduct an election in all or part of a constituency in accordance with a date set under section 58 or 59; or

- (b) complete the counting of votes immediately following an election.

Example

An unforeseen natural cause may be a natural disaster such as a flood or storm. An unforeseen man-made cause may be a civil disturbance.

- (2) The Commission may do any of the following:
 - (a) advise the Governor-General to appoint a new election date;
 - (b) set a new date for the last day of the nomination period;
 - (c) if an election has taken place – direct that the counting of votes be deferred or suspended to a later specified date.
- (3) A date set under subsection (2)(a) or (b):
 - (a) must be within 14 days after the date originally set; and
 - (b) is taken to be the date set under section 58 or 59 (as the case may be).

62 Campaign period

The campaign period for an election begins on the date of publication of the election date and ends 24 hours before the election date.

Division 2 Candidates for election

63 Nomination of candidate

- (1) A person who wishes to stand as a candidate for election in a constituency must be nominated by 3 electors who are registered in and reside in the constituency at the time of the nomination.
- (2) The nomination must:
 - (a) be made in Form 2 to the returning officer for the constituency; and
 - (b) may be made:
 - (i) personally at a nomination place for the constituency; or

- (ii) in another way permitted by the regulations; and
 - (c) be made within the nomination period; and
 - (d) be accompanied by a nomination fee of \$5000; and
 - (e) for the candidate of a political party – meet the requirements of section 65.
- (3) A person may only be nominated as a candidate in one constituency, and an elector may only nominate one candidate.
- (4) If an elector nominates more than one candidate:
- (a) the elector's first nomination is valid; and
 - (b) the elector's second or subsequent nomination is void.

64 Validity of nomination

- (1) The returning officer for a constituency must decide whether a nomination received for the constituency is valid:
- (a) if the nomination is received at least 24 hours before the end of the nomination period – as soon as possible after the nomination is received; or
 - (b) otherwise – within 24 hours after the end of the nomination period.
- (2) The returning officer may decide that a nomination is invalid on one or more of the following grounds:
- (a) that the proposed candidate:
 - (i) is not qualified for election under section 48 of the *Constitution*; or
 - (ii) is disqualified from election under section 49 of the *Constitution*; or
 - (iii) is already nominated in another constituency;
 - (b) that the nomination was not made in accordance with the requirements of section 63;

- (c) that any of the nominators are not eligible to nominate the proposed candidate.
- (3) If the returning officer decides that the nomination of a person is invalid:
- (a) the officer must:
 - (i) record the decision and the reasons for it on the nomination form; and
 - (ii) give the person or any of the person's nominators a copy of the form with the decision recorded as soon as possible; and
 - (b) the person may be nominated again within the nomination period; and
 - (c) the person, or the political party the person represents, may lodge a complaint about the decision under section 30.

65 Candidate representing political party

- (1) A candidate representing a political party must:
- (a) be a registered member of the political party under the *Political Parties Integrity Act 2014*; and
 - (b) together with his or her nomination form, give the returning officer a certificate signed by the Registrar certifying that the candidate:
 - (i) is a registered member of the political party; and
 - (ii) is a candidate of the political party at the election.
- (2) The nomination of a candidate representing a political party cannot be amended to change the status of the candidate so that the candidate is an independent candidate or represents another political party.
- (3) However, the candidate may withdraw his or her nomination and be nominated again under a different status during the nomination period.

66 **Withdrawal of nomination**

- (1) A candidate may withdraw his or her nomination by written notice to the returning officer signed by the candidate (a ***“notice of withdrawal”***).
- (2) The candidate must give the notice to the returning officer within 48 hours after the end of the nomination period.
- (3) The withdrawal takes effect when the notice is received by the returning officer.
- (4) However, a notice of withdrawal is not effective:
 - (a) if it reduces the number of candidates in a constituency to zero; or
 - (b) if:
 - (i) the notice is one of 2 or more notices of withdrawal that together reduce the number of candidates in a constituency to zero; and
 - (ii) either:
 - (A) the notices were received at the same time; or
 - (B) it is impossible to determine which of the notices was received first.
- (5) An assistant returning officer residing within the constituency for which the candidate has been nominated:
 - (a) may accept a notice of withdrawal if the officer is satisfied that difficulty of communication will prevent the notice of withdrawal being given to the returning officer within 48 hours after the end of the nomination period; and
 - (b) must, as soon as possible, inform the returning officer of the notice of withdrawal.

67 **Death of candidate**

- (1) This section applies if a candidate dies:

- (a) after the end of the nomination period; and
 - (b) before polling day.
- (2) The returning officer for the constituency must report the death to the Commission.
 - (3) The Commission must request the Governor-General to cancel the election and appoint a new election date for the constituency.
 - (4) The process under this Part for the conduct of the election begins again, with a reduced nomination period set by the Commission.
 - (5) However, a new nomination is not required for a candidate whose nomination was valid at the time of the cancellation of the election.

68 Polling and counting agents

- (1) A candidate may, not later than 10 days before polling day, appoint:
 - (a) up to 2 persons to be the candidate's polling agents for each polling station; and
 - (b) up to 2 persons to be the candidate's counting agents for each counting centre.
- (2) The appointment is not effective until the candidate has given the returning officer for the constituency written notice of the appointment, stating:
 - (a) the name and address of each polling agent and their assigned polling station; and
 - (b) the name and address of each counting agent.
- (3) The function of a polling agent is to observe the election process in a polling station in the candidate's constituency.
- (4) The function of a counting agent is to observe the counting of votes in the candidate's constituency.
- (5) Only one polling agent for a candidate is permitted in a polling station at any time.
- (6) Only one counting agent for a candidate is permitted in a counting

centre at any time.

- (7) The returning officer for a constituency must:
- (a) before polling begins, give each presiding officer for a polling station in the constituency the name of each polling agent assigned to the polling station; and
 - (b) before counting of votes begins, give the assistant returning officer responsible for a counting centre for the constituency the names of each counting agent.

69 Campaign expenses

Within 30 days after the publication of an election result under section 107, a candidate in the election must submit to the Commissioner a statement of account audited by a person who is a registered company auditor under the *Accountants Act 2010* specifying:

- (a) all expenses incurred by the candidate in relation to the candidate's campaign for election; and
- (b) the source of all funds used to meet those expenses.

Division 3 Arrangements for voting

70 When voting must take place

Voting must take place for an election in a constituency if more than one candidate is nominated in the constituency.

71 Arrangements for voting

The returning officer for a constituency must:

- (a) ensure a sufficient number of polling stations are provided in the constituency; and
- (b) ensure that a list of electors assigned to vote at each polling station is prepared and endorsed by the Commissioner; and
- (c) provide each presiding officer with sufficient numbers of ballot papers with counterfoils; and

regulation.

- (2) On the day the nomination period closes, the returning officer for the constituency must publish a notice:
 - (a) fixing the place, date and time (which must not be later than 7 days after the nomination period ends) at which the sequence will be decided; and
 - (b) inviting any person who wishes to be present to attend.

Note

See section 132 for requirements in relation to the publication of notices under this Act.

75 Symbols on ballot paper

The symbol that must appear on a ballot paper for a candidate is:

- (a) for an independent candidate – a symbol allocated by the returning officer for the constituency; and
- (b) for a candidate representing a political party – the party symbol registered under the *Political Parties Integrity Act 2014*.

76 Ballot boxes

- (1) The presiding officer at a polling station must ensure that the polling station has a sufficient number of ballot boxes.
- (2) Immediately before the voting begins at the polling station, the presiding officer must:
 - (a) show the electors who are present an empty ballot box to be used when the voting begins, so that they may see that the box is empty; and
 - (b) then close, seal and secure the empty ballot box, in a way that will prevent the box being opened without breaking the seal.
- (3) If the ballot box in use is full, the presiding officer must:
 - (a) securely seal it to prevent the addition of any ballot paper into it; and

- (d) ensure each polling station has:
 - (i) polling booths for recording votes; and
 - (ii) a way for voters to mark ballot papers; and
 - (iii) copies of the register of electors that contains the list of electors assigned to vote at the polling station; and
- (e) do anything else necessary for the proper conduct of the election.

72 Notice of election

- (1) The returning officer for a constituency must publish a notice of election in the constituency at least 14 days before the election date.
- (2) The notice must state the following:
 - (a) the polling date and the hours for voting;
 - (b) the full name and address of each candidate and his or her nominators;
 - (c) the symbol allocated to each candidate on the ballot paper;
 - (d) the location of each polling station;
 - (e) a list of the electors assigned to vote at each polling station (as endorsed by the Commissioner under section 71(b)).

