

## ACT NO. 5 OF 2017



I assent.

J. K. KONROTE  
President

[14 February 2017]

## 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 2017.

(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) inserting the following new definitions—

““day” means a period of 24 hours;”;

““officer” means a person appointed to the staff of the Fijian Elections Office;”;

(b) in the definition of “campaign rules”, inserting “and any rules issued by the Electoral Commission in relation to campaigns” after “116”;

- (c) in the definition of “Fijian Elections Office”, deleting “to the Electoral Commission and the Supervisor”;
- (d) in the definition of “illegal practice”, deleting “or the Regulations” and substituting “, the Regulations or the Rules”;
- (e) in the definition of “polling day”, deleting “, and for the first general election for the members of Parliament under the Constitution and this Act, means the day determined by the President under section 170(1) of the Constitution”; and
- (f) deleting the definition of “postal ballot voting officer” or “postal ballot counting officer”.

*Section 5 amended***3.** Section 5 of the Principal Act is amended by—

- (a) inserting the following new subsection after subsection (4)—

“(4A) The Electoral Commission must, within 5 days of its meeting, publish a copy of the decisions taken by the Commission at the meeting.”; and

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

“(7) Subject to subsection (8), the Supervisor shall act as the secretary of the Electoral Commission and must attend all the meetings of the Electoral Commission.

(8) Where the Electoral Commission is dealing with objections or appeals against the actions or decisions of the Supervisor, the Supervisor must not be present at such meetings.”

*New section 18A inserted***4.** The Principal Act is amended by inserting the following new section after section 18—*“Court to finalise decisions*

18A. A court must promptly make a decision with respect to a charge filed for an election related offence under this Act, the Electoral (Registration of Voters) Act 2012 and the Political Parties (Registration, Conduct, Funding and Disclosures) Act 2013.”

*Section 23 amended***5.** Section 23 of the Principal Act is amended by inserting the following new subsection after subsection (6)—

“(7) For the purpose of verification, the Supervisor may make enquiries and, where necessary, require the person to provide the necessary authorisations and declarations to the relevant authorities to assist with the enquiries.”

*Section 26 amended*

- 6.** Section 26 of the Principal Act is amended in subsection (4) by—
- (a) deleting “leader” and substituting “president”; and
  - (b) deleting “secretary” and substituting “registered officer”.

*Section 30 amended*

- 7.** Section 30 of the Principal Act is amended in subsection (6) by—
- (a) deleting “and” and substituting “,”; and
  - (b) inserting “and the Supervisor as soon as possible but no later than 12.00 pm on the day following its decision” after “objected to”.

*Section 31 amended*

- 8.** Section 31 of the Principal Act is amended in subsection (5) by inserting “as soon as possible but no later than 12.00 pm on the day following its decision” after “its decision”.

*Section 34 amended*

- 9.** Section 34 of the Principal Act is amended in subsection (3) by deleting “registration”.

*Section 35 amended*

- 10.** Section 35 of the Principal Act is amended in subsection (1) by deleting “give a notice of poll in the Gazette and in all national daily newspapers and broadcast on radio and free-to-air television” and substituting “publish a notice of poll”.

*Section 36 amended*

- 11.** Section 36 of the Principal Act is amended by—
- (a) in subsection (2)—
    - (i) deleting “at the place of nomination,” and “at that place”; and
    - (ii) in paragraph (c), deleting “number 135” and substituting “a 3-digit number approved by the Electoral Commission”;
  - (b) in subsection (3), deleting “number 135” and substituting “the lowest number”;
  - (c) in subsection (5), deleting “in the Gazette and in all national daily newspapers and broadcast on radio and free-to-air television,” and “independent and party”; and
  - (d) inserting the following new subsection after subsection (6)—

“(7) For the purpose of subsection (2)(c), the numbers used in an election of members of Parliament must not be used at the next election of members of Parliament.”

*Section 39 amended*

- 12.** Section 39 of the Principal Act is amended in subsection (2) by deleting “adopted” and substituting “approved”.

