



## SAMOA

# PLEBISCITE ACT 1990

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**PLEBISCITE ACT 1990**

**1990,**

**No.6**

**AN ACT to provide for the holding of a plebiscite to ascertain  
the wishes of the people on matters of national interest or  
Constitutional reform, or both or for related purposes.**

*[Assent and commencement date: 8 August 1990]*

**PART 1  
PRELIMINARY**

**1. Short title** – This Act may be cited as the Plebiscite Act  
1990.

**2. Interpretation** – (1) In this Act, unless the context  
otherwise requires:

“Chief Returning Officer” means a person appointed as the  
Chief Returning Officer under this Act; and includes a  
Returning Officer authorised pursuant to section 26(2) to  
exercise the powers, duties, and functions of the Chief  
Returning Officer;

“corrupt practice” has the meaning assigned to that term by  
section 63;

“District” means a territorial constituency as defined and  
prescribed in the Territorial Constituencies Act 1963;

“illegal practice” has the meaning assigned to that term by  
section 72;

“plebiscite” means a plebiscite to be taken under section 3;

“plebiscite administering officers” means the persons  
appointed under sections 5 and 6;

“Plebiscite Administrator” means the person appointed as  
such under section 5;

“presiding officer” means the Returning Officer or any Deputy Returning Officer appointed under section 6 and presiding at any polling place on the day of the polling;

“public notice” means publication:

- (a) in the *Samoa Gazette*; or
- (b) in a newspaper circulating in Samoa; or
- (c) in the *Savali*, or in any other publication issued in Samoa, or by means of notices posted in conspicuous places at the Post Office at Apia and at such other place or places in Samoa as the Plebiscite Administrator thinks fit, or by means of radio broadcasting, or by such other means as the Plebiscite Administrator thinks fit, and “publicly notify” has a corresponding meaning;

“public place” has the same meaning as in section 2 of the Police Offences Ordinance 1961; and includes a polling place under this Act;

“Registrar” means a person appointed as the Registrar under this Act; and includes a person authorised to exercise the powers, duties, and functions of the Registrar;

“registration certificate” means any registration certificate issued for identity purposes under section 11;

“Register of Voters” or “Register” means the register or roll made in the manner provided by this Act containing the names of the persons entitled to vote at the poll;

“Returning Officer” means a person appointed as a Returning Officer under this Act; and includes a Deputy Returning Officer;

“Special Court” means the Court established under section 8;

“voter” means a person who has been registered on the Register of Voters provided in this Act.

## **PART 1A PLEBISCITE**

**3. Plebiscite to be held** – (1) There shall be a plebiscite or plebiscites in Samoa for the purpose of ascertaining whether the citizens of Samoa wish changes to be made with respect to matters of national interest or Constitutional reform, or both, as determined by Cabinet.

(2) A proposal or proposals to be voted on at a plebiscite is to be determined by Cabinet.

(3) A plebiscite shall be held on a day or days (to be called polling day or days) and during the hours to be fixed by the Plebiscite Administrator by public notice, being not sooner than 28 days after the publication of the notice.

**4. Districts** – For the purpose of a plebiscite, Samoa shall be divided into districts corresponding to the territorial constituencies defined in the Territorial Constituencies Act 1963.

**5. Plebiscite Administrator** – (1) There shall be a Plebiscite Administrator, who is to be responsible for the conduct of a plebiscite under this Act.

(2) The Plebiscite Administrator shall be appointed by the Head of State acting on the advice of Cabinet.

(3) There shall be paid out of money appropriated by Parliament for the purpose to the Plebiscite Administrator such remuneration by way of salary and travelling allowances or expenses as is fixed by Cabinet.

**6. Chief Returning Officer, Registrar and other officers** – (1) There shall be appointed by the Plebiscite Administrator a Chief Returning Officer and a Registrar, who shall have and may exercise the powers and duties conferred on them by this Act and such other powers and duties as are authorised in writing by the Plebiscite Administrator.

(2) The offices of Chief Returning Officer and Registrar may be combined in one person.

(3) There may be appointed by the Chief Returning Officer, with the approval of the Plebiscite Administrator:

(a) returning Officers, Deputy Returning Officers, polling officers, and such other officers, as are required to carry out the provisions of this Act; and

(b) a substitute for any such officer to act in the case of the sickness, absence, death, or removal of that officer.

(4) There may be appointed by the Registrar, with the approval of the Plebiscite Administrator:

- (a) Deputy Registrars and such other clerks as are required to assist the Registrar to carry out the provisions of this Act; and
  - (b) a substitute for any such officer to act in the case of the sickness, absence, death, or removal of that officer.
- (5) A substitute while so acting has all the duties, powers, and authorities of the officer for whom he or she is acting.
- (6) The fact that any substitute so acts is sufficient evidence that a case has arisen authorising him or her to act.
- (7) A Deputy Returning Officer has and may exercise in and about the polling place for which he or she is appointed all the powers and duties of a Returning Officer, and, subject to any directions of the Plebiscite Administrator, and shall be subject to the authority and control of the Chief Returning Officer.
- (8) A Deputy Registrar has and may exercise all the powers and duties of the Registrar, and, subject to any directions of the Plebiscite Administrator, shall be subject to the authority and control of the Registrar.

**7. Duties of Chief Returning Officer and other officers –** All officers appointed under section 6 shall afford to the Plebiscite Administrator at all times during a plebiscite the facilities for the due discharge of their functions.

**8. Special Court –** (1) There shall be a Special Court, which shall hear and determine objections and petitions for which provision is made by this Act.

(2) The Chief Justice of the Supreme Court shall be the Judge of the Special Court.

## **PART 2 VOTERS AND ROLLS**

**9. Qualification of voters –** A person is taken to be qualified to be registered as a voter at a plebiscite who:

- (a) is a citizen of Samoa pursuant to the provisions of the Citizenship Act 2004; and
- (b) is resident in Samoa on the date when the claim for enrolment is made; and

- (c) is of or over the age of 21 years or will be of or over the age of twenty one years on polling day;
- (d) is of sound mind; and
- (e) has not been convicted in Samoa of an offence punishable by death or by imprisonment for a term of two years or upwards, unless he or she has received a free pardon or has undergone the sentence or punishment to which he or she was adjudged for the offence; and
- (f) is not disqualified in accordance with any law for the time being in force in Samoa relating to corrupt practices at elections.

**10. Registration of voters** – (1) A person qualified to be registered as a voter is entitled to have his or her name entered in the Register of Voters; and shall for that purpose deliver or send by post to the Registrar a claim and declaration in Form I in the Schedule.

(2) If the Registrar is satisfied, after due inquiry, that any claim for enrolment as aforesaid is valid, the Registrar shall forthwith enter the name of the claimant on the Register of voters.

(3) If the Registrar is not so satisfied, the Registrar may object to the registration of the name of the applicant on the Register of Voters, and thereupon section 15 applies.

**11. Registration Certificate** – (1) A person registered as a voter is to be issued with a registration certificate for identification purposes as prescribed in Form 2 in the Schedule.

(2) The Registrar shall enter the serial number and particulars of the registration certificate in a register as prescribed in Form 3 in the Schedule.

**12. Register of Voters to be as complete as possible** –The Registrar shall:

- (a) make the Register of Voters as complete as possible, and with that object from time to time to place thereon the name of every person who has delivered or sent a claim to the Registrar and of whose qualifications he or she is satisfied; and

- (b) assure himself or herself of the right of every person enrolled to have his or her name retained on the Register of Voters; and
- (c) remove from the Register the name of a person who has died or become disqualified as a voter.

### **PART 3**

### **OBJECTIONS AND ALTERATIONS TO REGISTER**

**13. Objections to Register** – (1) A name on the Register of Voters may be objected to by any other voter or by the Registrar upon the ground that:

- (a) the person whose name is on the roll is not qualified in terms of section 9; or
- (b) the person whose name is objected to is also registered under the same or another name.

(2) Where an objection is made upon the ground specified in paragraph (b) of subsection (1), references in paragraphs (c), (i), and (j) of section 14 and in paragraphs (a), (c), (h), and (i) of section 15 to the removal of a name from the Register or the retention of a name on the Register is taken to be references to the removal or retention of the name only where it appears for the second time.

