



*Tonga*

# **DISTRICT AND TOWN OFFICERS ELECTION REGULATIONS**

**Chapter 8.03.01**

**2020 Revised Edition**





Tonga

## DISTRICT AND TOWN OFFICERS ELECTION REGULATIONS

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# DISTRICT AND TOWN OFFICERS ELECTION REGULATIONS

*Made under section 6(3) of the District and Town Officers Act*

Commencement [6 July 2020]<sup>1</sup>

## 1 Short Title

These Regulations may be cited as the District and Town Officers Election Regulations.

## 2 Repeal

All existing District and Town Officers (Election) Regulations are repealed.

## 3 Returning Officers and Polling Station Officers

- (1) The Electoral Commission (a) shall appoint a returning officer for each District and such officer shall have full charge of district and town officer elections in the District to which he is appointed and (b) may appoint such Assistant Returning Officers and Polling Station Officers as may be necessary.
- (2) In these Regulations the term “District” means the island districts of Tongatapu, Ha’apai, Vava’u, ‘Eua and the Niuaus; and the term “Returning Officer” includes an Assistant Returning Officer.

#### **4 Oath of Office**

- (1) All Commissioners and Staff of the Electoral Commission, Returning Officers, Assistant Returning Officer, Polling Station Officers and any other person acting for or on behalf of the Electoral Commission in respect of an election to which these Regulations apply shall take an oath of office.
- (2) The oath shall be administered by a Commissioner of the Electoral Commission provided always that because of their remoteness the oath on 'Eua or the Niuas may be administered by a Judge or Magistrate, or the Government Representative, or a Police Officer of the rank of Sergeant or above.
- (3) The oath shall remain in effect until the end of the calendar year in which it is administered.
- (4) Completed oaths shall be forwarded without delay to the Electoral Commission at Nuku'alofa and shall be retained there by them for a period of two years.
- (5) The oath of office shall be in the form prescribed in Form 1 in Schedule I.

#### **5 Electoral Roll**

In respect of an election to which these Regulations apply the Electoral Roll used for the purpose of electing members of the Legislative Assembly *prima facie* shall be used provided always that the printed roll in use at any election to which these Regulations apply shall be updated to the last date for the receipt of Nominations.

#### **6 Elections to which these Regulations apply.**

These Regulations apply to an election for the election of a District Officer or a Town Officer, or any by-election for the election of a District Officer as a Town Officer.

#### **7 Retention of the Electoral Roll**

The Electoral Roll used on polling day at all Polling Stations at an election to which these Regulations apply shall be returned without delay to the Electoral Commission after the close of poll in accordance with written instructions issued by the Supervisor of Elections and shall be retained by the Commission for a period of 12 months after the close of poll after which it shall be destroyed.

## **8 Polling Stations**

An elector shall vote only at the polling station for his town, which polling station shall be fixed by the Electoral Commission who shall inform electors accordingly by public notice.

## **9 Notice of Elections**

By Notice published in the Gazette in the form prescribed in Form 2 in Schedule 1 the Electoral Commission shall give Notice of (1) the date of the Election; (2) the names of the Returning Officers appointed under Regulation 3; (3) the last date for the receipt of nominations; (4) the polling place or places for each town; and (5) the Election Timetable.

## **10 Nominations**

- (1) Each nomination for a District Officer shall be in the form prescribed in Form 3 in Schedule 1.
- (2) Each nomination for a Town Officer shall be in the form prescribed in Form 4 in Schedule 1.
- (3) All nominations shall be in writing; completed as appropriate in accordance with sub-regulation (1) or (2); subscribed by the nominee and his or her proposers; and accompanied by payment of a candidate registration fee of 50 Pa'anga for nomination as a District Officers and 25 Pa'anga for nomination as a Town Officer. Under no circumstances whatsoever shall such a fee once paid be refunded.
- (4) A candidate may be nominated for election as a District Officer or a Town Officer, but not for both.
- (5) A candidate may withdraw his nomination by giving the Retuning Officer and the Supervisor of Elections a notice in writing to that effect not later than two working days after the last day for the receipt of nominations. The Supervisor of Elections forthwith shall give public notice of any withdrawal of candidacy, and the name of any candidate who withdraws shall not appear on the Ballot Paper.
- (6) Each nomination must be received by the Returning Officer no later than 4 p.m. on the last date for the receipt of nominations, or no later than 4 p.m. on the day prior thereto.

