

ACT NO. 9 OF 2021

I assent.

J. K. KONROTE

President

[7 June 2021]

AN ACT

TO AMEND THE ELECTORAL ACT 2014

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Electoral (Amendment) Act 2021.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

(3) In this Act, the Electoral Act 2014 is referred to as the “Principal Act”.

Section 2 amended

2. Section 2 of the Principal Act is amended by—

- (a) in the definition of “banker’s cheque” after “Fiji”, inserting “but does not include a personal cheque”;
- (b) after the definition of “campaign”, inserting the following new definition—
 ““campaign period” means the period determined by the Electoral Commission under section 109A;”;

- (c) after the definition of “day”, inserting the following new definition—
 ““designated area” means an area designated by the Supervisor for the purpose of observing an electoral process;”;
- (d) in the definition of “election official”, deleting “section 42” and substituting “this Act”; and
- (e) in the definition of “polling” after “day”, inserting “or a date determined and approved by the Electoral Commission under section 47 following an adjournment of polling”.

Section 6 amended

3. Section 6(1)(a) of the Principal Act is amended after “registration” by inserting “and regulates the conduct, funding and disclosures”.

Section 14 amended

4. Section 14(g) of the Principal Act is amended by deleting “3” and substituting “6”.

Section 21 amended

5. Section 21(2) of the Principal Act is amended by—

- (a) in paragraph (c) after “;”, deleting “and”;
- (b) in paragraph (d), deleting “.” and substituting “;”; and
- (c) after paragraph (d), inserting the following new paragraph—
 “(e) time and date of the close of the Register of Voters.”.

Section 25 amended

6. Section 25(5) of the Principal Act is amended after “relates” by deleting “to”.

Section 30 amended

7. Section 30 of the Principal Act is amended by deleting subsection (1) and substituting the following—

“(1) A person who is a registered voter may object to the nomination of any candidate on the ground that the nomination of the candidate as an independent candidate or as a party candidate on a party list does not comply with the requirements of the Constitution or this Act.”.

Section 36 amended

8. Section 36(6) of the Principal Act is amended by deleting “must not contain any party name or party symbol” and substituting “may contain either the party name or the party symbol or any other information as approved by the Supervisor”.

Section 40 amended

9. Section 40 of the Principal Act is amended by—

- (a) in subsection (4), deleting “residing at their facilities and forward them to the Supervisor” and substituting “, in the approved form, residing at their facilities and forward the list to the Supervisor within 7 days of the dissolution of Parliament”;

(b) deleting subsection (8) and substituting the following—

“(8) The Supervisor may publish the provisional voter list for each polling station as approved by the Electoral Commission on or before 30 September of each year except in an election year.”; and

(c) in subsection (9), deleting “prescribed” and substituting “approved”.

Section 41 amended

10. Section 41 of the Principal Act is amended by—

(a) in subsection (5), deleting “address of all polling stations and polling venues, the location of a polling station or polling venue” and substituting “list of all polling venues, the polling venues”; and

(b) after subsection (6), inserting the following new subsections—

“(7) The Supervisor must identify the physical locations of all polling venues and submit the list of all polling venues to the Electoral Commission for approval on or before 30 June of each year except in an election year.

(8) The Electoral Commission must publish the approved list of polling venues within 30 days after the list of polling venues has been submitted to the Electoral Commission.

(9) The Supervisor may establish a polling venue in Suva for voters who are registered overseas but are not postal voters to attend to cast their vote and special procedures for the conduct of polling at such polling stations as approved by the Electoral Commission.”.

Section 45 amended

11. Section 45(1) of the Principal Act is amended by—

(a) after “a polling station”, inserting “or designated area”;

(b) after “officer”, inserting “or authorised officer”; and

(c) deleting “at the polling station”.

Section 50 amended

12. Section 50(2) of the Principal Act is amended by deleting “and police officers” and substituting “, police officers and Fijian Elections Office service providers”.

Section 51 amended

13. Section 51(3) of the Principal Act is amended by deleting “, date of birth or occupation” and substituting “or date of birth”.

Section 53 amended

14. Section 53 of the Principal Act is amended by—

(a) in subsection (1), deleting paragraphs (a) to (c) and substituting the following—

“(a) mark the name of the voter on the voter list;

- (b) have the voter sign next to his or her name on the voter list; and
- (c) immediately hand a ballot paper to the voter.”;
- (b) in subsection (8) after “followed”, inserting “and the assistance provided is within the polling venue boundary”; and
- (c) after subsection (8), inserting the following new subsection—
 - “(8A) The presiding officer must ensure that all the voters in the queue at a polling station have voted before the presiding officer leaves the polling station to assist a person who—
 - (a) is unable to cast his or her vote at his or her assigned polling station due to illness, physical disability or for any reason approved by the Supervisor; and
 - (b) resides within 300 metres of the polling venue, to cast his or her vote.”.

*Section 57 amended***15.** Section 57 of the Principal Act is amended by—

- (a) deleting “illiterate or” wherever it appears;
- (b) in subsection (1)—
 - (i) after “station”, deleting “is”; and
 - (ii) after “officer”, inserting “or a person of their own choice”;
- (c) deleting subsection (2) and substituting the following—
 - “(2) When assisting a person with disability to cast his or her vote—
 - (a) the presiding officer must ensure that one other election official is present with the presiding officer;
 - (b) if it is a person chosen by the person with disability, the presiding officer or election official must be present; and
 - (c) the person chosen by the person with disability must be a registered voter.”;
- (d) in subsection (3) after “officer”, inserting “or person chosen by the person with disability”;
- (e) after subsection (4), inserting the following new subsection—
 - “(4A) An illiterate voter may only request the presiding officer to assist him or her to cast a vote and the presiding officer must ensure that one other election official is present.”; and
- (f) in subsection (5) after “assisted voter”, inserting “and any person providing the assistance”.