**14. Procedure on objection by voter** – If the objection is by a voter, the following provisions apply:

- (a) the objection is to be in writing lodged with the Registrar setting forth the grounds thereof, and to be in Form 4 in the Schedule;
- (b) on receipt of the objection, the Registrar shall forthwith give notice in writing to the person objected to setting forth the objection and the ground thereof;
- (c) if the person objected to does not, within 7 days after the service of the notice, cause his or her name to be removed from the Register, or satisfy the Registrar that he or she is entitled to have his or her name retained on the Register, the Registrar shall apply to the Special Court for the issue of a summons in Form 5 in the Schedule;



- (d) the Registrar shall give notice in writing to the objector of the time and place appointed in the summons for the hearing;
- (e) if at the time and place appointed for the hearing the objector, or a person appointed in writing by him, fails to appear, the case shall be dismissed;
- (f) the Registrar shall also appear, but the case may be determined in his or her absence;
- (g) the Registrar may, if he or she thinks fit and the objector so request in writing, appear for the objector at the hearing;
- (h) the person objected to may, on the hearing of the objection, either—
  - (i) appear in person or by some person appointed in writing by him or her; or
  - (ii) forward by post, addressed to the Registrar, a statement made by him or her, and signed before another voter, setting forth further reasons for his or her remaining on the Register;
- (i) subject to the provisions of paragraph (e), if the person objected to fails either to appear or to forward a statement as aforesaid, the Special Court shall make an order that his or her name be removed from the Register;
- (j) if the objector appears and the person objected to either appears or forwards a statement as aforesaid, the Special Court shall hear and determine the objection, and shall direct the Registrar to retain the name on the Register or to remove it therefrom or to make such amendment as may be necessary to give effect to the determination;
- (k) in any such proceeding the burden of producing evidence in support of the objection shall be on the objector and not on the Registrar;
- (l) if any such objection is in the opinion of the Special Court vexatious or frivolous or unreasonable, the Court may order the objector to pay the costs or part of the costs of the hearing and a reasonable allowance to the person objected to, and any such order may be registered in the Supreme Court and

enforced in the same manner as any order for costs of the Supreme Court;

- (m) no grounds of objection shall be entertained except those specifically stated in the summons.

**15. Procedure on objection by Registrar** – If the objection to any name on the Register of Voters is by the Registrar, the following provisions apply:

- (a) the Registrar shall give notice in writing to the person objected to of the grounds of the objection, and intimate in the notice that, unless notice of appeal is given within a time stated (being not less than 7 days after the service of the notice), the name of the person objected to will be removed from the Register of Voters without further proceedings;
- (b) the notice of objection shall be in Form 6 in the Schedule, and the form of notice of appeal set out in Form 6 shall be annexed thereto;
- (c) if the person objected to does not, within the time stated in the notice, cause his or her name to be removed from the Register, or satisfy the Registrar that he or she is entitled to have his or her name retained on the Register, or give notice of appeal, the Registrar shall remove the name forthwith;
- (d) if notice of appeal is duly given, the Registrar shall (unless he or she is satisfied as to the right of the person objected to have his or her name retained on the Register) set down the objection for hearing before the Special Court, which shall appoint a time and place for the hearing;
- (e) the Registrar shall give notice to the person objected to of the time and place so appointed;
- (f) if at the time and place appointed for the hearing the Registrar fails to appear, the objection shall be dismissed;
- (g) the person objected to may, on the hearing of the objection, either—
  - (i) appear in person or by some person appointed in writing by him or her; or

- (ii) forward by post, addressed to the Registrar, a statement made by him or her, and signed before another voter, setting forth reasons for his or her remaining on the Register.
- (h) subject to paragraph (f), if the person objected to fails either to appear or to forward a statement as aforesaid, the Special Court shall make an order that his or her name be removed from the Register;
- (i) if the Registrar appears, and the person objected to appears or forwards a statement as aforesaid, the Special Court shall hear and determine the objection, and shall direct the Registrar to retain the name on the Register of Voters or to remove it therefrom, or to make such amendment of the Register as may be necessary to give effect to the determination; and
- (j) no grounds to objection shall be entertained except those specifically stated in the notice of objection.

**16. Restoration of name omitted or removed by mistake –**

Notwithstanding any provision in this Act, the Registrar, on being satisfied that the name of a person has been omitted or removed from the Register of Voters by mistake or clerical error or through false information, may restore the name of that person to the Register at any time not later than 10 clear days before the day appointed for the poll.

**17. Restorations on alteration of Register –** (1) Except as provided in sections 14, 15 and 16 or by direction or act of the Special Court, it shall not be lawful for the Registrar to enter on or remove from the Register the name of a person after the date fixed in accordance with section 18 for the closing of the Register.

(2) If the Registrar offends this section, the Registrar is liable to a fine not exceeding 1 penalty unit for every name improperly entered on or removed from the Register of Voters.

**PART 4**

**CLOSING AND PRINTING OF REGISTER**

**18. Closing of Register** – (1) The Register of Voters shall be closed on a date or dates to be fixed by the Plebiscite Administrator.

(2) At least 15 clear days before the closing date, the Plebiscite Administrator shall give public notice thereof.

**19. Printing of Register** – As soon as practicable after the closing of the Register of Voters, the Registrar shall cause the Register to be printed containing the names, numbered consecutively in alphabetical order of titles or surnames, of all persons whose names are lawfully on the Register.

**20. Form of Register** – The Register shall be in Form 7 in the Schedule, and shall be issued under the hand of the Registrar.

**21. Supplementary Register** – The Plebiscite Administrator may direct the Registrar to prepare a supplementary Register of Voters containing names added to the Register after the printing of the main Register, and an indication of names removed from the main Register, and may cause the same to be printed. The supplementary Register taken to be part of the main Register of Voters.

**22. Only persons on Register entitled to vote** – The several persons whose names are on the Register of Voters, and no other persons, shall be entitled to vote at a plebiscite.

**23. Copy of Register to be available for public inspection** – A printed copy of the Register of Voters shall be kept for inspection by the public without payment during office hours at the office of the Plebiscite Administrator, the offices of the Chief Returning Officer and the Registrar at Apia, and at such other convenient places in Samoa as the Plebiscite Administrator directs.

**24. Copies of Register, etc., to be supplied to Chief Returning Officer** – Printed copies of the Register of Voters and of the register of registration certificates, certified as correct by the Registrar, is to be supplied by the Registrar to the Chief Returning Officer as the same are required for the purpose of conducting a plebiscite.

**PART 5**  
**PROCEDURE AT A PLEBISCITE**

**25. Notice of poll** – The Plebiscite Administrator shall, on or before the 14th day before the date of a plebiscite, cause to be published, in such manner as he or she thinks fit, a notice specifying:

- (a) the day and hours fixed for the poll; and
- (b) the situation of every polling place in each district;  
and
- (c) the proposal or proposals on which a vote may be cast at a plebiscite.

**26. Allocation of Officers to several areas** – (1) The Plebiscite Administrator shall prescribe the district or districts in which Returning Officers, Deputy Returning Officers, and polling officers shall exercise their functions.

(2) Subject to the direction of the Plebiscite Administrator, a Returning Officer has all the powers and may perform any of the duties of the Chief Returning Officer in the district to which he or she is appointed, and shall be subject to the authority and control of the Chief Returning Officer.

(3) The Chief Returning Officer shall exercise supervision over the functions of Returning Officers and polling officers in the districts in respect of which they are appointed, and, subject to any direction of the Plebiscite Administrator and to the provisions of the order, may give any such officers directions as to the performance of their duties.

**27. Polling places** – (1) The Chief Returning Officer, with the approval of the Plebiscite Administrator, shall appoint a sufficient number of polling places in each district.

(2) The Chief Returning Officer shall appoint at least one polling place in respect of each district.

**28. Officers for each polling place** – There shall be in respect of each polling place a Deputy Returning Officer and such number of polling officers as may be necessary, but not fewer than two, to assist in the taking of the poll.