Note

See section 132 for requirements in relation to the publication of notices under this Act.

73 Form of ballot paper

The ballot paper for an election must be in Form 3.

74 Ballot paper draw

- (1) The sequence in which the names of candidates in a constituency will appear on the ballot paper for that constituency must be decided in accordance with the procedures prescribed by

- (b) then follow the procedures in subsection (2) for the next ballot box to be used.
- (4) The presiding officer must ensure that:
 - (a) only one ballot box is used at any given time; and
 - (b) each full and empty ballot box is placed conspicuously within the polling station in clear view of polling officials and other persons entitled to be in the polling station.

77 Display of candidates' names and symbols

The presiding officer must display in a conspicuous place at the polling station, a list of the names of candidates and their symbols.

78 Arrangements for persons with disabilities

The returning officer must ensure that appropriate arrangements are made for electors with disabilities or other special needs to cast their votes, including by ensuring polling stations and polling booths are accessible.

Division 4 Voting

Subdivision 1 Voting generally

79 Hours of voting

- (1) The hours of voting on polling day are from 7am to 5pm, subject to subsections (2) and (3).
- (2) The Commission may approve other hours (on polling day) of voting for a constituency.

Note

See section 132 for requirements in relation to the publication of notices under this Act.

- (3) If, at the end of the voting hours, an elector who has not voted is standing in the line to vote (even if the elector is outside the polling station in the line) or is inside the polling station, the presiding officer must allow the elector to vote.

80 Persons entitled to be in polling stations

Only the following persons are entitled to be in a polling station during polling hours:

- (a) any elector assigned to vote at the station under section 71(b);
- (b) the returning officer and any assistant returning officer for the constituency;
- (c) the presiding officer and any polling assistant for the polling station;
- (d) a polling agent assigned to the polling station;
- (e) a police officer on duty at the polling station;
- (f) a person accredited by the Commission to monitor or observe the election;
- (g) any other person who, in the presiding officer's opinion, has lawful reason to be in the polling station.

81 Ballot paper account

The presiding officer for a polling station must:

- (a) before voting begins, fill in an account in the approved form (a "**ballot paper account**") recording:
 - (i) the total number of ballot papers at the station; and
 - (ii) the total number of tendered ballot papers at the station; and
- (b) when the voting ends, complete the ballot paper account in accordance with section 92(3).

82 Official mark

- (1) The returning officer for a constituency must prepare a list of official marks that may be used to mark ballot papers before they are issued.
- (2) The returning officer must give the list to the presiding officer for

each polling station in the constituency.

83 Issuing ballot papers

- (1) An elector must personally cast his or her vote at the polling station the elector is assigned to under section 71(b).
- (2) Before giving a person a ballot paper, the presiding officer:
 - (a) must ask the person the following questions:
 - (i) “Are you the person whose name and photograph are on the register of electors as follows [*reading out loud to the person the name of the elector on the register*]?”;
 - (ii) “Have you already voted at this election?”; and
 - (b) must be satisfied of the following:
 - (i) that the person is an elector registered in the constituency who has been assigned to vote at the polling station under section 71(b);
 - (ii) of the identity person;
 - (iii) that the person has not already voted.
- (3) Immediately after the process under subsection (2), the presiding officer or a polling assistant must:
 - (a) call out the name of the elector; and
 - (b) place a mark against the name of the elector on the register of electors; and
 - (c) subject to subsection (4), mark with indelible ink one finger on either of the elector’s hands; and
 - (d) mark the ballot paper with an official mark; and
 - (e) give the ballot paper to the elector and direct the elector to go to a polling booth.
- (4) The presiding officer or polling assistant may dispense with the requirement under subsection (3)(c) if it is reasonably necessary to

do so because the elector has a physical disability.

84 Recording of votes generally

Subject to section 85, an elector who receives a ballot paper must:

- (a) go immediately into a polling booth; and
- (b) secretly record his or her vote on the ballot paper by placing one mark inside the square opposite the name of the candidate the elector wishes to vote for; and
- (c) fold and insert the marked ballot paper into the ballot box before leaving the polling station.

85 Recording of votes by electors with disabilities

If an elector is unable to cast his or her vote because of a physical disability, the presiding officer must, in the presence of the elector and a witness chosen by the elector:

- (a) ask the elector the name of the candidate the elector wishes to vote for, and confirm the answer; and
- (b) record the elector's vote as required by section 84; and
- (c) fold and insert the marked ballot paper into the ballot box.

86 Remote voting

The regulations may prescribe procedures for persons who are unable to attend a polling station for prescribed reasons to vote remotely.

87 Spoilt ballot papers

- (1) This section applies if an elector:
 - (a) accidentally deals with his or her ballot paper in a way that renders it invalid ("**spoils**" the ballot paper); and
 - (b) returns the ballot paper to the presiding officer; and
 - (c) satisfies the presiding officer that the ballot paper has been spoilt by accident.

- (2) The presiding officer must:
 - (a) first, cancel and retain the spoilt ballot paper; and
 - (b) then, give the elector a new ballot paper.

88 Tendered ballot papers

- (1) This section applies if an elector applies for a ballot paper after another person has voted under the same name.
- (2) The presiding officer must give the elector a tendered ballot paper in accordance with the procedure specified in section 83.
- (3) A tendered ballot paper must be of a colour different from a normal ballot paper.
- (4) The presiding officer must enter the name of the elector on a list of electors who have been given tender ballot papers (the “**tendered votes list**”).
- (5) The tendered votes list is admissible in a legal proceeding.

89 Conduct in polling stations

- (1) The presiding officer at a polling station is responsible for keeping order at the polling station.
- (2) The presiding officer may order that a person be removed from the polling station if the person:
 - (a) behaves in an disorderly manner or otherwise disrupts voting;
or
 - (b) is not entitled to be in the polling station; or
 - (c) fails to obey an order of the presiding officer.
- (3) A police officer or any other person authorised by the presiding officer may remove the person from the polling station.
- (4) The person must not re-enter the polling station during polling day, unless permitted by the presiding officer.
- (5) However, the powers in this section must not be exercised to

prevent the casting of vote of an elector entitled to vote at that polling station unless the elector's behaviour is so disorderly that allowing the elector would threaten the conduct of voting at the polling station.

90 Complaints during voting

- (1) An elector or polling agent at a polling station may complain to the presiding officer during the hours of voting about:
 - (a) an alleged breach of a voting procedure at the polling station; or
 - (b) a person engaging in a campaign activity at or in the vicinity of the polling station; or
 - (c) interference with the rights of an elector or polling agent at the polling station.
- (2) The presiding officer must:
 - (a) record the complaint in the approved form; and
 - (b) immediately decide the complaint; and
 - (c) record the decision, including the reasons for the decision; and
 - (d) if the presiding officer is satisfied that the complaint is substantiated, immediately take appropriate action to remedy the cause of the complaint.

91 Protested and invalidated votes

- (1) This section applies if a polling agent at a polling station suspects a person to be impersonating an elector for the purpose of voting.
- (2) The polling agent may inform the presiding officer of the suspicion.
- (3) If the person denies the allegation of impersonation:
 - (a) the person is still entitled to cast his or her vote (if they have not already voted); but
 - (b) the presiding officer must:

- (i) record "*protested against for impersonation*" against the person's name in the marked copy of the register of electors; and
 - (ii) record the elector's name and identification number on a list (the "***protested votes list***").
- (4) If the person admits the allegation of impersonation, the presiding officer:
 - (a) must not allow the person to vote; and
 - (b) must record the admission in the approved form, which must be and signed by the person and witnessed by the presiding officer; and
 - (c) must:
 - (i) record "*refused vote for impersonation*" against the person's name in the marked copy of the register of electors; and
 - (ii) record the elector's name and identification number on a list (the "***invalidated votes list***"); and
 - (d) refer the person to a police officer; and
 - (e) give the police officer a copy of the signed admission form.
- (5) The protested votes list, the invalidated votes list and admission forms are admissible in a legal proceeding.