## 11 Uncontested Elections

If in any District or Town Officer election only one nomination has been received when nominations have closed, the Returning Officer shall declare that candidate to have been duly elected as a District Officer or a Town Officer as the case may be.

## 12 Elections

- (1) Each elector shall have a vote for a District Officer and a Town Officer.
- (2) Voting shall be between the hours of nine in the morning and four in the afternoon.
- (3) For the purpose of this Regulation and Form 2 in Schedule 1 a person shall be deemed to be a resident of the district or town under which his or her name appears in the latest electoral roll published by the Electoral Commission in accordance with the provisions of the Electoral Act.

## 13 Identity of Electors

- (1) An elector on polling day, when having his or her name confirmed against the electoral roll, shall produce to any polling station officer appointed under Regulation 3 as evidence of identity a current Tonga National Identity Card, and if that card has expired or has been misplaced, a current Tongan National Passport or other photographic form of identity acceptable to the polling station officer.
- (2) If the polling station officer is not satisfied that an elector is the person whom he or she purports to be, that officer shall require the elector –
  - (a) to take the Oath set forth in Form 6 in Schedule 1 of the Electoral Act; and
  - (b) to place his signature on the oath form,

And any person refusing to do so shall not be allowed to vote.

## 14 Ballot Papers

- (1) The position of names on the ballot paper shall be determined by the order in which the nominations are received by the returning officer.
- (2) The ballot paper shall be in the Tongan language only and in the form prescribed by Form 5 (District Officer) and by Form 6 (Town Officer) in Schedule 1.



- (3) The ballot paper shall consist of a printed paper showing on the face of it the name and town of each candidate, and an elector shall place a “✓” against the name of the Candidate for whom he wishes to vote, PROVIDED ALWAYS that no ballot paper shall be rejected as invalid if it clearly indicates the candidate for whom the elector intended to vote, whether that indication is made in the manner prescribed by this Regulation or otherwise.

## **15 Counting of Votes**

- (1) Upon completion of the Poll, the polling officers at each polling station shall count the votes cast for each candidate and the senior polling officer at each polling stations shall announce publicly, subject to verification as specified hereafter in this Regulation, the votes cast for each candidate.
- (2) The senior polling officer at each polling station shall then forward a certificate of the result of the election together with the ballot papers to the returning officer of the district who shall ascertain and verify the number of votes received throughout the electoral district by each of the candidates and shall declare the same in writing, together with the names of the candidates who have been elected. Such declaration shall be delivered to the Supervisor of Elections, who shall publish the results in the Gazette without delay.
- (3) If two or more candidates at an election receive the highest number of votes cast, the winning candidate shall be selected by the toss of a coin in the presence of the Returning Officer and the candidates or such of them as appear at the coin-toss after having been summoned to appear by the Returning Officer.

## **16 Void Ballot Papers**

Any ballot paper on which votes are given for more or for less than the required number of persons to be elected for a district or town shall be deemed to be void and shall not be counted.

## **17 Recounts**

- (1) Any candidate may, within two working days of the declaration of the poll by the Returning Officer, demand in writing addressed to the Supervisor of Elections, that the votes be recounted.
- (2) Upon receipt of a demand for a recount and after payment of the fee therefore payable under sub-regulation (5), the Supervisor of Elections shall recount the votes in that district or town and he may substitute his decision concerning any

doubtful ballot paper for that made by the Returning Officer or a polling officer at the polling station.