**29. Powers of polling officers** – A polling officer may be authorised by a Returning Officer to do any act which a Returning Officer is required or authorised to do at a polling place; but he or she may not order the arrest of a person or the exclusion or removal of a person from the polling place.

**30. Booths, ballot boxes, voting papers, etc., to be provided** – At a polling place, the Returning Officer shall provide the following things for taking the poll:

- (a) one or more polling booths, and in each booth one or more inner compartments, separated from but opening into the booth and having no other opening;
- (b) in each booth a ballot box, having a lock and key and a slit in the upper side by which the voting papers may be put into the box;
- (c) in each booth one or more copies of the Register of Voters and a sufficient number of voting papers; and
- (d) in each inner compartment pencils for the use of voters.

**31. Ballot boxes** – The ballot boxes shall be so constructed that a voting paper may be put into it by a voter and may not be withdrawn by him or her or any other person.

**32. Form of voting paper** – A voting paper shall:

- (a) be in Form 8 in the Schedule; and
- (b) have a serial number (called a consecutive number) printed or stamped on the back; and
- (c) be attached to a counterfoil in Form 9 in the Schedule bearing the same serial number as printed or stamped on the back of voting paper.

**33. Scrutineers** – (1) The Plebiscite Administrator, shall, by notice published in a local newspaper, request the nomination of scrutineers for the purpose of detecting personation and any other irregularities in connection with the poll; and that notice shall specify the number of scrutineers who may be appointed for polling places generally or for polling places in a particular

district or for any polling place, but not more than two scrutineers may be appointed to any one polling place.

(2) Notice in writing of the appointment of scrutineers, stating their names and addresses together with the polling place to which each has been assigned, shall be given by the Plebiscite Administrator to the presiding officer not later than 14 days before the date fixed for the poll.

**34. Declaration by Returning Officer and others** – (1) A Returning Officer, Deputy Returning Officer, polling officer, and other officer who is appointed in connection with the holding of a plebiscite under this Act shall, before acting as such, and a scrutineer shall, before being allowed to act, make and subscribe a declaration in Form 10 in the Schedule.

(2) The declaration shall be made:

- (a) for a Returning Officer, before the Plebiscite Administrator, or the Chief Returning Officer;
- (b) for any other person, before the Plebiscite Administrator, the Chief Returning Officer, a Returning Officer, or a Deputy Returning Officer.

**35. Ballot box to be kept locked** – (1) The presiding officer shall, before the opening of the poll and in the sight of such persons as may be present, see that the ballot box is empty, and shall close and lock it and retain the key in his or her possession, and the ballot box shall not again be opened until after the close of the poll.

(2) The ballot box shall be placed so as to be clearly visible to voters entering the compartment.

**36. Admission to polling places** – (1) The presiding officer shall:

- (a) regulate the admission of voters to the polling place; and
- (b) exclude all other persons, except plebiscite administering officers, and any other person who has lawful reason to be admitted; and
- (c) keep order and ensure compliance with this Act at the polling booth.

(2) Not more than 6 voters shall be allowed in a polling booth or more than one voter in any inner compartment at one and the same time.

**37. Voting papers to be given to voters** – (1) A voter desiring to cast his or her vote shall present himself or herself to the presiding officer at a polling place in any district in which he or she desires to vote, and the presiding officer, after satisfying himself or herself that the voter is a person whose name appears on the Register of Voters and that he or she has not already voted, shall deliver to him or her a voting paper in exchange for his or her registration certificate.

(2) A voter who has lost or is unable to produce his or her registration certificate at the polling booth before being issued with a voting paper shall be required to make and subscribe a declaration in Form 11 in the Schedule.

**38. Questions may be put to voter** – (1) The presiding officer may, if required by a scrutineer, before giving any voting paper, put to a voter applying for a voting paper at the time of his or her application, but not afterwards, the following questions or any of them:

- (a) “Are you the person who is on the Register of Voters as follows...?” (reading the copy of the entry in the Register);
- (b) “Are you at least 21 years of age?”
- (c) “Are you still possessed of the qualifications in respect of which you are enrolled?”
- (d) “Have you already voted at the plebiscite at this or any other polling place?”.

(2) In every such case, the presiding officer shall require a question to be answered in writing signed by the person to whom the question is put:

**PROVIDED THAT**, if that person is blind or is unable to read or write (whether because of physical handicap or otherwise), the presiding officer shall record in writing the answers made by that person, and shall endorse thereon and sign a certificate that the questions were so answered by the person applying for a voting paper.

(3) The questions and answers referred to in this section shall be in the English or Samoan language, as the person applying for a voting paper requires.

(4) A person to whom a question is put who does not answer it as required by subsection (2), or does not so answer any of the



first 3 in the affirmative and the fourth in the negative, shall not be permitted to vote.

**39. Voter to surrender registration certificate, and voting paper to be officially marked** – (1) Before giving any voting paper to a voter, the presiding officer shall request the surrender of the registration certificate, or, if the voter does not have a certificate in his or her possession, the presiding officer shall, on being satisfied that the voter has not previously voted, request the voter to make and subscribe a declaration of loss as required by section 37.

(2) The presiding officer shall then on the counterfoil of the voting paper write his or her initials and the number appearing on the Register against the name of the voter to whom the voting paper is given; on the perforation between the counterfoil and the back of the voting paper he shall place his or her official booth stamp, and then draw a line in pencil or ink through the number and name of the voter on the Register of Voters as evidence that the voter has applied for and has received a voting paper.

(3) A presiding officer who fails faithfully to perform any duty imposed on him or her by this section by reason whereof any of the requirements are not effectively fulfilled is liable to a fine not exceeding 1 penalty unit.

**40. Method of voting** – (1) The voter, having received the voting paper, shall immediately retire to one of the inner compartments provided, and shall there alone and secretly on the voting paper indicate whether he or she wishes to vote for or against a proposal by marking a cross in the square set opposite the answer “Yes” or the answer “No”, as the case may be, appearing after that proposal.

(2) A voter shall, before leaving the inner compartment, fold the paper so that the contents thereof cannot be seen, and shall then deposit it so folded in the ballot box.

**41. Spoilt voting papers** – (1) A voter who, not having deposited his or her voting paper in the ballot box, satisfies the presiding officer that he or she has spoilt it by inadvertence may be supplied with a fresh voting paper, but only after the spoilt one has been returned to the presiding officer.

(2) The presiding officer shall cancel the spoilt voting paper by writing across the face thereof the words “Spoilt by voter and a fresh voting paper issued in its place”, and shall affix his or her initials thereto, and shall retain the spoilt voting paper in his or her possession until the close of the poll.

(3) The presiding officer shall make up into separate packets, and any presiding officer other than the Returning Officer shall deliver to the Returning Officer as soon as practicable after the close of the poll, all the spoilt voting papers returned to him or her at the polling place at which he or she presided.

(4) Section 53(1) applies to disposal of spoilt voting papers.

**42. Voter blind or unable to read or write** – If a voter is blind, or is unable to read or write (whether because of physical handicap or otherwise), and so desires, the presiding officer shall, together with any scrutineers present and if necessary an interpreter, retire with him or her into the inner compartment and there make up the voting paper according to the instructions of the voter, and the presiding officer shall sign his or her own name at the foot thereof.

**43. Application for voting paper after another person has voted in same name** – (1) If a person representing himself or herself to be a voter named in the Register of Voters applies for a voting paper after another person has voted in that name, the applicant shall, upon giving satisfactory answers to any questions put to him or her by the presiding officer, be entitled to receive a voting paper in the same manner as any other voter, but that voting paper (hereinafter referred to as a tendered voting paper), instead of being put into the ballot box, shall be given to the presiding officer who shall place it in an envelope and endorse the envelope with the name of the voter and his or her number in the Register of Voters.

(2) The envelope containing the tendered voting paper shall be placed by the presiding officer in the ballot box in the presence of the voter but shall not be counted. The name of the voter and his or her number in the Register of Voters shall be entered by the presiding officer on a list to be called the tendered votes list, and that list is admissible as evidence in any legal proceedings arising out of a plebiscite. The tendered votes list shall be in Form 12 in the Schedule.