92 Presiding officer's functions at close of voting

- (1) Immediately after voting closes at a polling station, the presiding officer must, in the presence of each polling agent at the station:
 - (a) parcel or secure the items mentioned in subsection (2) into separate packets; and
 - (b) securely seal each packet to prevent anything else being inserted into it.
- (2) The items are:

- (a) each ballot box used at the polling station, unopened and securely sealed; and
- (b) the marked copies of the register of electors; and
- (c) all unused ballot papers; and
- (d) the counterfoils of all used ballot papers; and
- (e) all spoilt ballot papers; and
- (f) all unused tendered ballot papers; and
- (g) the tendered votes list; and
- (h) the protested votes list and the invalidated votes list; and
- (i) any completed forms recording an admission of impersonation under section 91(3); and
- (j) any other document recording events at the polling station.

(3) The presiding officer must:

- (a) complete the ballot paper account showing the number of ballot papers issued to the officer and accounting for them as follows:
 - (i) the number of unused ballot papers;
 - (ii) the number of spoilt ballot papers;
 - (iii) the number of used tendered ballot papers;
 - (iv) the number of unused tendered ballot papers;
- (b) give all packets and the ballot paper account:
 - (i) to the returning officer; or
 - (ii) to an assistant returning officer who must give them to the returning officer.

Subdivision 2 Pre-poll voting

Note

Under section 2, this Subdivision does not commence until the date appointed by the Minister by notice in the Gazette.

93 Appointment of date and officials for pre-poll voting

- (1) The Commission may, by notice:
 - (a) set:
 - (i) a date and time earlier than polling day at which for pre-poll voting will be conducted; and
 - (ii) the date by which applications for pre-poll voting must be made, which must be at least 7 days before the date for pre-poll voting; and
 - (b) declare the place or places at which pre-poll voting is to be conducted (a **“pre-poll voting place”**).
- (2) The Commission must appoint a presiding officer for each pre-poll voting place (a **“pre-poll presiding officer”**).

94 Electors eligible for pre-poll voting

An elector is eligible to vote in pre-poll voting (an **“eligible elector”**) if the elector:

- (a) is an electoral official who will be engaged in the conduct of the election on polling day; or
- (b) is a police officer who will be on duty on polling day; or
- (c) belongs to a class of electors prescribed by regulation to be so eligible.

95 Application for pre-poll voting

- (1) A person may apply to vote in pre-poll voting.
- (2) The application must be:
 - (a) in the approved form; and

- (b) made to a pre-poll presiding officer by the date set under section 93(1)(a)(ii).
- (3) The pre-poll presiding officer must:
 - (a) if the officer is satisfied that the person is an eligible elector – approve the application; or
 - (b) otherwise – refuse the application.

96 Polling agents

A candidate's polling agent is entitled to be present at a pre-poll voting place in the constituency in which the candidate is nominated.

97 Conduct of pre-poll voting

- (1) Subject to this section, pre-poll voting is to be conducted in accordance with Subdivision 1.
- (2) In addition to a ballot paper, an eligible elector must be given an envelope showing the elector's constituency.
- (3) When pre-poll voting is completed, the pre-poll presiding officer for a pre-poll voting place must, in the presence of any polling agents:
 - (a) open the ballot box and remove the sealed envelopes from the box; and
 - (b) sort the sealed envelopes into the constituencies written on the envelopes; and
 - (c) in the approved form, record the number of envelopes for each constituency; and
 - (d) parcel the sealed envelopes and the completed approved form into a packet for each constituency; and
 - (e) seal and secure the packet; and
 - (f) immediately send each packet to the election manager for the constituency.
- (4) The election manager must give each packet to the returning officer

for the relevant constituency.

PART 6 COUNTING OF VOTES

98 Place and time of count

The Commission must fix a place, date and time for the counting of votes for each constituency.

99 Persons who may be present during counting

The following persons are entitled to be in a counting centre and be present during each process under this Part:

- (a) the electoral manager for the relevant province;
- (b) the returning officer and each assistant returning officer for the relevant constituency;
- (c) a counting agent assigned to the counting centre;
- (d) a police officer on duty at the counting centre;
- (e) a person accredited by the Commission to monitor or observe the election;
- (f) any other person permitted by the returning officer.

100 Verification of ballot papers

- (1) Before opening a ballot box, the returning officer for a constituency must first verify ballot papers cast during pre-poll voting by:
 - (a) opening the packet received from the election manager containing the sealed envelopes; and
 - (b) comparing the number of sealed envelopes on the packet against the number recorded on the form attached to the packet to ensure that all the envelopes recorded are accounted for; and
 - (c) opening the sealed envelopes and removing the ballot papers; and

- (d) placing the ballot papers into a sealed and secured packet marked "Pre-Poll Ballots" to be opened only during the counting of votes.
- (2) For each ballot box received from a polling station, the returning officer must:
 - (a) open the ballot box and remove the ballot papers from inside the box; and
 - (b) while keeping them face down at all times, count and record in the approved form the number of ballot papers in the box.
- (3) The returning officer must:
 - (a) open the following packets:
 - (i) unused ballot papers;
 - (ii) spoilt ballot papers;
 - (iii) the tendered votes list; and
 - (b) compare the ballot papers account against the following:
 - (i) the number of ballot papers recorded under subsection (2)(b);
 - (ii) the number of unused ballot papers and spoilt ballot papers in the packets opened under paragraph (a);
 - (iii) the tendered votes list opened under paragraph (a); and
 - (c) immediately reseal the opened packets; and
 - (d) prepare a statement in the approved form recording the results of the comparison under paragraph (b); and
 - (e) as soon as practicable, store the ballot papers in the ballot box from which they were removed and reseal it.
- (4) The returning officer must, on request, give a counting agent the statement prepared under subsection (3)(d).
- (5) The returning officer must not open:

- (a) the sealed packet containing the marked copy of the register of electors; or
 - (b) the sealed packet containing the counterfoils of used ballot papers.
- (6) The returning officer may authorise a presiding officer or an assistant returning officer to:
- (a) assist in the process of verifying ballot papers; or
 - (b) conduct the process of verifying ballot papers.
- (7) The votes for a constituency may only be counted after the verification of ballot papers has been completed under this section for all the polling stations in the constituency.

101 Invalid ballot papers

- (1) Subject to subsection (2), a ballot paper is valid and must be counted if the voter's intention is clear from the paper.
- (2) The following ballot papers are invalid and must not be counted:
- (a) a ballot paper without a vote or an official mark;
 - (b) a ballot paper with any writing or marking that may identify the elector who cast the ballot paper;
 - (c) a ballot paper that does not clearly show the voter's intention.
- (3) If there is a question in relation to the validity of a ballot paper, the returning officer must decide whether it is valid, and the returning officer's decision is final.
- (4) A counting agent may object to a decision of the returning officer that ballot paper is invalid.
- (5) For each ballot paper not counted, the returning officer must:
- (a) write "*rejected*" on the ballot paper; and
 - (b) if the rejection was objected to by a counting agent – write "*rejection objected to*" on the ballot paper.

- (6) The returning officer must:
- (a) prepare a statement in the approved form, showing the number of ballot papers rejected under the following heads:
 - (i) ballot papers without a vote or an official mark;
 - (ii) ballot papers with any writing or marking that may identify the elector who cast the ballot paper;
 - (iii) ballot papers that do not clearly show the voter's intention; and
 - (b) give a copy of the statement to a counting agent who requests it.

102 Counting of votes

- (1) The returning officer for a constituency must:
- (a) re-open all the ballot boxes for the constituency that have been resealed under section 100(3)(e) and remove all the ballot papers; and
 - (b) remove all the pre-poll ballot papers for the constituency from the pre-poll ballot packet sealed under section 100(1)(d); and
 - (c) mix all the ballot papers together and make batches of ballot papers for the purpose of counting; and
 - (d) sort the ballot papers in each batch into one lot for valid ballot papers, and another lot for invalid ballot papers; and
 - (e) for each batch, count the number of ballot papers (with their faces upwards) cast in favour of each candidate; and
 - (f) for each batch, record in the approved form the number of votes cast for each candidate; and
 - (g) add and record in the approved form the total number of votes from all batches cast for each candidate; and
 - (h) count and record the number of invalid ballot papers.
- (2) The counting of votes must, as far as is practicable, proceed

continuously.

- (3) The returning officer may authorise an assistant returning officer to assist in or conduct any process under subsection (1).
- (4) When the count is completed, the returning officer must, in separate lots, parcel the counted ballot papers and the invalid ballot papers and securely seal the parcels.