*Section 40 amended*

**13.** Section 40 of the Principal Act is amended in subsection (9) by—

- (a) deleting “approved” and substituting “prescribed”;
- (b) deleting “written”; and
- (c) deleting “published under subsection (8)” and substituting “containing the names, genders, address details and voter numbers of the voters”.

*Section 41 amended*

**14.** Section 41 of the Principal Act is amended by—

- (a) in subsection (2), deleting “in the Gazette and in all national daily newspapers and broadcast on radio and free-to-air television,”; and
- (b) in subsection (6), deleting “adopted” and substituting “approved”.

*Section 46 amended*

**15.** Section 46 of the Principal Act is amended in subsection (4) by deleting “close prior to 6.00 pm if all voters registered at that polling station have voted” and substituting “operate during the times approved by the Electoral Commission”.

*Section 47 amended*

**16.** Section 47 of the Principal Act is amended by—

- (a) in subsection (4)—
  - (i) deleting “and publish in the Gazette and in all national daily newspapers and broadcast on radio and free-to-air television,”; and
  - (ii) deleting “under this section” and substituting “and approved by the Electoral Commission”;
- (b) in subsection (6), deleting “and publish in the Gazette and in all national daily newspapers and broadcast on radio and free-to-air television, and any vote cast by that time shall be cancelled and polling at the affected polling stations must take place on a date determined under this section” and substituting “and any vote cast by that time shall be cancelled and polling at the affected polling station must take place on a date determined and approved by the Electoral Commission”; and
- (c) in subsection (10), deleting “, and publish a notice to that effect in the Gazette and in all national daily newspapers and broadcast on radio and free-to-air television”.

*Section 52 amended*

**17.** Section 52 of the Principal Act is amended by—

- (a) deleting subsection (3) and substituting the following—
  - “(3) Subject to section 60(1A), a polling agent or an approved observer may only bring into a polling station materials prescribed under section

60(1A) that he or she shall use to carry out his or her duties as an agent or observer.”; and

- (b) deleting “person” wherever it appears and substituting “voter”.

*Section 60 amended*

**18.** Section 60 of the Principal Act is amended by—

- (a) inserting the following new subsection after subsection (1)—

“(1A) The Supervisor shall prescribe materials allowed to be taken into a polling station by a polling agent or an approved observer to carry out his or her duties, within 7 days of the issuance of the writ.”; and

- (b) inserting the following new subsection after subsection (3)—

“(3A) A candidate at an election must not be appointed as a polling agent.”

*Section 65 amended*

**19.** Section 65 of the Principal Act is amended by—

- (a) renumbering the existing section as subsection (1);

- (b) in subsection (1)—

(i) inserting “or in the case of pre-poll at the time approved by the Electoral Commission” after “6.00 pm”; and

(ii) deleting “and the counting of the ballot papers shall begin immediately after the close of the polls”; and

- (c) inserting the following new subsection after subsection (1)—

“(2) On polling day, the counting of the ballot papers shall begin as soon as practicable after the close of the polls.”

*Section 66 amended*

**20.** Section 66 of the Principal Act is amended by—

- (a) in subsection (1), deleting “in writing postal ballot voting officers” and substituting “an officer”; and

- (b) deleting subsections (2) and (3).

*Section 67 amended*

**21.** Section 67 of the Principal Act is amended by—

- (a) in subsection (3), deleting “mail out an application for postal voting, upon request by any registered voter, and the approved form must be available at all electoral sub-offices” and substituting “make available an application for postal voting in both printed and electronic form that any registered voter can access or to whom the application can be sent”; and

- (b) in subsection (5)(d), deleting “postal address” and substituting “address”.

*Section 68 amended*

**22.** Section 68 of the Principal Act is amended by inserting “and not later than 5.00 pm on the twenty first day” after “polling day”.

*Section 69 amended*

**23.** Section 69 of the Principal Act is amended in subsection (2) by inserting “and is to be updated at 4.00 pm every day” after “election”.