**PART 6**  
**TERMINATION OF PLEBISCITE,**  
**COUNTING OF VOTES AND SCRUTINY**

**44. Persons in polling place at close of poll** – When the prescribed hour for the closing of the poll has been reached, the presiding officer shall declare that no more persons shall be admitted to the polling place, and thereafter only the persons already within the polling place or in the immediate vicinity awaiting to enter and vote shall be admitted to vote.

**45. Preliminary count of votes** – (1) The presiding officer shall, as soon as practicable after the closing of the poll, make up into a parcel the copy of the Register of Voters supplied to him or her on which the fact of any person having received a voting paper has been noted, together with all the counterfoils of voting papers that have been issued to voters, and those parcels shall be sealed by him or her, and by such scrutineers as are present and desire to do so.

(2) The presiding officer shall then in the presence of such scrutineers as choose to be present, the Plebiscite Administrator should he or she choose to be present, and the polling officers appointed for that polling place, but of no other persons, open the ballot boxes, and, taking therefrom all the voting papers therein (other than tendered voting papers placed therein under section 43) and setting aside as informal all voting papers which do not clearly indicate whether the voter is in favour or is not in favour of a proposal set out thereon, shall proceed to ascertain the number of votes recorded for a proposal and the number of votes recorded against a proposal.

(3) The presiding officer, while counting and recording the number of voting papers and counting the votes, shall keep the voting papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers.

(4) Immediately after ascertaining the number of votes recorded for a proposal and the number of votes recorded against a proposal, the presiding officer shall announce the result of the voting at the polling place at which he or she presides, and any polling officer other than a Returning Officer shall forthwith

transmit the numbers to the Returning Officer, who shall make up the total number of votes received for a proposal and the total number of votes received against a proposal at the poll.

**46. Provisional result of poll** – (1) When the result of the voting has been ascertained, the Returning Officer in respect of a district for which he or she is exercising functions shall:

- (a) forthwith publish at the place of counting the number of votes received in favour of a proposal, and the number of votes received against a proposal; and
- (b) report the result of the voting to the Chief Returning Officer.

(2) The Chief Returning Officer shall in turn report to the Plebiscite Administrator the provisional result of the voting, together with the number of votes received for a proposal and the number of votes received against a proposal.

(3) The Plebiscite Administrator shall report to the Head of State the provisional results of the voting, together with the number of votes received for a proposal and the number of votes received against a proposal, and shall give public notice thereof.

**47. Voting papers, etc., to be delivered to Returning Officer** – (1) Immediately after ascertaining the number of votes received for a proposal and the number of votes received against a proposal, the presiding officer shall then, in the presence of such scrutineers as choose to be present make up into a packet all the voting papers used by him or her at the polling place at which he or she presided and all envelopes containing tendered voting papers and the tendered votes list and shall seal the same and endorse it with a description of its contents the name of the polling place, and the date of the polling, and that endorsement shall be signed by the presiding officer.

(2) A presiding officer shall deliver the packet to the Returning Officer for the district, together with the packet containing the counterfoils and the copy of the Register of Voters on which the fact of any person having received a voting paper has been noted, and the Returning Officer shall forward the same to the Chief Returning Officer.

**48. Scrutiny of Register** – (1) The Plebiscite Administrator shall make arrangements for a scrutiny of the Register of Voters as soon as practicable after the close of the poll.

(2) No person shall be present at the scrutiny other than the Plebiscite Administrator, the Chief Returning Officer, the Returning Officers, the presiding officers, the scrutineers, and such other assistants as the Plebiscite Administrator deems necessary; and, so far as not otherwise provided in this Act, the scrutiny shall be carried out in the sight and hearing of such of the persons as choose to be present.

**49. Marked copies of Register to be compared** – (1) The Plebiscite Administrator shall:

- (a) in the presence and hearing of the Chief Returning Officer, the assistants of the Plebiscite Administrator, and such scrutineers as choose to be present, but no other person, compare one with another all the certified copies of the Register of Voters, including supplementary Registers, on which the fact of any person having received a voting paper has been noted; and
  - (b) on an unmarked copy of the main Register of Voters and any supplementary Register (called the Master Register) draw a line through the number and name of any voter who is shown on any of the certified copies of the Register as having received a voting paper.
- (2) If on that comparison it appears that the same person has received a voting paper at two or more polling places, the Plebiscite Administrator shall:
- (a) open the packets of voting papers used at the several polling places at which that person appears to have received a voting paper; and
  - (b) select therefrom the voting papers on which the number corresponding to the name of that person appears; and
  - (c) disallow every vote appearing to have been given by means of the voting papers so selected.
- (3) Upon and after the opening of those packets, the Plebiscite Administrator shall:

- (a) ensure that the voting papers in the several packets so opened are not inspected other than the voting papers selected therefrom; and
- (b) take care that the faces of the same are not seen by a person present.

**50. Parcels to be sealed up after scrutiny** – (1) When the Plebiscite Administrator has selected from any packet all the voting papers he or she is required to select therefrom, he or she shall forthwith close and seal up that packet, and shall endorse thereon a memorandum of the fact of the voting papers having been selected from the packet, specifying the same by the name of the person to whom the same appear to have been delivered, and shall sign the endorsement with his or her name.

(2) The Plebiscite Administrator shall set aside all voting papers selected by him or her from any packet as herein provided, and shall seal up the same in a separate packet and shall endorse the same with a description of the contents thereof and sign the endorsement with his or her name.

**51. Official count** – (1) On the completion of the scrutiny hereinbefore directed, the Chief Returning Officer, in the presence of the Plebiscite Administrator, and with such assistance as the Plebiscite Administrator deems necessary, and in the presence of such persons as were entitled to attend at the scrutiny and choose to be present, shall:

- (a) open all the packets of voting papers used at a plebiscite (other than the separate packets mentioned in section 50(2)) and all the envelopes containing tendered voting papers and, after deciding whether or not any tendered voting papers should be allowed and setting aside all informal papers and all tendered voting papers disallowed; and
- (b) ascertain and publicly notify the total number of votes received for a proposal and the total number of votes received against a proposal at the plebiscite.

(2) For the purpose of this section, a voting paper is taken to be informal:

- (a) if it does not bear the official mark and there is reasonable cause to believe that it was not issued to a voter by the presiding officer; or
- (b) if anything not authorised by this Act is written or marked thereon by which the voter can be identified; or
- (c) if it does not clearly indicate whether the voter is in favour or is not in favour of a proposal set out thereon:

**PROVIDED THAT** a voting paper is taken not to be informal merely on the grounds of some informality in the manner in which it has been dealt with by the voter if it is otherwise regular, or if in the opinion of the Chief Returning Officer the intention of the voter is clearly indicated.

(3) The decision of the Chief Returning Officer as to any question arising in respect of any voting paper is final, but shall be subject to review by the Special Court in a voting petition questioning the result but not otherwise.

**52. Official declaration of poll** – The Plebiscite Administrator shall report the final result of a plebiscite to the Head of State and the Head of State shall, by warrant under his or her hand, forthwith declare the result of a plebiscite and publicly notify the proposal or proposals voted on at a plebiscite and the number of votes received for a proposal and the number of votes received against a proposal.

**53. Disposal of documents** – (1) Upon the completion of the counting of the votes, the Chief Returning Officer shall arrange with the Plebiscite Administrator for the safe custody of all documents relating to the conduct of a plebiscite.

(2) All such documents shall be destroyed by the Chief Returning Officer in the presence of the Plebiscite Administrator and such other persons as may be appointed by the Head of State not earlier than 6 months after the completion of counting of votes, unless otherwise directed in respect of any district by an order of the Special Court arising from proceedings relating to a plebiscite.

**54. Voter not to be required to disclose how he or she voted** – No person who has voted at a plebiscite shall in any legal

proceedings arising out of a plebiscite be required to state whether he or she voted for or against a proposal.

**55. Non-attendance of scrutineers** – If any act or thing is required or authorised in this Act to be done in the presence of a scrutineer, the non-attendance of a person at the time and place appointed for the purpose shall not, if any act or thing is otherwise properly done, invalidate the act or thing done.