103 Equality of votes

- (1) This section applies if, after counting the votes under section 102, 2 or more candidates in a constituency have an equal number of votes.
- (2) The returning officer must:
 - (a) recount the votes cast for those candidates; and
 - (b) if the votes are still equal after the recount, report the matter to the Commission.
- (3) The Commission must, in writing, advise the Governor-General to appoint an election date for a fresh election in that constituency.

104 Complaints during counting process

- (1) A counting agent may complain to the returning officer during the counting process about:
 - (a) an alleged breach of any counting procedure; or
 - (b) alleged interference with the rights of the candidate or counting agent; or
 - (c) an other alleged irregularity at the counting centre.
- (2) The returning officer must:
 - (a) record the complaint in the approved form; and
 - (b) immediately decide the complaint; and
 - (c) record the decision, including the reasons for the decision; and

- (d) if the officer is satisfied that the complaint is substantiated – immediately take appropriate action to remedy the cause of the complaint.

PART 7 RESULTS OF ELECTIONS

105 Unopposed candidates

If only one candidate is nominated in a constituency, the returning officer for the constituency must:

- (a) on polling day, declare the candidate to have been elected; and
- (b) in writing, notify the elected candidate and the Commission of the election.

106 Declaration and notification of elected candidate

When the counting of votes is completed for a constituency, the returning officer must:

- (a) declare the candidate who has the majority of votes cast to be elected; and
- (b) in writing, notify the elected candidate and the Commission of the full results of the election.

107 Publication of election results

The Commission must:

- (a) send a copy of a notice received from a returning officer under this Division to the Governor-General and the Clerk of Parliament; and
- (b) as soon as practicable, publish the notice in the Gazette.

Note

See section 132 for requirements in relation to the publication of notices under this Act.

PART 8 PETITIONS RELATING TO ELECTIONS AND MEMBERS OF PARLIAMENT

108 Election petition

- (1) An “***election petition***” is a petition to the Court (other than a status petition or vacancy petition) in which a person complains that a member of Parliament for a constituency was not validly elected.
- (2) The following persons are entitled to file an election petition:
 - (a) an elector in the constituency to which the petition relates;
 - (b) a candidate for the election in the constituency.
- (3) An election petition must be filed within 30 days after the result of the election is published under section 107.
- (4) The Court may, when hearing an election petition, order the returning officer for the constituency to do any of the following:
 - (a) produce any invalid ballot papers;
 - (b) open and produce a sealed packet of counterfoils of used ballot papers;
 - (c) produce any counted ballot papers;
 - (d) produce any tendered ballot papers and the tendered votes list.
- (5) Without limiting the circumstances in which the Court may find that an election is void, the Court must declare the election of a candidate void if it finds that the candidate was not qualified for election or was disqualified at the time of the election.

109 Status petition

- (1) A “***status petition***” is a petition (other than an election petition or vacancy petition) on a question as to the right of a person to be a member of Parliament.
- (2) The following persons are entitled to file a status petition:

- (a) an elector;
 - (b) the Attorney-General.
- (3) If the Court decides that a person who is a member of Parliament is not entitled to remain a member of Parliament, the person ceases to be a member on the date of the decision.

110 Vacancy petition

- (1) A “*vacancy petition*” is a petition (other than an election petition or status petition) on a question as to whether the seat of a member of Parliament has become vacant.
- (2) The following persons are entitled to file a vacancy petition:
- (a) a member of Parliament;
 - (b) the Attorney-General.
- (3) If the Court decides that the seat of a member of Parliament has become vacant, the seat becomes vacant on the date of the decision.

111 Procedures and rules for petitions

- (1) The Court:
- (a) must hear and decide a petition under this Part in open court; but
 - (b) may dismiss a petition without a hearing if:
 - (i) the petition is frivolous or vexatious; or
 - (ii) there are insufficient grounds to warrant the hearing of the petition.
- (2) The decision of the Court on a petition under this Part is final.
- (3) The Chief Justice may, subject to this Act, make rules of practice and procedure in relation to petitions under this Part.
- (4) Subject to rules made under subsection (3):

- (a) the procedure at the hearing of an election petition, must (as near as possible) be the same (and the Court has the same powers, jurisdiction, and authority) as if it were a civil action; and
 - (b) witnesses:
 - (i) may be summoned and sworn in the same manner as in the hearing of a civil action; and
 - (ii) are subject to the same penalties for perjury.
- (5) The Court must give a certificate of its decision on a petition under this Part to the Commission, the Governor-General and the Speaker.

112 Non-compliance with this Act

- (1) This section applies if it is established during a hearing of an election petition that, in relation the election concerned, there was:
- (a) a failure to comply with the time required for doing anything under this Act; or
 - (b) an omission or irregularity in filling out a form required under this Act; or
 - (c) a lack of or defect in the appointment of an electoral official or polling or counting agent; or
 - (d) an absence of, or mistake or omission or breach of duty by, an electoral official before, during, or after polling.
- (2) The Court must not declare the election invalid only because of the matter mentioned in subsection (1) if the Court is satisfied that:
- (a) the registration of electors and the conduct of the election substantially complied with the *Constitution*, this Act and any other written law; and
 - (b) the matter mentioned in subsection (1) did not affect the result of the election.

PART 9 OFFENCES

113 Misleading information or document

(1) In this section:

“misleading information” means information that is misleading in a material particular or because of the omission of a material particular.

(2) A person commits an offence if:

- (a) the person gives information to an electoral official under this Act; and
- (b) the person knows or is reckless as to whether the information is misleading.

Maximum penalty: 50,000 penalty units or imprisonment for 5 years, or both.

(3) A person commits an offence if:

- (a) the person gives a document to an electoral official under this Act; and
- (b) the person knows or is reckless as to whether the document contains misleading information.

Maximum penalty: 50,000 penalty units or imprisonment for 5 years, or both.

(4) Subsection (2) does not apply if the person, when giving the document:

- (a) draws the misleading aspect of the document to the attention of the electoral official; and
- (b) to the extent to which the person can reasonably do so – gives the electoral official the information necessary to remedy the misleading aspect of the document.

114 Confidentiality of information

- (1) A person commits an offence if the person:
- (a) obtains information while exercising a power or performing a function under this Act as any of the following:
 - (i) the Commissioner;
 - (ii) a member of the Commission;
 - (iii) an electoral official;
 - (iv) a staff member;
 - (v) a police officer; and
 - (b) engages in conduct that results or is reasonably likely to result in the disclosure of the information to a person other than a person mentioned in paragraph (a).

Maximum penalty: 50,000 penalty units or imprisonment for 5 years, or both.

- (2) Subsection (1) does not apply if the person discloses the information:
- (a) for the exercise of the person's powers or the performance of the person's functions; or
 - (b) for the administration of this Act; or
 - (c) for legal proceedings arising out of the operation of this Act; or
 - (d) with the consent of the person to whom the information relates.

115 Protection of register

A person who alters any information in the register of electors without authorisation under this Act commits an offence.

Maximum penalty: 50,000 penalty units or imprisonment for 5 years, or both.

116 Duty of employers to release electors

- (1) An employer commits an offence if:
- (a) an elector employed by the employer requests to be released at a reasonable time to vote at an election; and
 - (b) the employer:
 - (i) does not release the elector; or
 - (ii) releases the elector but reduces the elector's remuneration for the time spent by the elector voting.

Maximum penalty: 10,000 penalty units

- (2) This section binds the Crown.

117 Failure to comply with direction or requirement

A person commits an offence if the person fails to comply with a direction or requirement of an electoral official given or made under this Act.

Maximum penalty: 20,000 penalty units or imprisonment for 2 years, or both.

118 Obstructing or threatening an electoral official

A person commits an offence if the person obstructs or threatens an electoral official acting in an official capacity.

Maximum penalty: 20,000 penalty units or imprisonment for 2 years, or both.

119 Impersonating an electoral official

A person commits an offence if the person falsely represents, by words or conduct, that the person is an electoral official.

Maximum penalty: 20,000 penalty units or imprisonment for 2 years, or both.

120 Fraudulent voting

A person commits an offence if the person:

- (a) votes more than once at an election; or
- (b) impersonates an elector (living or dead) for the purpose of voting at an election; or
- (c) votes at an election knowing that he or she is not entitled to do so under the *Constitution*; or
- (d) induces another person to vote at an election knowing that that other person is not entitled to do so under the *Constitution*.

Maximum penalty: 50,000 penalty units or imprisonment for 5 years, or both.

