



ELECTORAL (AMENDMENT) BILL 2023

(NO. 21 OF 2023)



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A

BILL

Entitled

AN ACT TO AMEND THE ELECTORAL ACT 2018, AND FOR RELATED PURPOSES

ENACTED BY THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS.

ELECTORAL (AMENDMENT) BILL 2023

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ELECTORAL (AMENDMENT) BILL 2023

1 Short title

This Act may be cited as the *Electoral (Amendment) Act 2023*.

2 Commencement

This Act commences on the date appointed by the Minister by notice in the *Gazette*.

3 Amendment of Electoral Act 2018

This Act amends the *Electoral Act 2018* ("**Principal Act**").

4 Section 30 amended

Section 30 of the Principal Act is amended as follows:

- (a) in subsection (4), substitute the word "complaint." with the following:

"complaint, and a decision reached by a panel is to be treated as a decision made by the Commission."; and

- (b) after subsection (4) insert a new subsection as follows:

"(4a) For the purposes of subsection (4), the Commission may:

- (a) appoint as many 2 member panels as necessary to address the complaints within the timelines of subsection (3)(c); and
- (b) consider for the appointment of members:
- (i) persons who have reasonable knowledge of the provisions of the *Electoral Act 2018* and its regulations; and
- (ii) persons with experience in the work of similar panels would be an advantage; and

(iii) to be engaged at a level of remuneration set by the Commission.”; and

(c) in subsection (6), delete “or 104”; and

(d) after subsection (6), add a new subsection:

“(7) A complaint under subsection (1) does not include a complaint during the counting process, which is addressed exclusively under section 104.”.

5 Section 59 amended

Section 59 of the Principal Act is amended:

(a) in subsection (1)(b), insert the words “at least” between “ends” and “42 days”; and

(b) by substituting subsection (3) with a new subsection:

“(3) The Commission may:

(a) declare a provincial headquarter or a place to be determined by the Commission to be a nomination place; and

(b) in the case of constituencies located within Honiara City, declare a place to be determined by the Commission to be a nomination place.”.

6 Section 61 amended

Subsection 61(1) of the Principal Act is amended by substituting the words “because of any unforeseen natural or man-made reason,” with “by reason of flood or storm or any other cause whatsoever, whether natural or man-made,”.

7 Section 79 amended

Section 79 of the Principal Act is amended:

(a) in subsection (1), substitute “5pm,” with “4pm,”; and

(b) by substituting subsection (2) with a new subsection:

“(2) The Commission may at any time prior to or on polling day, approve other hours of voting for a particular constituency or constituencies, ward or wards.”.

8 Section 93 amended

Section 93 of the Principal Act is amended in subsection 93(1) as follows:

- (a) in paragraph (a)(i), substitute “a date and time” with “dates and times”; and
- (b) substitute paragraph (a)(ii) with the following:
 - “(a)(ii) the date by which applications for pre-poll voting are to be made, must be at least 7 days before the date for that particular pre-poll voting.”.

9 Section 100 amended

Section 100 of the Principal Act is amended by substituting subsection (5) with the following:

- “(5) The returning officer may open the following documents if they are required for the purposes of verification or reconciliation in terms of the number of ballot papers issued:
 - (a) the sealed packet containing the marked copy of the register of electors;
 - (b) the sealed packet containing the counterfoils of used ballot papers.”.

10 Section 108 amended

Section 108 is amended by inserting 3 new subsections after subsection (5):

- “(6) The Court must declare the election of a candidate void if any corrupt or illegal practice was committed in connection with the candidate elected or the candidate’s agent.

- (7) Where in an election petition it is shown that:
- (a) corrupt or illegal practices or illegal payments, employments or hirings were committed in reference to the elections for the purposes of promoting or procuring the election of a candidate; and
 - (b) the corrupt or illegal actions or illegal payments, employments or hirings in paragraph (a) so extensively prevailed that they may be reasonably supposed to have affected the result;

the candidate's election, if elected, shall be void and the candidate shall be disqualified for election as a member of Parliament for a period commencing on the date of judgment by the Court to the date of dissolution of Parliament following that judgment.