**56. Safe custody of voting papers** – (1) A presiding officer shall be personally responsible for the safe custody of all voting papers used at the polling place at which he or she presides from the time the voting paper was placed in the ballot box by the voter, or, in the case of a tendered voting paper, by the presiding officer, until the parcel containing the used voting papers (including the tendered voting papers) has been delivered to the Returning Officer as prescribed by section 47 and the presiding officer has obtained from the Returning Officer a receipt in writing for the same, which receipt the Returning Officer is in all cases required to give on that delivery.

(2) In like manner the Returning Officer shall be personally responsible:

- (a) for the safe custody of all voting papers (including tendered voting papers) used at the polling place at which he or she presides until the same have been dealt with under section 47(2); and
- (b) for the safe custody of all parcels of used voting papers (including tendered voting papers) for which he or she has given a receipt until the same have been dealt with by him or her as aforesaid.

(3) The Returning Officer or a presiding officer who fails to take reasonable steps to secure the safe custody of all voting papers for which he or she is responsible and thereby any such voting paper is removed from his or her custody, is liable to a fine not exceeding 3 penalty units or to imprisonment for a term not exceeding six months.

**57. Presiding officer's power to maintain order** – (1) A presiding officer may:

- (a) enforce order and keep the peace at a plebiscite; and



(b) without other warrant than this Act, cause to be arrested and taken before the Supreme Court any person—

(i) reasonably suspected of knowingly and wilfully making a false answer to any of the questions the presiding officer is authorised to put; or

(ii) who attempts to personate any voter or to vote more than once at a plebiscite; or

(iii) who obstructs the approaches to any polling place, or who otherwise behaves in a disorderly manner or causes disturbances at a plebiscite, –

and all constables shall aid and assist the presiding officer in the performance of his or her duty.

(2) When the proceedings at any polling place are interrupted or obstructed by riot or violence, the presiding officer may adjourn the polling at the place until later in the day or until the following day, and, after taking such precautions as are necessary to safeguard the ballot boxes and papers and other plebiscite requisites, shall forthwith give notice to the Chief Returning Officer to this effect, who shall notify the Plebiscite Administrator.

(3) When the poll is adjourned at any polling place:

(a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and

(b) reference in this Act to the closing of the poll shall be construed accordingly.

## **PART 7 OFFENCES**

**58. False statements, applications, etc.** – (1) A person who knowingly makes a false statement in any claim, application, or declaration referred to in this Act is liable to a fine not exceeding 3 penalty units or to imprisonment for a term not exceeding 3 months.

(2) A person is liable to a fine not exceeding 3 penalty units who:

(a) wilfully misleads the Registrar in the compilation of the Register of Voters, or wilfully enters or causes

to be entered therein any false or fictitious name or qualification or the name of a person whom he or she knows to be dead; or

- (b) signs the name of any other person, whether requested to do so or not, or any false or fictitious name, on any form of claim, application, or objection for the purpose of this Act, either as claimant, applicant, objector, or witness; or
- (c) signs his or her name as witness to any signature upon any such form of claim or objection without having seen that signature written or without hearing the person signing declare that the signature in his or her own handwriting and that the name so signed is his or her own proper name.

(3) A person is liable to a fine not exceeding 1 penalty unit who, having obtained possession of a claim for enrolment signed by any other person for the purpose of being delivered to the Registrar for enrolment, fails so to deliver it so that the claimant's name is not placed on the Register of Voters.

**59. Disclosing state of poll or voting** – A Returning Officer, Deputy Returning Officer, scrutineer, polling officer, or other person is liable to a fine not exceeding 3 penalty units who:

- (a) makes known the state of the poll, or gives or pretends to give any information by which the state of the poll may be known, before the close of the poll; or
- (b) makes known for or against what proposal any voter has voted.

**60. Offences by officers** – An officer appointed to carry out the provisions of this Act is liable to a fine not exceeding 3 penalty units who is guilty of any wilful or negligent act of commission or omission contrary to the provisions of this Act in respect of a plebiscite, and for which no other penalty is imposed by this Act.

**61. Interfering with voters, etc.** – A person is liable to a fine not exceeding 1 penalty unit who at a plebiscite:

- (a) in any way interferes with any voter either in the polling place or while on his or her way thereto,

- with the intention of influencing him or her or advising him or her as to his or her vote; or
- (b) prints or distributes or delivers to any person on the day of the poll anything being or purporting to be an imitation of any voting paper to be used at the poll and having thereon the particulars of the proposal or proposals, or any of them, together with any direction or indication as to how a person should vote, or in any way containing any such direction or indication, or having thereon any matter likely to influence any vote; or
  - (c) during the hours in which the poll is being taken, makes any public demonstration having reference to the poll by means of living figures, effigies, paintings, placards, or other like means; or
  - (d) at any time on the day of a plebiscite, before the close of the poll, makes any statement having reference to a plebiscite by means of any loudspeaker or public-address apparatus.

## **62. Offences in respect of voting papers and ballot boxes**

– (1) A person is liable, being an officer appointed in connection with the holding of a plebiscite, to a fine not exceeding 10 penalty units or to imprisonment for a term not exceeding 2 years, or, being any other person, to a fine not exceeding 3 penalty units or to imprisonment for a term not exceeding 6 months, who:

- (a) forges, or counterfeits, or fraudulently defaces, or fraudulently destroys, any voting paper or the official mark on any voting paper; or
- (b) without due authority supplies any voting paper to any person; or
- (c) puts into any ballot box any paper other than the voting paper that he or she is authorised by law to put therein; or
- (d) obtains possession of or has in his or her possession any voting paper other than the one given him or her by the presiding officer for the purposes of recording his or her vote, or retains in his or her possession any voting paper after leaving the polling place; or

- (e) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of voting papers then in use for the purposes of a plebiscite, or in course of transmission by post or otherwise, or thereafter wherever the same may be kept as a record of a plebiscite.

(2) A person is liable to a fine not exceeding 10 penalty units or to imprisonment for a term not exceeding 2 years, who:

- (a) votes or offers to vote more than once at a plebiscite; or
- (b) fraudulently abstracts any voting paper that has been put into the ballot box:

**PROVIDED THAT** nothing in paragraph (a) applies where a person, being lawfully entitled to do so, votes or offers to vote once only at a further poll held under section 86.

(3) A person is liable to a fine not exceeding 1 penalty unit who wilfully makes a false answer to any question lawfully put to him or her by the presiding officer.

**63. Corrupt practice** – A person is guilty of a corrupt practice, and is liable to a fine not exceeding 10 penalty units or to imprisonment for a term not exceeding 2 years, who, in connection with a plebiscite, is convicted of bribery, treating, undue influence, or personation as defined by sections 64, 65, 66 and 67.

**64. Bribery** – A person commits the offence of bribery who, in connection with a plebiscite:

- (a) directly or indirectly gives or offers to give any voter any money or valuable consideration or any office or employment in order to induce the voter to vote or refrain from voting; or
- (b) directly or indirectly makes any gift or offer as aforesaid to a person in order to induce that person to procure or endeavour to procure the vote of any voter; or
- (c) upon or in consequence of any such gift or offer, procures or endeavours to procure the vote of any voter; or

- (d) advances any money to a person with the intent that money or any part thereof shall be expended in bribery within the meaning of this section; or
- (e) being a voter, directly or indirectly receives or agrees to receive any gift, money, valuable consideration, office, or employment as aforesaid in return for voting or refraining from voting or for agreeing thereto.

**65. Treating** – A person commits the offence of treating who, in connection with a plebiscite:

- (a) corruptly, by himself or herself or by any other person, either before, during, or after a plebiscite, directly or indirectly gives or provides or pays, wholly or in part, the expenses of giving or providing any food, drink, entertainment, or provision to or for a person for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at a plebiscite, or on account of that person or any other person having voted or refrained from voting at a plebiscite; or
- (b) being a voter, corruptly accepts or takes any such food, drink, entertainment, or provision.