121 Interfering with voting

A person commits an offence if the person, without lawful authority:

- (a) interferes with an elector who is casting his or her vote; or
- (b) attempts to obtain information on the candidate for whom an elector is about to vote or has voted; or
- (c) enters into a polling booth while another person is in the booth, or
- (d) obstructs or unnecessarily delays proceedings at a polling station, including by obstructing access to the polling station.

Maximum penalty: 50,000 penalty units or 5 years imprisonment, or both.

122 Interfering with ballot papers and ballot boxes

A person commits an offence if the person, without lawful authority:

- (a) removes a ballot paper from a polling station; or
- (b) forges a ballot paper; or

- (c) defaces a ballot paper completed by another person; or
- (d) destroys a ballot paper; or
- (e) supplies a ballot paper to another person; or
- (f) destroys, takes, opens or interferes with a ballot box or packet of ballot papers.

Maximum penalty: 50,000 penalty units or 5 years imprisonment, or both.

123 Display, publication and distribution of false material

A person commits an offence if:

- (a) the person displays, publishes or distributes material (or causes material to be displayed, published or distributed), and
- (b) the material falsely appears to have been issued by the Commission, the Commissioner or an electoral official.

Maximum penalty: 20,000 penalty units or imprisonment for 2 years, or both.

124 Engaging in campaign activity outside campaign period

A person who engages in a campaign activity in relation to an election outside the campaign period for the election commits an offence.

Maximum penalty: 20,000 penalty units or imprisonment for 2 years, or both.

125 Campaign expenses

- (1) A candidate whose election campaign expenses exceed \$250,000 commits an offence.

Maximum penalty: 50,000 penalty units or 5 years imprisonment, or both.

- (2) A candidate who fails to comply with the requirements of section 69 commits an offence.

Maximum penalty:

- (a) 20,000 penalty units or 2 years imprisonment, or both; and
- (b) 100 penalty units for each day the offence continues.

126 Election bribery

- (1) A person commits an offence if the person:
 - (a) the person directly or indirectly promises, offers or gives a benefit to another person; and
 - (b) the person does so with the intention of influencing the other person to:
 - (i) vote or refrain from voting at an election; or
 - (ii) vote in a particular way at an election; or
 - (iii) influence a third person to vote, refrain from voting or vote in a particular way at an election.

Maximum penalty: 150,000 penalty units or imprisonment for 15 years, or both.

- (2) Subsection (1) does not apply in relation to a declaration of policy or a promise of action by a candidate as a campaign activity.
- (3) A person commits an offence if:
 - (a) the person directly or indirectly solicits, accepts or receives a benefit for himself or herself, or another person; and
 - (b) the person does so with the intention that he or she will be influenced to:
 - (i) vote or refrain from voting at an election; or
 - (ii) vote in a particular way at an election; or
 - (iii) influence a third person to vote, refrain from voting or vote in a particular way at an election.

Maximum penalty: 150,000 penalty units or imprisonment for 15 years, or both.

- (4) A person commits an offence if the person gives another person money or any other item with the intention that the money or item be used as a benefit in the commission of an offence under subsection (1).

Maximum penalty: 150,000 penalty units or imprisonment for 15 years, or both.

- (5) It is a defence to a prosecution for an offence against subsection (1) or (3) if the defendant proves that the defendant promised, offered, gave, solicited, accepted or received the benefit:
- (a) in accordance with custom; and
 - (b) openly, in the course of a traditional exchange of gifts; and
 - (c) for the benefit of a community or group of people and not for an individual.

127 Undue influence

A person commits an offence if the person directly or indirectly, by violence, intimidation, threat or physical restraint, attempts to influence another person to:

- (a) vote or refrain from voting at an election; or
- (b) vote in a particular way at an election.

Maximum penalty: 50,000 penalty units or 5 years imprisonment, or both.

128 Inciting election boycott

- (1) This section applies to a person who has customary authority or religious influence over a group of people.
- (2) The person commits an offence if the person issues or causes to be issued a direction that, having regard to the nature and extent of the person's authority or to a probable consequence of non-compliance with the direction, is likely to cause a group of persons to refrain

from voting in an election.

Maximum penalty: 30,000 penalty units or 3 years imprisonment, or both.

129 Effect of certain offences

- (1) This section applies if a person is convicted of an offence against any of the following:
 - (a) section 120 (fraudulent voting);
 - (b) section 126 (election bribery);
 - (c) section 127 (undue influence).
- (2) The person is disqualified for 5 years from the date of the conviction:
 - (a) from being registered as an elector; or
 - (b) from voting at an election; or
 - (c) from being elected as a member of Parliament.

Note

Under section 50(f) of the Constitution, a sitting member of Parliament vacates his or her seat if the member becomes disqualified from election during his or her term.

Under section 64(2) of this Act, a person who is disqualified from election is not able to be nominated as a candidate for election.

- (3) The disqualification is in addition to any penalty imposed for the offence.

PART 10 MISCELLANEOUS PROVISIONS

130 Power to correct errors

The Commission may correct any error, omission or duplication on an application, register or other document made or issued under this Act that appears to have been made by mistake.

131 Delegation of powers and functions

- (1) The Commissioner may, in writing, delegate any of his or her functions or powers under this or any other Act, other than this power of delegation.
- (2) The Commission may, in writing, delegate any of its functions or powers under this or any other Act, other than this power of delegation.
- (3) A delegation under subsection (1) or (2) may be made to any of the following:
 - (a) a member of the Commission;
 - (b) a staff member;
 - (c) a electoral official;
 - (d) any other suitably qualified person.
- (4) A delegation:
 - (a) may be subject to conditions; and
 - (b) may be varied, suspended or revoked; and
 - (c) does not prevent the delegator from carrying out the delegated function or power.
- (5) A delegated function or power carried out by the delegate is taken to have been carried out by the delegator.
- (6) A delegate who acts under a delegation is presumed to have had the delegation and acted under it, unless it is proven otherwise.

132 Requirements for publication of notices

- (1) This section applies to any requirement under this Act for a notice to be published by an electoral official.
- (2) The official must publish the notice in the ways the official considers appropriate to:
 - (a) ensure the notice is seen as widely as is necessary in the

circumstances; and

- (b) to bring the notice to the attention of the persons to whom it is directed.
- (3) Without limiting subsection (2), the official may publish a notice in any of the following ways:
 - (a) in the Gazette;
 - (b) in a newspaper or magazine;
 - (c) at a public place;
 - (d) on a website;
 - (e) in any other way considered appropriate.
- (4) If a provision of this Act requires an official to publish a notice in the Gazette, the official must publish the notice in the Gazette in addition to any other way the official chooses to publish the notice.

133 Forms

- (1) A reference in this Act to a form by number is a reference to the form of that number in Schedule 2.
- (2) The Commission may approve additional forms for this Act.

134 Custody of election documents

- (1) The Commissioner must:
 - (a) ensure that any document relating to the conduct of an election is kept in safe custody; and
 - (b) on the date fixed under subsection (2), destroy the following documents:
 - (i) all used and unused ballot papers;
 - (ii) all spoilt ballot papers;
 - (iii) all used and unused tendered ballot papers;

- (iv) any other document authorised by the Commission to be destroyed.
- (2) The Commission must fix a date at least 6 months after the election results are published under section 107 to destroy the documents.
- (3) However, if an election petition has been filed in relation to the election, the Commission must not destroy any document relating to the petition until it has been finally determined by the Court.
- (4) Also, the Commission must not destroy a document that may be required for study or research conducted under section 11(d).
- (5) Information used for study or research:
 - (a) may only be used for statistical or analytical purposes; and
 - (b) must not be used in a way that discloses the identity, personal information or vote of any person.

135 Protection from liability

A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function under this Act as any of the following:

- (a) the Commissioner;
- (b) a member of the Commission;
- (c) an electoral official;
- (d) a staff member;
- (e) a police officer.

136 Regulations

Without limiting the Commission's general power to make regulations under section 137(1) of the *Constitution*, the Commission may make regulations:

- (a) prescribing any matter required or permitted by this Act to be prescribed; and

- (b) relating to committees; and
- (c) prescribing procedures for the registration of electors and the conduct of elections; and
- (d) prescribing fees for the purpose of this Act.

PART 11 REPEALS, TRANSITIONAL MATTERS AND CONSEQUENTIAL AMENDMENTS

Division 1 Repeals and transitional matters

137 Definitions

In this Division:

“repealed Act” means the *National Parliament Electoral Provisions Act* (Cap. 87);

“repeal date” means the date section 138 commences.

138 Repeal

The *National Parliament Electoral Provisions Act* (Cap. 87) is repealed.