*Section 70 amended*

**24.** Section 70 of the Principal Act is amended by—

- (a) in subsection (2), deleting “immediately”; and
- (b) in subsection (3), deleting paragraph (c) and substituting the following—  
“(c) address to which the postal ballot paper should be sent;”

*Section 72 amended*

**25.** Section 72 of the Principal Act is amended by—

- (a) deleting subsection (1) and substituting the following—  
“(1) The Supervisor must, upon entering a person in the Register of Postal Voters, despatch, once available, a postal ballot paper and any other voting material by the best means available to the address indicated on the application.”;
- (b) deleting subsection (2); and
- (c) in subsection (4), deleting “Subject to Division 6, no postal ballot papers are to” and substituting “Postal ballot papers must not”.

*Section 74 amended*

**26.** Section 74 of the Principal Act is amended by deleting “mailed out or couriered” and substituting “despatched”.

*Section 76 amended*

**27.** Section 76 of the Principal Act is amended in subsection (1) by inserting “or any of its sub-offices, excluding a polling station,” after “Fijian Elections Office”.

*Section 79 amended*

**28.** Section 79 of the Principal Act is amended by—

- (a) in subsection (2), deleting “and counted”; and
- (b) in subsections (4), (5)(a) and (7), deleting “postal ballot counting”.

*Section 80 amended*

**29.** Section 80 of the Principal Act is amended by deleting “postal ballot counting”.

*Section 81 amended*

**30.** Section 81 of the Principal Act is amended by—

- (a) in subsection (1), deleting “postal ballot counting officers” and substituting “the officers”; and

(b) in subsection (3), deleting “postal ballot counting”.

*Section 82 amended*

**31.** Section 82 of the Principal Act is amended by—

- (a) in subsection (3), deleting “give notice of pre-poll voting in the Gazette and in all national daily newspapers and broadcast on radio and free-to-air television” and substituting “publish a notice of pre-poll”; and
- (b) in subsection (8), deleting “written”.

*Section 86 amended*

**32.** Section 86 of the Principal Act is amended by—

- (a) in subsection (1), inserting “ballot boxes containing” after “incoming”; and
- (b) in subsection (2), deleting “verification and”.

*Section 87 deleted*

**33.** The Principal Act is amended by deleting section 87.

*Section 88 amended*

**34.** Section 88 of the Principal Act is amended by—

- (a) in subsection (1), deleting “in writing pre-poll ballot”;
- (b) in subsection (2), deleting “pre-poll ballot” after “by”;
- (c) in subsection (4), deleting “pre-poll ballot”; and
- (d) in subsection (6), deleting “pre-poll ballot” after “the”.

*Section 89 amended*

**35.** Section 89 of the Principal Act is amended by inserting the following new subsection after subsection (5)—

“(6) The Supervisor may conduct a recount of any ballot box.”

*Section 92 amended*

**36.** Section 92 of the Principal Act is amended by—

- (a) in subsection (1)—
  - (i) deleting “opening the ballot boxes” and substituting “opening a ballot box”; and
  - (ii) deleting “seals of the ballot boxes” and substituting “seal of the ballot box”; and
- (b) inserting the following new subsection after subsection (7)—

“(8) The Supervisor may, having received the report of the presiding officer, conduct a recount of any ballot box.”

*Section 93 amended*

**37.** Section 93 of the Principal Act is amended by deleting “mix together all the ballot papers from the different ballot boxes and must”.

*Section 95 amended*

**38.** Section 95 of the Principal Act is amended by inserting the following new subsection after subsection (4)—

“(5) Where the Supervisor conducts a recount, the Supervisor may overturn any decision taken by the presiding officer.”

*Section 97 amended*

**39.** Section 97 of the Principal Act is amended by—

- (a) in subsection (2), deleting “third”; and
- (b) deleting subsection (3).

*Section 109 amended*

**40.** Section 109 of the Principal Act is amended in subsection (2) by deleting “in the Gazette”.

*Section 155 amended*

**41.** Section 155 of the Principal Act is amended in subsection (1) by inserting the following new paragraph after paragraph (c)—

“(ca) campaign activity by political parties and candidates;”

*References to “polling booth” and “polling booths” amended*

**42.** The Principal Act is amended by deleting “polling booth” and “polling booths” wherever they appear and substituting “voting screen” and “voting screens” respectively.

Passed by the Parliament of the Republic of Fiji this 9th day of February 2017.