**66. Undue influence** – A person commits the offence of undue influence who, in connection with a plebiscite:

- (a) by himself or herself or by any other person on his or her behalf, makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or herself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against a person in order to induce or compel anyone to vote or refrain from voting, or on account of anyone having voted or refrained from voting at a plebiscite; or
- (b) by abduction, duress, or any fraudulent device or contrivance, impedes or prevents the free use of the vote by any voter, or thereby compels, induces, or prevails upon any voter either to give

or refrain from giving his or her vote at a plebiscite.

**67. Personation** – A person commits the offence of personation who at a plebiscite:

- (a) applies for a voting paper in the name of some other person, whether that name be the name of a person living or dead or of a fictitious person; or
- (b) having voted once at a plebiscite, applies again for a voting paper in a plebiscite in his or her own name:

**PROVIDED THAT** nothing in paragraph (b) applies where a person, being entitled to vote thereat, applies once only for a voting paper at a further poll held under section 86.

**68. Disorderly conduct** – A person who at a plebiscite acts or incites others to act in a disorderly manner for the purpose of preventing or obstructing the conduct of a plebiscite is liable to a fine not exceeding 3 penalty units or to imprisonment for a term not exceeding 6 months.

**69. Influencing voters, etc.** – (1) No person shall on the date on which a plebiscite is held commit any of the following acts within a polling place or within a distance of 200 metres of a polling place, namely:

- (a) persuade any voter to vote or not to vote for or against a proposal;
- (b) persuade any voter not to vote at a plebiscite;
- (c) shout slogans concerning a plebiscite;
- (d) move or interfere with any ballot box without the consent of the presiding officer;
- (e) be in possession of any offensive weapon or wear any dress or have any facial or other decolouration which is likely to intimidate the voters; or
- (f) exhibit, wear, or tender any notice, symbol, badge, photograph, or party card referring to a plebiscite:

**PROVIDED THAT** this provision does not prohibit—

- (i) the retention on a vehicle of a flag of a political party if the flag is furled; or

(ii) the showing to a presiding officer at a polling place by a voter of a card issued by a political party.

(2) No person shall, on the date on which a plebiscite is held:

- (a) convene, hold, or attend any public meeting having direct or indirect reference to a plebiscite; or
- (b) operate any megaphone, amplifier, or public-address apparatus for the purpose of making announcements concerned with a plebiscite, unless he or she is an officer carrying out duties in relation to a plebiscite and making an official announcement.

(3) A person who contravenes subsection (1) or (2) is liable to a fine not exceeding 5 penalty units or to imprisonment for a term not exceeding 1 year.

**70. Provision of transport** – (1) No person shall provide for the purpose of conveying any other person to a polling place any vehicle or boat belonging to the Government or to any local authority or public corporation, unless that other person is ordinarily entitled to use the vehicle or boat or upon payment of the usual charges.

(2) A person who contravenes subsection (1) is liable to a fine not exceeding 3 penalty units or to imprisonment for a term not exceeding 6 months.

**71. Misleading publications** – A person who publishes in writing any matter which is reasonably likely to mislead or deceive the public as to any matter for which this Act provides commits an offence and is liable to a fine not exceeding 2 penalty units or to imprisonment for a term not exceeding 3 months:

**PROVIDED THAT** no prosecution for an offence under this section is to be commenced without the consent of the Attorney General.

**72. Illegal practice** – A person who at a public meeting held in connection with a plebiscite between the date of publication of the notice appointing a day for the holding of a plebiscite and the date at which the result of a plebiscite is published, acts or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called

together commits the offence of illegal practice and is liable to a fine not exceeding 2 penalty units or to imprisonment for a term not exceeding 6 months.

**73. Displaying cards, emblems, etc.** – (1) No person shall, within any building where voting in a plebiscite is in progress, or on any public place within a distance of 50 metres of any entrance to any such building, wear or display any card, symbol, favour, or other emblem indicating support for a particular political party or support for or opposition to a proposal being put in a plebiscite.

(2) No person shall, within 400 metres of any such building, make any public address indicating support for any such particular political party or support for or opposition to such proposal.

(3) A person who contravenes subsection (1) or (2) is liable to a fine not exceeding 1 penalty unit.

## **PART 8 PETITION**

**74. Petition for inquiry** – (1) A person who:

- (a) complains that any other person who was not a registered voter, voted in a plebiscite; or
- (b) being a registered voter, complains that his or her vote was accepted as a vote on the tendered votes list only; or
- (c) complains that any corrupt or illegal practice has taken place in any district,-

may petition the Special Court.

(2) A petition under this section shall be lodged at the office of the Plebiscite Administrator in Form 13 in the Schedule within a period of 7 days after the date of a plebiscite, and the Plebiscite Administrator shall:

- (a) if required to do so, give a receipt for the petition; and
- (b) forward the original of the petition to the Special Court; and
- (c) forward a copy to the Registrar; and
- (d) cause a copy to be served on each respondent named in the petition, if that respondent can be found.



**75. Time and place of trial** – (1) The trial of a petition must be commenced not later than 14 days after the date of the filing of the petition, or within such later period as the Special Court directs.

(2) The time and place of the trial of the petition shall be fixed by the Special Court, and notice thereof shall, not less than seven clear days before the date so fixed be published in a newspaper circulating in Samoa or in such other manner as the Court directs and be sent by post to the petitioner and to each person named therein as a respondent. The notice may be in Form 14 in the Schedule.

**76. Proof of service of petition** – Before proceeding to determine any petition:

- (a) the Court shall be satisfied that every person required by his or her Act to be served with a copy of the petition has been so served; or
- (b) if any such person cannot be found or has evaded service, the Court shall be satisfied that all reasonable efforts have been made to effect service, and may, in its discretion, direct what action, including an order for substituted service, is to be taken to effect service in any particular case.

**77. Plebiscite Administrator entitled to appear** – Upon giving notice to the Court, the Plebiscite Administrator or a person appointed by him or her for that purpose, is to be entitled, upon such terms as the Court decides, to be heard upon any matter relating to a petition and to examine witnesses and to call evidence.

**78. Attendance of witnesses** – The Special Court may order the attendance of a person as a witness upon the trial of a petition, and, for the purposes of compelling the attendance of any persons before the Court to give evidence and for the maintenance of order during the hearing, shall have the same powers as the Supreme Court in the exercise of its civil jurisdiction.

**79. Production of documents** – At the trial of the petition, the Special Court may order the production and inspection of the

voting papers, counterfoils, tendered votes list, and Register of Voters, and the production of any such documents or papers which have been enclosed in sealed packets; and such sealed packets shall be produced, so sealed and opened in the Court:

**PROVIDED THAT**, in making such an order and carrying it into effect, care shall be taken to ensure that the way in which any particular voter voted or wished to vote is not disclosed until the Court is satisfied that his or her vote was given and declares that the vote is invalid or, where it is complained that a vote was accepted as a vote on the tendered votes list only, until the Court declares that the voter was not entitled to vote.

**80. Amendment of petition** – (1) Upon application made by the petitioner, the Court may in its discretion allow him or her to amend the petition, upon such terms, as to costs or otherwise, as the Court thinks fit.

(2) Application for leave to amend the petition shall be made by motion on notice to each person named in the petition as a respondent.

**81. Adjournment** – The Special Court may, of its own motion or upon the application of any party to the petition, postpone the commencement of the trial, and during the trial may adjourn the proceedings from time to time and from place to place as the Court thinks fit.

**82. Security for costs** – The Special Court may direct that a person lodging a petition shall give security for costs in such manner, in such amount, and within such time as the Court may direct, and, where the Court gives such a direction, no petition shall be proceeded with until that security is given. Where that security is not given within the time so directed, the petition shall lapse.

**83. Procedure on trial of petition** – Save as otherwise provided by this Act, the procedure applicable to the trial of an election petition in the Supreme Court under the provisions of the Electoral Petition Rules 1964, as far as they are applicable and with the necessary modifications, shall apply to all matters and questions relating to procedure, admission of evidence, and costs, including the taxation of costs, arising during the hearing of or

upon the determination of a petition under the provisions of this Act.

**84. Decision of Court** – (1) The decision of the Special Court on any petition heard and determined by the Court including the findings of the Court upon the facts of the case, shall be transmitted to the Plebiscite Administrator.