- (3) The Supervisor of Elections after recounting the votes shall announce his decision on the vote and this decision shall be final.
- (4) If no recount is demanded, the decision of the Returning Officer or the Senior Polling Officer at the polling station as to any question arising in respect of any ballot paper, or as to the number of votes counted, shall be final.
- (5) Any candidate demanding a recount shall pay, in advance, to the Supervisor of Elections a fee prescribed in Schedule II which shall not be refunded unless:
  - (a) as a result of the recount, a different candidate is elected; or
  - (b) the Supervisor of Elections, in announcing his decision on the recount, certifies that in his opinion the demand for a recount was reasonable.

## **18 Keeping Ballot Boxes, Screens and Ballot Papers**

- (1) The Electoral Commission shall retain all Ballot Boxes and Screens from one election until the next in good order and securely stored.
- (2) The Electoral Commission shall decide the size, shape and material of ballot boxes and screens used in elections.
- (3) The ballot papers for a District and Town Officer election or by-election shall be destroyed 12 months after the date of the election or by-election.

## **19 Special assistance to blind and physically disabled electors**

- (1) Where any elector satisfies a polling station officer that his sight is so impaired or that he or she is so physically disabled that he or she is unable to vote without assistance, a person, not being a candidate, nominated by the elector shall assist the elector in the voting process.
- (2) The elector and nominated person shall enter an unoccupied cubicle and at the elector's direction the nominated person shall mark, fold, and thereafter deposit the elector's ballot paper into a ballot box.
- (3) The assistance of an elector shall be observed by a police officer stationed at the polling station.
- (4) Should a police officer not be within the polling station, or be otherwise engaged, the assistance to the elector and the marking of their vote shall be observed by the senior polling official at the polling station.

**20 Spoilt Ballot papers**

Where an elector spoils a ballot paper it is to be returned to the senior polling station officer, and he or she shall –

- (a) cancel every such spoilt ballot paper by writing across the face thereof the words “Spoilt by elector and a fresh ballot paper issued” and writing his initials thereon;
- (b) if any ballot paper is advertently spoilt by a polling station officer, cancel it by writing across the face thereof the words “Spoilt by official” and the words “and a fresh ballot paper issued” if that is the case, and writing his initials thereon: and
- (c) retain all spoilt ballot papers in his possession until close of poll when he shall deliver them to the Returning Officer.

**21 Adjournment of poll**

- (1) Where the polling at any polling station cannot start or has been suspended whether by reason of natural disaster, bad weather conditions or any other case, the Supervisor of Elections may adjourn the taking of the poll at the polling station to the following day, and if necessary from day to day until the poll can be taken, and shall, if he adjourns the taking of the poll, forthwith give public notice of the adjournment in such manner as he thinks fit.
- (2) Notwithstanding sub-regulation (1), the poll shall not be kept open for more than 7 hours per day at any polling station.

**22 Voting in another district**

- (1) An elector residing temporarily in an electoral district other than that in which he is registered may vote there for an election to the district in which he or she is registered, on proof that he or she is so registered.
- (2) The returning officer of the district in which such an elector is temporarily resident shall accept such vote provided that such elector is registered on the roll under the appropriate district.

**23 Voting by Commission and Election Staff and Police**

An elector at an election who is a Commissioner or employee of the Electoral Commission, a Returning Officer, an Assistant Returning Officer, a Polling Station Officer or a Police Officer at a polling station may vote at either –

- (a) the polling station designated for his village; or
- (b) the polling station where he is situated on polling day.

## **24 Death of a Candidate**

- (1) Where a candidate for election dies between the close of nominations and polling day, the election shall continue, unless there were only two candidates in which case the remaining candidate shall be declared elected by the Returning Officer and the ballot shall not proceed.
- (2) Where there are more than one remaining candidates the Supervisor of Elections shall, where possible, arrange for the ballot papers for the election to be reprinted. If that is not possible, the Supervisor of Elections will arrange for the name of the deceased candidate and the vote circle opposite his or her name to be blacked out or struck out on all ballot papers for that election.
- (3) Ballot papers reprinted shall have the space where the name of the deceased candidate would have been and the voting circle blacked out.