- (8) For the purposes of this section, "agent" includes a polling agent, a counting agent, and any person acting on behalf of a candidate during that candidate's campaign."

11 Section 116 amended

Section 116 of the Principal Act is amended by:

- (a) after subsection (1) insert a new subsection (2):
 - "(2) For the avoidance of doubt:
 - (a) the request to be released to vote in subsection (1) is a reference to being released on polling day only; and
 - (b) the employer's duty under this section does not include releasing employees on any other day, before or after polling day."; and
- (b) renumber the current subsection (2) as subsection (3).

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EXPLANATORY MEMORANDUM

OBJECTS

The Bill sets out:

- (a) to amend certain provisions of the *Electoral Act 2018* which were identified after the 2019 national general elections as requiring some adjustment to better facilitate parliamentary elections;
- (b) to significantly enhance the ability of the Commission to cope with the increasing number of general complaints it is likely to receive about the conduct of electoral officials;
- (c) to provide some flexibility to the current 56 days election activity timeline in case this is required in the context of elections being held on the same day for the National Parliament, Provincial Assemblies and Honiara City Council.

CONTENT

Clause 1 specifies the short title of the Act.

Clause 2 provides for the commencement of the Act by enabling the Minister to appoint a date for the Act to commence by notice published in the Gazette.

Clause 3 provides that the Bill amends the *Electoral Act 2018*, which Act is referred to as the Principal Act in the Bill.

Clause 4 amends section 30 of the Principal Act to allow the Commission to appoint as many 2 person panels as necessary to hear general complaints about electoral officials; and that a decision reached by a panel is be treated as a decision made by the Commission.

Clause 5 amends section 59 of the Principal Act to provide that the Commission can declare a nomination place to be at the relevant provincial headquarters or at a place to be determined by the Commission. In the case of constituencies located within Honiara City, at a place to be determined by the Commission.

Clause 6 amends section 61 of the Principal Act to allow the Commission to defer part of an election if the Commission is satisfied that by reason of flood or

storm or any other cause whatsoever, whether natural or man-made, it is not or will not be reasonably possible to conduct an election or complete the counting of votes immediately following elections.

Clause 7 amends section 79 of the Principal Act to reduce the number of hours of voting from 7am to 5pm, to 7am to 4 pm; and to remove the brackets from the words "(on polling day)" as shown, to make it clear that the Commission can vary the voting hours for a constituency or a number of constituencies or all constituencies at any time, either before or on polling day.

Clause 8 amends section 93 of the Principal Act to enable the Commission to set more than a day for pre-poll voting; and set the date by which applications for pre-polling must be made, which must be at least 7 days from which a particular pre-poll voting is to be held.

Clause 9 amends section 100 of the Principal Act to allow for a returning officer to open a sealed packet containing the marked copy of the register of electors; and a sealed packet containing the counterfoils of used ballot papers, for the purposes of verification or reconciliation in terms of the number of ballot papers issued.

Clause 10 amends section 108 of the Principal Act to require the Courts hearing an election petition, to declare the election of a candidate void if any corrupt or illegal practice was committed in connection with the candidate elected or the candidate's agent. In addition, where in an electoral petition, it is found that corrupt and illegal actions extensively prevailed that they may be reasonably be supposed to have led to the election of a candidate, the Court must hold that candidate's election void, and the candidate shall be disqualified for election as a member of Parliament from the date of the decision to the date of dissolution of Parliament following that decision.

Clause 11 amends section 116 of the Principal Act to insert a new subsection to clarify that the reference to being released at a reasonable time to vote is a reference to being released on polling day only. The employer's obligation does not include releasing employees on any other day, before or after polling day.

**HON. MANASSEH DAMUKANA SOGAVARE
PRIME MINISTER**

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