(2) If the Special Court considers that it has been shown on the trial of a petition that any corrupt or illegal practices have been committed in connection with a plebiscite for the purposes of influencing voters, the Court shall, under subsection (1), transmit its decisions and findings to the Plebiscite Administrator.

(3) On determining the petition, the Court, unless it dismisses the petition, shall give to the Plebiscite Administrator a certificate setting out the number of votes cast in favour of a proposal and the number of votes cast against a proposal which the Court has declared to be invalid and the number of votes cast in favour of a proposal and the number of votes cast against a proposal which the Court has declared should have been counted but which were not counted.

**85. Decision of Court to be final** – The decision of the Special Court of any petition lodged under this Act is final.

**86. Plebiscite Administrator may direct fresh poll in certain cases** – (1) If the Plebiscite Administrator considers it desirable so to do, having regard to any decision of the Special Court in any dispute concerning the result of the voting in any district, the Plebiscite Administrator may declare that the result of the voting in that district or any part of that district is invalid, and direct that for the purposes of a plebiscite a further poll be taken in that district or in such part thereof as he or she thinks fit.

(2) The date on which the further poll is to be held, the hours of polling, and the district or part of a district in which it is to be held shall be fixed by the Plebiscite Administrator and publicly notified.

(3) Where a further poll is to be held under this section, the provisions of this Act, with the necessary modifications, apply as in the case of the original poll.

(4) No person who at the original poll voted at a polling place outside the district or part of a district in which the further poll is to be held shall be entitled to vote at the further poll.

**87. Offences** – A person who, by abuse of the process of the Special Court, attempts to impede, frustrate, or delay the obtaining of the result of a plebiscite in any district commits an offence and, in addition to any order for the payment of any costs in any proceedings relating to a petition, is liable to a fine not exceeding 3 penalty units or to imprisonment for a term not exceeding 6 months.

## **PART 9 MISCELLANEOUS**

**88. Language of forms, etc.** – (1) All registration certificates and voting papers under this Act shall be printed in both the English and Samoan languages.

(2) All other notices, forms, and other documents required for the purposes of this Act shall be in the English or Samoan language or in both languages, as the Plebiscite Administrator decides.

**89. Fees, allowances, and expenses** – (1) The officers appointed under section 6 shall be paid such fees, allowances, and expenses as are determined by the Plebiscite Administrator.

(2) All fees, allowances, and expenses payable under this section shall be part of the expenses of a plebiscite.

**90. Expenses of plebiscite** – All expenses properly incurred in respect of the conduct of a plebiscite or otherwise for the purpose of this Act or any instructions issued thereunder, shall be paid out of money appropriated by Parliament.

**91. Offences punishable by Supreme Court** – All offences under this Act are punishable by the Supreme Court in its ordinary criminal jurisdiction.

**SCHEDULE****FORM 1**  
**(Section 10)****CLAIM FOR ENROLMENT ON REGISTER OF VOTERS**

I....., hereby claim to have my name inserted on the Register of Voters for a Plebiscite in Samoa; and I declare that the answers to the following questions are true and correct in every particular:

1. (a) What is your date of birth?.....

(b) If your exact date of birth is not known and cannot be ascertained please answer the following questions:

(i) when do you believe you were born?.....

(ii) what evidence is there that you will have attained the age of twenty one years on polling day?.....

(If there is insufficient space on this page use separate sheet)

2. Are you a citizen of Samoa?.....

3. Are you already enrolled?.....

4. What is your present full residential address?.....

5. What is your occupation?.....

6. What is the full name of your father?.....

7. What is the full name of your mother?.....

Signed and declared by the claimant, this.....day of.....20..

Sign here.....

Signature of Witness.....

Residential Address of Witness.....

Qualifications of Witness:(Registrar, or other appointed officer,  
Postmaster, or person authorised to take declarations)

**FORM 2**  
**(Section 11)**

**REGISTRATION CERTIFICATE OF VOTER**

Title or Taulealea or Registration

Surname: Christian Names: Age: Sex: Address: Occupation:  
Number

I certify that the above-named person is registered as a voter for a  
Plebiscite in Samoa.

**Registrar**

**FORM 3**  
**(Section 11)**

**NUMERICAL REGISTER OF REGISTRATION  
CERTIFICATES**

Number : Title : Taulealea

Savaii or

Upolu: Surname: Christian Name: Age: Sex: Address: Occupation

.....  
**Registrar**

**FORM 4**  
**(Section 14)**

**NOTICE OF OBJECTION BY VOTER**

To the Registrar of Voters for a Plebiscite in Samoa

I, (Name in full), of (Postal address in full), hereby give notice that I object to the retention of (Name in full) of (Post address in full) on the Register of Voters for a Plebiscite in Samoa [\*Where it appears thereon under No. (State number where it is claimed name appears for second time)], and that the grounds for my objection are the following: (Here state ground).

**DATED:** this ..... day of ..... 20 .....

Signature.....

\*Delete, unless ground of objection is that person objected to is also registered under the same or another name.

**FORM 5**  
**(Section 14)**

**SUMMONS TO ANSWER OBJECTIONS**

To.....

You are hereby summoned to attend the Special Court to be held at....., on the.....day of.....20-, at the hour of .....o'clock in the.....noon, to prove your right to have your name retained on the Register of Voters for a Plebiscite in Samoa (\*Where it appears thereon under No.....).

The grounds of objection to your name remaining on the register are as follows:-

[Here set grounds as stated in the notice of objection.]

.....

**Judge of Special Court**

**FORM 6**  
**(Section 15)**

**REGISTRAR'S OBJECTION TO ENROLMENT OF  
VOTER**

To.....

TAKE notice that I object to the retention of your name on the Register of Voters for a Plebiscite in Samoa [\*Where it appears thereon under No. (State number where it is claimed name appears for second time)], on the following grounds: (Here state grounds.)

Unless the annexed notice of appeal is signed by you and returned to me within.....days from this date, your name will be removed from the Register of Voters (where it appears thereon under No. ).

**DATED** this.....day of.....20...

.....

**Registrar**

\*Delete, unless ground of objection is that person objected to is also registered under the same or another name.

### **NOTICE OF APPEAL**

To the Registrar for a Plebiscite in Samoa.

TAKE notice that I appeal from your objection to the retention of my name on the Roll of Voters for a Plebiscite in Samoa on the following grounds: (Here state grounds)

**DATED** this..... day of ..... 20 .....

Signature:.....

Address:.....

### **FORM 7** **(Section 20)**

### **REGISTER OF VOTERS FOR PLEBISCITE IN SAMOA**

Number Title: Taulealea

Registration

on or

Roll: Surname: Christian Name: Age: Sex: Address: Occupation:



Number

.....

**Registrar**

**FORM 8**  
**(Section 32)**

**VOTING PAPER**  
**SAMOA PLEBISCITE**

Directions to Voter  
Voting)

(Read Carefully before

1. You should vote on the following proposal (s).
2. If you wish to vote for a proposal, you should mark "X" in the square opposite the word "Yes" appearing after that proposal. If you wish to vote against a proposal, you should mark "X" in the square opposite the word "NO" appearing after that proposal.

“...[proposal as determined under YES ( )  
section 3(2) NO ( )

[Note: The number of proposals on a voting paper shall be as determined by Cabinet under section 3(2)].

**FORM 9**  
**(Section 32)**

**COUNTERFOIL**

**Consecutive No:**

To be entered here and also on the top left-hand corner of the back of the voting paper

**No. on Register of Voters**

To be entered here only.

Stamp across the perforation so that the number ) Official  
of the polling place shall appear on both the )  
Counterfoil and the Voting Paper ) Mark

Initials of Presiding Officer .....

**FORM 10**  
**(Section 34)**

**DECLARATION BY RETURNING OFFICER,  
DEPUTY RETURNING OFFICER, POLLING OFFICER,  
SCRUTINEERS, AND OTHER OFFICERS**

I, (Full name), of (Full address), (Occupation) solemnly declare that I will faithfully and impartially, according to the best of my skill and judgment, exercise and perform all the powers or duties reposed in or solemnly promise that I will not, except as provided by the said order, directly or indirectly disclose any fact coming to my knowledge at any poll for a plebiscite in the office of:

- \* Returning Officer
- \* Deputy Returning Officer
- \* Polling Officer
- \* Scrutineer Officer
- \* Interpreter

Signature of Declarant: .....