Section 60 amended

16. Section 60 of the Principal Act is amended after subsection (4) by inserting the following new subsection—

“(5) Polling agents may also be present at other areas designated by the Supervisor.”.

Section 70 amended

17. Section 70(1) of the Principal Act is amended by deleting “, and if the application is delivered in person, the decision to register the applicant as a postal voter may be made on the spot”.

Section 73 amended

18. Section 73(2) of the Principal Act is amended by deleting “and a postal voting declaration form” and substituting “, a postal voting declaration form and a secret envelope”.

Section 77 amended

19. Section 77 of the Principal Act is amended after “voting” by inserting “conducted by the Supervisor”.

Section 79 amended

20. Section 79 of the Principal Act is amended by—

(a) in subsection (4)(d), deleting “the” and substituting “a”; and

(b) deleting subsection (8).

Section 81 amended

21. Section 81 of the Principal Act is amended after subsection (4) by inserting the following new subsection—

“(5) The counting of postal ballot papers must commence after close of polling on polling day.”.

Section 83 amended

22. Section 83 of the Principal Act is amended after subsection (13) by inserting the following new subsection—

“(13A) If a presiding officer removes a ballot paper from the polling station, the presiding officer must ensure that he or she is accompanied by at least another election official and the procedure for assisted voting in accordance with section 57 is followed.”.

Section 92 amended

23. Section 92 of the Principal Act is amended by deleting subsection (4) and substituting the following—

“(4) The presiding officer or an election official is responsible for opening the ballot box at a polling station.”.

Section 100 amended

24. Section 100 of the Principal Act is amended by—

- (a) in subsection (2), deleting “, together with the voter list”;
- (b) in subsection (3) after “record book,”, inserting “marked voter list”; and
- (c) deleting subsection (4) and inserting the following new subsections—

“(4) The original of the final protocol of results, the record book of the polling station, any unopened tendered ballot papers and the marked voter list must be enclosed in a tamper evident envelope.

(4A) The tamper evident envelope must be expeditiously and securely delivered by the presiding officer to the collection point as designated by the Supervisor.”.

Section 102A inserted

25. The Principal Act is amended after section 102 by inserting the following new section—

“Publication of provisional results

102A. The Supervisor must continuously publish provisional results for candidates and political parties on receipt of the first protocol of results from the presiding officers until 7 am on the day after polling day.”.

Section 104 amended

26. Section 104(3) of the Principal Act is amended after “independent candidates” by inserting “and the total number of invalid votes”.

Section 109 amended

27. Section 109(1) of the Principal Act is amended by deleting “one” and substituting “3”.

Section 109A inserted

28. The Principal Act is amended in Part 4 before section 110 by inserting the following new section—

“Campaign period

109A.—(1) Subject to subsection (2), the Electoral Commission must determine the campaign period for a general election and publish a notice to that effect in the Gazette.

(2) The campaign period must not be—

- (a) earlier than 30 days prior to the completion of 3 years and 6 months of the sitting of Parliament after the last general election; and
- (b) later than 48 hours prior to the general election.”.

Section 113 amended

29. Section 113 of the Principal Act is amended by—

(a) after subsection (2), inserting the following new subsection—

“(2A) For the avoidance of doubt, subsection (2) does not apply to a public officer who provides—

(a) information, whether orally or in writing; or

(b) any security services,

in the performance of his or her duties as a public officer.”; and

(b) after subsection (4), inserting the following new subsection—

“(4A) It is unlawful to use a Government vehicle to conduct campaign activities unless the vehicle is used for the purposes of providing security.”.

Section 114 amended

30. Section 114(1) of the Principal Act is amended by—

(a) deleting “It” and substituting “During the campaign period, it”; and

(b) deleting “in an election”.

Section 116 amended

31. Section 116 of the Principal Act is amended after subsection (4) by inserting the following new subsections—

“(4A) The Supervisor may remove or direct any political party, candidate or police officer to remove any material that is in breach of the campaign rules.

(4B) Any political party, candidate or police officer who fails to comply with a directive under subsection (4A) commits an offence and is liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.”.

Section 140 amended

32. Section 140(1) of the Principal Act is amended by deleting “Any” and substituting “During the campaign period, any”.

Section 141 amended

33. Section 141 of the Principal Act is amended by deleting “Any” and substituting “During the campaign period, any”.

Section 144 amended

34. Section 144(1) of the Principal Act is amended by deleting “Any” and substituting “During the campaign period, any”.

Section 144A inserted

35. The Principal Act is amended after section 144 by inserting the following new section—

“Publication of false statements

144A.—(1) A person or a political party must not publish any information in or outside Fiji and is accessible in Fiji, knowing or having reason to believe the information is a false statement which is likely to influence the outcome of an election or diminish public confidence in the performance of any duty or function of the Supervisor and the Electoral Commission.

(2) The Supervisor may direct a person, including a service provider, or a political party to remove or correct any statement or information published under subsection (1) and the person must immediately remove or correct the statement or information.

(3) The person or political party may request the Electoral Commission to review the decision of the Supervisor under subsection (2), and the Electoral Commission must within 24 hours review the decision and inform the Supervisor and the person or political party of its decision in writing.

(4) Any person or political party that contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$50,000 or imprisonment for a term not exceeding 5 years or both.”.

Section 153 amended

36. Section 153 of the Principal Act is amended by deleting “records in relation to an election one year” and substituting “physical records in relation to an election 6 months”.

Passed by the Parliament of the Republic of Fiji this 7th day of June 2021.