## **25 Polling Officers**

Polling Officers at each polling station are required (a) to comply with any Directions issued to them by the Electoral Commission or the Returning Officer; (b) to ensure that the election is conducted freely, fairly, safely and in accordance with these Regulations; (c) where necessary, to require assistance from the police stationed at the polling station under and in terms of Regulation 26; and (d) to prohibit the taking at the polling station of photography of any kind whatsoever using any type of apparatus (including cameras, telephones and inbuilt cameras, television cameras or otherwise whatsoever).

## **26 Police to control polling stations**

The Minister of Police shall cause to be stationed at each polling station one or more uniformed police officers whose duties shall be –

- (a) to ensure that the election is conducted freely, fairly and safely in accordance with the Laws of Tonga and these Regulations;
- (b) to maintain order within the polling station and in the vicinity thereof;
- (c) to aid and assist the polling officers at each polling station in the performance of their duties; and

- (d) to remove from a polling station any person conducting himself or herself in a disorderly manner, causing a disturbance, or acting in any manner in defiance of any direction given by a polling officer at a polling station.

## **27 Election Expenditure**

No Candidate for election as a District Officer or as a Town Officer may spend on his or her election campaign more than 5,000 Pa'anga, which amount shall include the candidate registration fee and where appropriate the fee paid to secure a recount.

**SCHEDULE I**

**FORM 1**

(Regulation 4)

**OATH OF OFFICE**

I,.....of.....,  
swear before God that I will execute the duties of my office as  
..... in accordance with the Constitution and  
the Laws of the Kingdom of Tonga.

And that I will act only in accordance with the Constitution and Laws of the Kingdom  
of Tonga and all directions or notices given by the Electoral Commission and / or the  
Supervisor of Elections and /or the Returning Officer and no other person or agency:

And that I shall not engage in political activity or aid or support a candidate standing  
for election whilst this Oath remains in effect.

So help me God!

.....

(Signature of Deponent)

**Dated this** ..... day of ..... 20.....

**Before me:**

.....

(Signature of Witness)

**Position Held:**

.....

**Sworn at:**

.....  
(Location and Place)

**FORM 2**

(Regulation 9)

**NOTICE OF ELECTIONS**

NOTICE IS HEREBY GIVEN that the Election of District and Town Officers pursuant to Sections 4 and 5 of the District and Town Officers Act, will be held on the .....day of ..... in the year 20.....

NOMINATIONS should be left with the Returning Officer in each district no later than four in the afternoon on the ..... day of ..... in the year 20....., or no later than four in the afternoon on the immediately preceding day, subject always to the following provisions –

1. Nominations shall be in writing and shall be subscribed with the signatures of at least 10 persons who are qualified electors namely electors who are resident in the District or Town for which election is sought by the candidate and their names shall be inscribed according in the latest electoral roll published in accordance with the Electoral Act.
2. The Returning Officer in each district shall certify that persons subscribing as a candidate’s proposers are eligible to do so.
3. The candidate shall be required, before his nomination is accepted, in addition to the above requirements, to pay a candidate registration fee in the sum of 50 Pa’anga for a candidate standing for election as a District Officer and 25 Pa’anga for a candidate standing for election as a Town Officer.

**RETURNING OFFICERS**

The Returning Officers (and Assistant Returning Officers) for each Island District, and their official addresses, are:-

**ELECTION TIMETABLE**

The Election Timetable is as follows:-



**POLLING PLACES**

The Polling Place or Places for each Town is as follows:-

**FORM 3**

(Regulation 10)

**NOMINATION OF CANDIDATE FOR DISTRICT OFFICER**

We the undersigned persons whose names appear on the register of electors for the  
 ..... Electoral District hereby  
 nominate.....

(here insert name of candidate in full) of  
 ..... (insert here Town) as a  
 candidate for election as District Officer of  
 .....

No.	Name	Village	Signature	Elector Registration Number
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

I assent to the above nomination and do hereby declare that:

I am aged twenty-one years or more and am an elector entitled to vote;

I am a resident of the Kingdom of Tonga and reside in the district for which I am nominated;

I am a subject of the Kingdom, either natural born or naturalised under the laws of the Kingdom of Tonga;

I have not been convicted for any offence for which I was sentenced to imprisonment for more than two years; and

The above particulars are true and correct.