**DECLARED** at ..... this ..... day of ..... 20 ....

before me: .....

- \* Delete whichever do not apply. \* Plebiscite Administrator
- \* Chief Returning Officer
  - \* Returning Officer
  - \* Deputy Returning Officer

(NOTE - Declarations by Returning Officers must be made before the Plebiscite Administrator, or the Chief Returning Officer.)

**FORM 11**  
**(Section 37)**

**DECLARATION OF LOSS OF VOTER'S  
REGISTRATION CERTIFICATE**

I, (Name in full) of (Postal Address in full), solemnly declare, pursuant

to the Plebiscite Act 1990:

1. That I the said declarant have lost the registration certificate issued to me under the provisions of the above-mentioned Act.
2. That my registration number as shown on the Register of Voters is No.:.....
3. That I have not previously voted in a plebiscite.

Signature of  
Declarant.....

DECLARED AND SIGNED at ....., this .....day of ..... 20  
.....

.....  
Returning Officer(or Deputy Returning Officer)

**FORM 12**  
**(Section 43)**

**TENDERED VOTERS LIST**

Name of Voter	Number in Register
1. ....	.....
2. ....	.....
3. ....	.....

Each of the above-named persons, representing himself or herself to be a voter, applied for a voting paper after another person had voted as that voter. Each applicant gave satisfactory answers to the questions in section 43 of the Plebiscite Act 1990, and I therefore entered on this list his or her name and his or her number in the Register.

District .....  
Polling Place at:.....

.....  
Presiding Officer 19...

**FORM 13**  
**(Section 74)**

**PETITION FOR INQUIRY  
 IN THE SPECIAL COURT AT APIA, SAMOA**

In the matter of a Plebiscite held in Samoa pursuant to the Plebiscite Act 1990.

**THE** petition of (Name in full) of (Here insert sufficient postal address for effective service of any notice by the Special Court), whose name is subscribed hereto.

**(1)** Your petitioner claims that:

- \* (a) The person specified below who was not a registered voter voted in a plebiscite.

Particulars

.....

Name

.....

Address:

.....

- \* (b) Being a registered voter, his vote was accepted as a vote on the tendered votes list only.
- \* (c) The offences specified below, being offences referred to in paragraph (c) of subsection (1) of clause 74 of the Plebiscite Act 1990, were committed by the persons named in connection with the holding of a Plebiscite.

**Particulars:**

.....

.....

**(2)** And your petitioner prays that (Here state the action which the petitioner desires that the Special Court shall take).

Signature:

.....

\*Delete whichever is not applicable

**FORM 14**  
**(Section 74)**

**NOTICE OF TIME AND PLACE OF TRIAL  
PETITION FOR INQUIRY IN THE SPECIAL  
COURT AT APIA, SAMOA**

In the matter of a petition in respect of a Plebiscite held in Samoa  
pursuant to the Plebiscite Act 1990.

Petition of.....of.....

TAKE notice that the above petition will be heard at.....on the ..... day  
of ..... 20 .... at ....o'clock in the forenoon (afternoon) and on such other  
subsequent days as may be needful.

**DATED:** at ..... this ..... day of ..... 20 .....

**Judge (or Registrar of the Court)**

\_\_\_\_\_

**REVISION NOTES 2008 – 2023**

This is the official version of this Act as at 31 December 2023.

This Act has been revised by the Legislative Drafting Division from 2008 – 2023 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Insertion of the commencement date
- (b) References to the male gender made gender neutral
- (c) Other minor editing has been done in accordance with the lawful powers of the Attorney General, where appropriate:
  - (i) “Every” and “any” changed to “a/an”
  - (ii) Present tense drafting style:
    - “shall be” changed to “is/are” or “is/are to be”
    - “shall be deemed” changed to “is/are taken/regarded as”
    - “shall have” changed to “has”
    - removal of “from time to time”
  - (iii) Offence provisions
    - “shall be guilty” changed to “commits”
  - (iv) Use of plain language –
    - “deemed” changed to “taken”
    - “in the case of” changed to “for”
    - “where” changed to “if”
    - “in accordance with” changed to “under”
  - (v) Removal of superfluous words
    - “the provisions of”
    - “to this Act”
  - (vi) Numbers in words changed to figures
  - (vii) Sections 36(1), 41(4)-redrafted, 49(1) & (2), 51(1), 56(2), 57(1) and 59 were paragraphed.
  - (viii) Part numbering changed to decimal

The following amendments were made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*:

*By the Plebiscite Amendment Act 2010 (commenced 19 October 2010):*

- Section 2(1)** - Deleted and replaced the definition of “Accident” or “personal injury by accident” with a new definition.
- Long title** - In the long title, the words “pertaining to Parliament and to the representation of the people” were deleted and substituted “of national interest or Constitutional reform, or both”.
- Section 3** - In subsection (1), the words “or plebiscites” were inserted after “plebiscite”, and the words

“franchise and the composition of Parliament” were deleted and substituted “matters of national interest of Constitutional reform, or both, as determined by Cabinet”.

- A new subsection (2) was substituted.
- In subsection (3), the words “The plebiscite” were deleted and substituted “A plebiscite”.

**Section 22** - The words “the Plebiscite” were deleted and substituted “a plebiscite”.

**In sections 2, 4, 5(1), 7, 9, 24, 25, 34(1), 43(2), 51(1), 52, 53(1) and (2), 54, 57(1), 60, 61, 62(1) and (2), 63, 64, 65, 66, 67, 68, 69(1) and (2), 72, 73(1), 74(1)(a) and (2), 84(2), 86(1), 87, 89(2) and 90,** the words “the plebiscite” were deleted and substituted “a plebiscite”.

**Section 25** - Reference to “21st” was deleted and substituted “14th”. The words “in every district” were also deleted.

- In paragraph (c), the words “proposal or” were inserted after “proposals”.

**Section 40(1)** - The words “the proposals or either of them” were deleted and substituted “a proposal”.

**Section 45** - In subsection (2), the words “either of the proposals” were deleted and substituted “a proposal”, and the word “each” was deleted and substituted “a”.

- In subsection (4), the word “each” wherever it occurred was deleted and substituted “a”.

**Section 46** - The word “each” wherever it occurred was deleted and substituted “a”.

**Section 47(1)** - The word “each” wherever it occurred was deleted and substituted “a”.

**Section 51** - In subsection (1), the word “each” wherever it occurred was deleted and substituted “a”.

- In subsection (2)(c), the words “either of the proposals” were deleted and substituted “a proposal”.

**Section 52** - The words “proposal or” were inserted after “notify”. The word “each” wherever it occurred was deleted and substituted “a”.

**Section 54** - The word “either” was deleted and substituted “a”.

**Section 61(b)** - The words “proposal or” were inserted before

“proposals”.

- Section 69(1)(a)** - The word “either” was deleted and substituted “a”.  
**Section 73** - In subsection (1), the word “either” was deleted and substituted “a”.  
 - In subsection (2), the word “either” was deleted.  
**Section 84(3)** - The word “each” wherever it occurred was deleted and substituted “a”.  
**Form 8** - In number 1, the words “both proposals” were deleted and substituted “the following proposal(s)”.  
 - In number 2, the proposals numbered 1 and 2 were deleted and substituted the following:

“...[proposal as determined under YES ( )  
 section 3(2)] NO ( )

[Note: The number of proposals on a voting paper shall be as determined by Cabinet under section 3(2)].”.

*By the National Prosecution Office Act 2015 which commences on 1 January 2016:*

- Section 71** omit “Attorney General” and substitute “Director of Public Prosecutions”.

*By the Constitution Amendment Act (No. 1) 2017, No. 8:*

- Section 71** omit “Director of Public Prosecutions” and substitute “Attorney General”.



Su'a Hellene Wallwork  
**Attorney General of Samoa**

*This Act is administered by  
 the Office of the Attorney General.*