139 Continuation of subsidiary legislation

- (1) All subsidiary legislation made under the repealed Act that is in force immediately before the repeal date continues in force until it is repealed or revoked.
- (2) A reference in subsidiary legislation continued in force under this section to a provision of the repealed Act must be read as a reference to the corresponding provision of this Act.

140 Continuation of staff

A person who was a member of staff of the body known as the Solomon Islands Elections Office immediately before the repeal date is taken to be a member of staff of the Electoral Office as if the person had been appointed under section 19.

141 Continuation of register

The register of electors kept under the repealed Act is taken to be the register under this Act until it is revised under this Act.

142 Transitional regulations

- (1) A regulation made by the Commission may provide for a matter of a transitional nature:
 - (a) because of the enactment of this Act; or
 - (b) to allow or facilitate the transition to the operation of this Act.
- (2) The regulation may have retrospective operation to a day not earlier than the date this section commences.
- (3) However, to the extent to which the regulation has retrospective operation, it does not operate to the disadvantage of a person by:
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.
- (4) The regulation must declare it is made under this section.
- (5) Each regulation made under this section expires 2 years after the date this section commences.

Division 2 Consequential amendments

143 Amendment of Political Parties Integrity Act 2014

- (1) This section amends the *Political Parties Integrity Act 2014*.
- (2) The definition of "Commission" in section 2 is deleted and replaced with the following:

“**Commission**” means the Electoral Commission established by section 57 of the *Constitution*;
- (3) The definition of "election" in section 2 is amended by deleting "National Parliament Electoral Provisions Act (Cap. 87)" and substituting "*Electoral Act 2018*".

- (4) The definition of “election day” in section 2 is amended by deleting “section 24 of the National Parliament Electoral Provisions Act (Cap. 87)” and substituting “the *Electoral Act 2018*”.
- (5) The definition of “election period” in section 2 is amended by deleting “section 57(2) of the National Parliament Electoral Provisions Act (Cap. 87)” and substituting “the *Electoral Act 2018*”.
- (6) Part 2 is repealed.
- (7) Section 13 is amended by deleting subsections (2) and (3) and substituting the following:

“(2) The Commissioner of Elections appointed under section 57A of the *Constitution* is the Registrar.”
- (8) Section 19(2)(a) is amended by deleting “register of voters under the National Parliament Electoral Provisions Act (Cap. 87)” and substituting “register of electors under the *Electoral Act 2018*”.
- (9) Section 22(2) is amended by:
 - (a) deleting “section 24 of the National Parliament Electoral Provisions Act (Cap. 87)” and substituting “the *Electoral Act 2018*”; and
 - (b) deleting “section 57(2) of”.
- (10) Sections 45(4) and 46 are amended by deleting “National Parliament Electoral Provisions Act (Cap. 87)” and substituting “*Electoral Act 2018*”.

144 Amendment of Honiara City Act 1999

- (1) This section amends the *Honiara City Act 1999*.
- (2) Section 17 is amended by deleting “section 15 of the National Parliament Electoral Provisions Act” and substituting “the *Electoral Act 2018*”.
- (3) Section 18(2)(a) is amended by deleting “National Parliament Electoral Provisions Act” and substituting “*Electoral Act 2018*”.

145 Amendment of Provincial Government Act 1997

- (1) This section amends the *Provincial Government Act 1997*.
- (2) Section 12(2)(a) is amended by deleting “National Parliament Electoral Provisions Act” and substituting “*Electoral Act 2018*”.

146 Amendment of Public Holidays Act (Cap. 151)

- (1) This section amends the *Public Holidays Act (Cap.151)*.
- (2) Section 2 is amended by inserting the following after subsection (2):
 “(3) The polling day in an election other than a general election is a public holiday only in the constituency in which the election is held.”
- (3) The Schedule is amended by inserting the following at the end:
 “The polling day in a general election or any other election, subject to section 2(3)”.

SCHEDULE 1

section 10

ELECTORAL CONSTITUENCIES

	CONSTITUENCY	WARDS
CHOISEUL PROVINCE		
1	South Choiseul	Wards 1(Wagina), 2(Katupika), 3(Vasipuki), 4(Viviru), and 5(Babatana)
2	North-West Choiseul	Wards 6(Tepazaka), 7(Batava), 8(Tavula), 9(Polo) and 10(Bangera)
3	East Choiseul	Wards 11(Susuka), 12(Senga), 13(Kerepangara) and 14(Kirugela)
WESTERN PROVINCE		
4	Shortlands	Wards 1(Outer Shortlands) and 2(Inner Shortlands)
5	North Vella La Vella	Wards 9(Ndovele) and 10(Irringgilla)
6	South Vella La Vella	Wards 7(Vonunu) and 8(Mbilua)
7	Ranongga and Simbo	Wards 3(Simbo), 4(North Ranongga), 5(Central Ranongga) and 6(South Ranongga)
8	Gizo and Kolombangara	Wards 11(Gizo) and 12(South Kolombangara) and 26(North Kolombangara)
9	West New Georgia and Vonavona	Wards 13(Vonavona), 15(Munda), 16(Nusa Roviana) and 25(Noro)
10	North New Georgia	Wards 14(Kusaghe) and 20(Kolombaghea)
11	South New Georgia, Rendova and Tetepari	Wards 17(Roviana Lagoon), 18(South Rendova) and 19(North Rendova)
12	Marovo	Wards 21(Mbuini Tusu), 22(Nono), 23(Nggatokae) and 24(North Vangunu)
ISABEL PROVINCE		
13	Hograno, Kia and Havulei	Wards 1(Kia), 2(Baolo), 13(Kolomola), 14(Kolotubi), 15(Susubona) and 16(Samasodu)
14	Maringe and Kokota	Wards 3(Kokota), 4(Hovikoilo), 5(Buala), 6(Tirotongana), 7(Koviloko) and 8(Kmaga)
15	Gao and Bugotu	Wards 9(Kaloka), 10(Tatamba), 11(Sigana) and 12(Japuana)
MALAITA PROVINCE		
16	North Malaita	Wards 7(Fo'ondo/Gwaiiau), 8(Malu'u) and 9(Matakwalao)
17	Lau and Mbaelelea	Wards 6(Mandalua/Folotana), 10(Takwa) and 12(Fouenda)
18	Baegu and Asifola	Wards 11(East Baegu) and 13(Sulufou/Kwarande)

	CONSTITUENCY	WARDS
19	Fataleka	Wards 5(West Baegu/Fataleka) and 14(Sububenu/Burianiiasi)
20	West Kwara'ae	Wards 3(Buma) and 4(Fauabu)
21	Central Kwara'ae	Wards 2(Aimela) and 29(Keaimela/Radefasu)
22	East Malaita	Wards 15(Nafinua) and 16(Faumamanu/Kwai)
23	Aoke and Langalanga	Wards 1(Auki) and 30(Langalanga)
24	East Kwaio	Wards 17(Gulalofou) and 18(Waneagu/Taelana Sina)
25	West Kwaio	Wards 26(Kwarekwareo), 27(Siesie) and 28(Waneagu/Silana Sina)
26	East Are Are	Wards 19(Aiiasi) and 20(Areare)
27	West Are Are	Wards 24(Mareho) and 25(Tai)
28	Small Malaita	Wards 21(Raroisu'u), 22(Aba/Asimeuru) and 23(Asimae)
29	Malaita Outer Islands	Wards 31(Luaniua), 32(Pelau) and 33(Sikaiana)
	CENTRAL PROVINCE	
30	Nggella	Wards 1(Sandfly/Buenavista), 2(West Gela), 3(East Gela), 4(Tulagi), 5(South-West Gela), 6(South-East Gela), 7(North-East Gela) and 8(North-West Gela)
31	Russells and Savo	Wards 9(Banika), 10(Pavuvu), 11(Lovukol), 12(North Savo) and 13(South Savo)
	RENNEL-BELLONA PROVINCE	
32	Rennell and Bellona	Wards 1(East Tenggano), 2(West Tenggano), 3(Lughu), 4(Kanava), 5(Te Tau Gangoto), 6(Mugi Henua), 7(Matangi), 8(East Gaongau), 9(West Gaongau) and 10(Sa'aiho)
	GUADALCANAL PROVINCE	
33	North-West Guadalcanal	Wards 1(Tandai) and 2(Saghalu)
34	West Guadalcanal	Wards 3(Savulei), 4(Tangarare) and 5(Wanderer Bay)
35	South Guadalcanal	Wards 6(Duidui), 7(Vatukulau) and 8(Talise)
36	East Guadalcanal	Wards 9(Avuavu), 10(Moli), 11(Tetekanji) and 12(Birao)
37	East-Central Guadalcanal	Wards 13(Valasi), 14(Kolokarako), 15(Longgu) and 16(Aola)
38	North-East Guadalcanal	Wards 17(Paripao) and 18(East Tasimboko)
39	North Guadalcanal	Wards 21(West Ghaobata) and 22(East Ghaobata)
40	Central Guadalcanal	Wards 19(Vulolo) and 20(Malango)
	HONIARA CITY	
41	East Honiara	Wards 9(Kukum), 10(Naha), 11(Vura) and 12(Panatina)
42	Central Honiara	Wards 4(Cruz), 5(Vavaea), 6(Vuhokesa), 7(Mataniako) and 8(Kola'a)