Dated the..... Day of .....of the  
year 20.....

**Signature of Candidate:** .....

**FORM 4**

(Regulation 10)

**NOMINATION OF CANDIDATE FOR TOWN OFFICER**

We the undersigned persons whose names appear on the register of electors in the Town of

.....hereby nominate.....  
 ..... (here insert name of candidate in full) of  
 ..... (insert here  
 Town) as a candidate for election as Town Officer of  
 .....

No.	Name	Village	Signature	Elector Registration Number
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				

I assent to the above nomination and do hereby declare that:

I am aged twenty-one years or more and am an elector entitled to vote;

I am a resident of the Kingdom of Tonga and reside in the Town for which I am nominated;

I am a subject of the Kingdom, either natural born or naturalised under the laws of the Kingdom of Tonga;

I have not been convicted for any offence for which I was sentenced to imprisonment for more than two years; and

The above particulars are true and correct.

Dated the..... Day of .....of the year  
20.....

**Signature of Candidate:** .....

**FORM 5**

(Regulation 14)

**BALLOT PAPER FOR DISTRICT OFFICER**

FOOMU 5

(Tu'utu'uni 14)



**PEPA PALOTI 'OFISA FAKAVAHEFONUA**

**FIKA:** .....

**VAHEFONUA:** .....

**TA'U:** .....

**(Fai'anga Fili)**

**'Oku ou loto ke 'OFISA KOLO 'ae fakafofonga ni ki he Vahenga ko .....**

	<b>HINGOA</b>	<b>KOLO</b>	<b>FILI</b>
<b>1.</b>			○
<b>2.</b>			○
<b>3.</b>			○
<b>4.</b>			○
<b>5.</b>			○
<b>6.</b>			○
<b>7.</b>			○

**(‘o hokohoko ki he tokolahi ‘o e kau kanititeiti)****TOKANGA:**

1. Fakahoko ‘a ho’o fili ‘aki hano faka’ilonga’i ‘aki ha “✓” ‘i he feitu’u ko ia kuo faka’ilonga’i atu ‘i he fili pe ko ia ‘a e hingoa ‘o e kanititeiti ‘e toko taha ‘oku ke fili ai.
2. ‘I he hili ‘a ho’o fili, pea ke pelu ‘a ho’o lau’i pepa paloti pea fakahu ki he loto puha paloti.

**FORM 6**

(Regulation 14)

**BALLOT PAPER FOR TOWN OFFICER**

FOOMU 6

(Tu'utu'uni 14)



**PEPA PALOTI - 'OFISA KOLO**

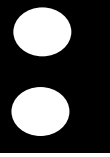

**FIKA:** .....  
**VAHEFONUA:** .....  
**TA'U:** .....  
**(Fai'anga Fili)**

'Oku ou loto ke **'OFISA KOLO** 'a e Fakaafongani ni ki he Kolo ko .....

**HINGOA**

	<b>HINGOA</b>	<b>KOLO</b>	<b>FILI</b>
1.			○
2.			○
3.			○
4.			○
5.			○



6.			
7.			
('o hokohoko ki he tokolahi 'o e kau kanititeiti)			
			

**TOKANGA:**

1. Fakahoko 'a ho'o fili 'aki hano faka'ilonga'i 'aki ha "✓" 'i he feitu'u ko ia kuo faka'ilonga'i atu 'i he fili pe ko ia 'a e hingoa 'o e kanititeiti 'e toko taha 'oku ke fili ai.
2. 'I he hili 'a ho'o fili, pea ke pelu 'a ho'o lau'i pepa paloti pea fakahu ki he loto puha paloti.

**SCHEDULE II**  
**FEES (FOR RECOUNT)**

(Regulation 17)

1. Candidate for District Officer demanding recount	-	\$1,000
2. Candidate for Town Officer demanding recount	-	\$500

**FAKAMATALA FAKALAHU**

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<sup>1</sup> GS. 33 of 2020 dated 6 July 2020.