	CONSTITUENCY	WARDS
43	West Honiara	Wards 1(Nggossi), 2(Mbumburu) and 3(Rove/Lengakiki)
	MAKIRA-ULAWA PROVINCE	
44	West Makira	Wards 5(Arosi South), 6(Arosi West), 7(Arosi North), 8(Arosi East) and 20(Haununu)
45	Central Makira	Wards 9(Bauro West), 10(Bauro Central) and 11(Bauro East)
46	East Makira	Wards 12(Wainoni West), 13(Wainoni East), 14(Star Harbour North), 15(Santa Ana), 16(Santa Catalina), 17(Star Harbour South), 18(Rawo) and 19(Weather Coast)
47	Ulawa and Ugi	Wards 1(North Ulawa), 2(South Ulawa), 3(West Ulawa) and 4(Ugi and Pio)
	TEMOTU PROVINCE	
48	Temotu Pele	Wards 1(Fenualoa), 2(Polynesian Outer Islands), 3(Nipua/Nopoli), 4(Lipe/Temua), 5(Manuopo) and 6(Nenumpo)
49	Temotu Nende	Wards 7(Nevenema), 8(Luva Station), 9(Graciosa Bay), 10(Nea/Noole), 11(North-East Santa Cruz), 12(Nangu/Lord Howe) and 17(Neo)
50	Temotu Vatud	Wards 13(Duff Islands), 14(Utupua), 15(Vanikoro) and 16(Tikopia)

SCHEDULE 2

FORM 1

section 33

APPLICATION FOR REGISTRATION AS ELECTOR

PART A

I (1st name(s)): (Other name(s)): (Family name):

 of (residential area):.....

claim to be entitled to be registered as an elector in:

Constituency:		Ward:
Province:		
Village/Area:		

My particulars are as follows:

Gender:	<input type="checkbox"/> Male	<input type="checkbox"/> Female
Occupation:		
Date of birth:(day)(month).....(year)	
Place of birth		
Father's name	First name:	Family name:
	Other name:	
Mother's name	First name:	Family name:
	Other name:	
Contacts:	Phone:	
	Email:	
Have you previously registered during any previous voter registration period? <input type="checkbox"/> Yes – if YES , complete PART B, and then the declaration below <input type="checkbox"/> No – if NO , complete the declaration below		

DECLARATON TO BE SIGNED BY APPLICANT

I declare that:

1. I am a citizen of Solomon Islands.
2. I am aged 18 years or more.
3. I have not registered in any other place during this registration period.
4. I have listed on the back of this form any places where I was previously registered as an elector, and I authorise the Commission to delete my name from the register of voters for those places.
5. I am entitled, under section 55 of the *Constitution*, to register as an elector the constituency named above.
6. I consent to my finger print and photographic images taken, if necessary, for identification purposes.
7. I declare that all the information I have given on this form is true and complete.

APPLICANT SIGNATURE OR MARK

Signed (or marked) by applicant this
 day of.....2.....

.....
 (signature/mark)

WITNESS

Signature (or mark) of applicant
 witnessed this day of.....2.....

.....
 (signature)

.....
 (Full name of witness)

.....
 (Designation)

PART B

Complete as many sections as necessary, and then return to the declaration in PART A

A. I previously registered as follows:

Name:		
Constituency:		Ward:
Province:		
Village/Area:		
Year of registration (if known)		

B. I previously registered as follows:

Name:		
Constituency:		Ward:
Province:		
Village/Area:		
Year of registration (if known)		

C. I previously registered as follows:

Name:		
Constituency:		Ward:
Province:		
Village/Area:		
Year of registration (if known)		

D. I previously registered as follows:

Name:		
Constituency:		Ward:
Province:		
Village/Area:		
Year of		

registration (if known)	
--------------------------------	--

E. I previously registered as follows:

Name:		
Constituency:		Ward:
Province:		
Village/Area:		
Year of registration (if known)		

FORM 2

section 63

NOMINATION FORM

A. CANDIDATE

Constituency for which the candidate seeks election:

Date of election:

1. I, [*insert name of candidate*], am the candidate to whom this nomination Form refers.
2. I state that I am willing to stand for election to the National Parliament as a member for the above constituency.
3. I state that I am qualified (and not disqualified) for election as a member of Parliament under the *Constitution*, that is to say:
 - (a) I am a citizen of Solomon Islands;
 - (b) I have attained the age of 21 years;
 - (c) I am registered in the ward of the ... constituency;
 - (d) I am not, by virtue of my own act, under any acknowledgement of allegiance, obedience or adherence to a foreign power or state;
 - (e) I am not the holder of, or acting in, a public office;
 - (f) I am not an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law of a country of the Commonwealth;
 - (g) I have not been certified insane or otherwise adjudged to be of unsound mind under the laws of Solomon Islands;
 - (h) I am not under sentence of death imposed by a court in any part of the world, or under a sentence of imprisonment for a term of or exceeding 6 months other than a sentence in lieu of a fine but including a suspended sentence imposed by the court or substituted by competent authority for some other sentence imposed on me by the court;
 - (i) I am not disqualified from being a member of Parliament or from registration as an elector or from voting at elections under any law of Solomon Islands relating to offences connected with elections;
 - (j) I am not holding or acting in any office the functions of which involve any responsibility for, or in connection with, the conduct of any election of members of Parliament or the compilation or revision of any electoral register for that purpose.

.....
Signature of Candidate
Full name:
Address:

Description or occupation:
Date:

B. NOMINATORS

We, the undersigned, are the nominators of the candidate, and are electors for, and reside in, the constituency for which the candidate seeks election.

First Nominator	
Full Name	
Address	
Description or occupation	
I am registered in the ward of theconstituency	
Signature:	
Date:	
Time:	

Second Nominator	
Full Name	
Address	
Description or occupation	
I am registered in the ward of theconstituency	
Signature:	
Date:	
Time:	

Third Nominator	
Full Name	
Address	
Description or occupation	
I am registered in the ward of theconstituency	
Signature:	
Date:	
Time:	

FORM 3

section 73(a)

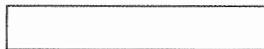
BALLOT PAPER

CONSTITUENCY OF

PUT A MARK IN THE BOX OF YOUR CHOICE

VOTE FOR ONE CANDIDATE ONLY

NAME OF CANDIDATE	SYMBOL OF CANDIDATE	MARK ONLY 1 BOX BELOW



OFFICIAL MARK.

ELECTORAL BILL 2018

OBJECTS AND REASONS

The objects of the Bill are as follows:

- (a) to repeal and replace the *National Parliament Electoral Provisions Act* (Cap.87);
- (b) to improve the registration system of electors through the following:
 - (i) regular reviews of the register;
 - (ii) out-of-constituency registration;
 - (iii) registration of persons aged between 17 and 18 in preparation for an election;
- (c) to further regulate nomination process of candidates, including:
 - (i) to increase the candidate nomination fee;
 - (ii) to require candidates for political parties to provide certificate of their party membership from the Registrar of Political Parties Commission;
 - (iii) to clarify the nomination process;
- (d) to further improve the conduct of voting by:
 - (i) requiring employers to release their employees to vote on polling day; and
 - (ii) ensuring arrangements are made to help those with disabilities to cast their votes; and
 - (iii) ensuring that electors already inside a polling station when voting hours close are permitted to cast their votes; and
 - (iv) allowing certain electors (such as electoral officials) to cast their vote before polling day; and

- (v) providing the option for a remote voting procedure to be established in the future; and
- (vi) to provide complaints mechanisms during voting;
- (e) to improve the counting process by :
 - (i) improving the process for verifying ballot papers; and
 - (ii) providing for a complaint mechanism during the counting of votes;
- (f) to ensure there is a comprehensive range of electoral offences with appropriate penalties.

HON. COMMINS ASTON MEWA
MINISTER FOR HOME AFFAIRS

ELECTORAL BILL 2018

EXPLANATORY MEMORANDUM

PART 1 – PRELIMINARY MATTERS

Part 1 provides for the short title of the Act and its commencement and defines terms used throughout the Act. The majority of the Act will commence on the date it receives assent. However, certain provisions are reserved for commencement at a later date appointed by the Minister by Gazette notice. They are:

- section 14, which provides for the Electoral Commission to register electors for, and conduct, provincial elections;
- Part 4, Division 5, which provides for pre-registration of 17 years olds;
- Part 5, Division 4, Subdivision 2, which provides for pre-poll voting.

PART 2 – ELECTORAL SYSTEMS, RIGHTS AND CONSTITUENCIES

Part 2 establishes the foundations of the electoral system.

It outlines a person's rights to be an elector, to run as a candidate for election and to vote. These rights are all set down by the Constitution.

Constituencies are approved by Parliament under the Constitution. However, Part 2 provides for the constituencies approved by Parliament to be set out in Schedule 1 for information purposes, and allows the Commission to amend Schedule 1 to reflect any changes in constituencies approved by Parliament. The list of constituencies in Schedule 1 has no legal effect, as Parliament can make changes to constituencies by resolution. However, allowing the Commission to keep the list up to date is important for information purposes.

PART 3 – ADMINISTRATION

Part 3 outlines the administrative structure that supports the conduct of elections.

Division 1 deals with the Electoral Commission. The Commission is established by the Constitution and has the powers and functions specified in the Constitution (essentially, to have responsibility for the registration of voters and the conduct of elections). The Constitution allows

additional powers and functions to be prescribed by law, and Division 1 prescribes additional functions relating to public awareness and research activities. The Commission will also have the function of conducting voter registration and elections for the provinces when section 14 commences. The remainder of Division 1 deals with the procedures of the Commission, and empowers the Commission to appoint advisory committees.

Division 2 deals with the Commissioner of Elections. The Commissioner is appointed under the Constitution and is the administrative head of the Electoral Office. The Commissioner is also the Registrar of Political Parties. The Commissioner is a member of the Commission but is also subject to policy directions issued by the Commission.

Division 3 establishes the Electoral Office, which provides the administrative and logistical structure for the registration of voters and the conduct of elections. The staff of the Office are public officers, and the Office has its own budget as a government agency.

Division 4 provides for the appointment of electoral officials, such as registration managers, registration officers, revising officers, election managers, returning officers and presiding officers. These officials all have statutory functions in the registration of voters and the conduct of elections. The Division deals with various administrative matters, such as requirements for appointments of electoral officials and remuneration. It also provides a procedure for complaints about electoral officials.

PART 4 – REGISTRATION OF ELECTORS

Part 4 deals with the process for registering electors.

Division 1 provides for the setting of registration periods and the declaration of registration centres. A registration period is a period in which a person can register as an elector. A registration period can be set at any time, but one must always be set before a general election. Registration centres are places where a person can apply for registration in person. However, the Act leaves open the possibility for registration to be done in other ways in the future (for example, online).

Division 2 deals with the process for registration. The first step is for an application for registration to be made. This application is assessed by a registration officer, who determines whether the applicant is entitled to registration in the constituency. A person can also apply during a registration period to transfer their registration between constituencies. The registration officer forwards all approved applications to the Commission, and the Commission prepares a provisional list of electors. The provisional list is then published.

Division 3 provides for objections to be made to the omission or inclusion of a person on the provisional list of electors. Objections are dealt with by way of a public inquiry held by a revising officer. Once all objections are determined, a final list of electors is approved by the Commission.

Division 4 deals with the register of electors. The register is constituted by the final list of electors for each constituency.

Division 5 allows for the pre-registration of persons over the age of 17 who would, on turning 18, be entitled to be registered. The process for applying for pre-registration mirrors that for ordinary registration, except that successful applicants are placed on a list of pre-registered electors. The name of a pre-registered elector is not transferred to the final list of electors (that forms the basis of the register of electors) until the person turns 18.

PART 5 – CONDUCT OF ELECTIONS

Part 5 deals with the preparation for and conduct of elections.

Division 1 deals with the key dates in the conduct of an election. They are:

- the election date, which is set by the Governor-General
- the period for nominating candidates for election, which is determined by reference to the election date
- the campaign period, which is the period within which campaign activities are permitted

Division 1 also provides for the deferral of an election or of counting of votes in the event of an unforeseen natural or manmade event.

Division 2 sets the requirements for the nomination of candidates for election. A candidate must be nominated by 3 electors registered in the candidate's constituency, and a nomination fee must be paid. The returning officer for the constituency determines the validity of a nomination. There are also special requirements applicable to candidates representing political parties. The Division also deals with withdrawal of nominations, what happens when a candidate dies, and authorises candidates to appoint agents to observe the polling and counting process.

Division 3 deals with the arrangements for an election. It deals with the form of ballot papers, how the sequence of candidates on a ballot paper is determined and the logistical arrangements for elections.

Division 4 deals with the process of voting, including:

- the hours of voting
- who is entitled to be at a polling station during voting
- requirements for issuing ballot papers and ensuring they are

- properly accounted for
- how votes are recorded
- how electors with disabilities can record their vote
- procedures for spoilt and tendered ballot papers
- regulating conduct inside polling stations
- complaints during voting
- protested and invalidated votes
- steps the presiding officer must take at the close of voting
- arrangements for voting before polling day for certain prescribed persons

PART 6 – COUNTING OF VOTES

Part 6 sets out the procedures for counting votes. It deals with where voting must occur, who can be present during counting, and the process for verifying ballot papers before counting begins. It also deals with what constitutes a valid ballot paper, and provides for a complaint process during counting.

PART 7 – RESULTS OF ELECTIONS

Part 7 deals with the declaration and publication of election results. It also provides for the declaration of an elected candidate where only one candidate runs for election in a constituency.

PART 8 – PETITIONS TO THE COURT

Part 8 provides for 3 kinds of petitions to be filed with the High Court. Each has specific requirements attached to it:

- An election petition is a petition complaining that a person has not been validly elected. It can be filed by an elector or a candidate in the relevant constituency.
- A status petition is a petition on a question as to the right of a person to be a member of Parliament (whether the person already is a member or not). It can be filed by any elector or by the Attorney-General.
- A vacancy petition is a petition on a question as to whether a person has vacated their seat as a member of Parliament. It can be filed by a member of Parliament or by the Attorney-General.

The High Court is empowered to make rules in relation to the hearing of petitions.

PART 9 – OFFENCES

All the offences in the Act are located in Part 9. These offences are designed to protect the integrity of the registration and election process. Offences include:

- giving false or misleading information to an electoral official (for example, in an application for registration)
- breach of confidentiality by an electoral official
- altering the register of electors
- failure by an employer to release an employee to vote
- failure to comply with a direction of an electoral official, obstructing an electoral official and impersonating an electoral official
- various activities that constitute fraudulent voting, such as voting more than once at an election, impersonating an elector and voting when knowingly not entitled to do so
- interfering with voting, including by interfering with an elector attempting to vote and obstructing proceedings at a polling station
- interfering with ballot papers and ballot boxes, including by removing a ballot paper from a polling station or forging a ballot paper
- campaigning outside the campaign period
- breaching limits and reporting requirements in relation to election expenses
- election bribery
- undue influence
- inciting an election boycott

A person who is convicted of the offence of fraudulent voting, bribery and undue influence is automatically disqualified from registration, voting and being elected as a member of Parliament.

PART 10 – MISCELLANEOUS PROVISIONS

Part 10 deals with various miscellaneous matters such as requirements for the publication of notices under the Act, delegation of powers, requirements for forms, protection from liability for electoral officials and the regulation-making power of the Commission.

PART 11 – REPEALS, TRANSITIONAL MATTERS AND CONSEQUENTIAL AMENDMENTS

Division 1 repeals the *National Parliament Electoral Provisions Act* (Cap 87) and provides for transition from the repealed Act to the new Act, including by continuing the existing register of electors under the new Act.

Division 2 makes consequential amendments to various Acts to update references to the repealed Act.

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