



Tonga

**LAO FAKAANGAANGA KI HE NGA AHI
HIA FILI FALE ALEA 2023**



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LAO FAKAANGAANGA KI HE NGAahi HIA FILI FALE ALEA 2023

KO E LAO FAKAANGAANGA KI HA LAO KE TU'UTU'UNI KI HE
NGAAHI HIA FILI FALE ALEA 'I HE NGAahi FILI FAKAFONUA MO
FAKALOTOFONUA

'OKU TU'UTU'UNI 'e he Tu'i mo e Fale Alea 'o Tonga 'i he Fakataha Alea 'o e
Pule'anga 'o pehe:

1 Hingoa nounou

'E ui 'a e Lao ni ko e Lao ki he Ngaahi Hia Fili Fale Alea 2023.

2 'UHINGA'i Lea

'I he Lao ni tuku kehe 'o ka fiema'u ha 'uhinga kehe 'i hono tu'unga –

"Fakamaau'anga" 'oku 'uhinga ki he Fakamaau'anga Lahi 'o Tonga;

"Taumu'a ngaue'ofa" kuo pau ke ne ma'u 'a e 'uhinga tatau mo ia 'i he kupu
2 'o e Lao ki he Ngaahi Talasiti Ngaue'ofa;

“Talekita ‘o e Ngaahi Talatalaaki Hia ‘a e Pule’anga” ‘oku ‘uhinga ki he ‘ofisa ma’olunga ‘a e ‘Ofisi ‘o e ‘Ateni Seniale ‘a ia kuo vahe’i ‘e he ‘Ateni Seniale ke ne fakahoko tu’utu’uni ki he ngaahi talatalaaki hia ‘a e pule’anga;

“Fili” ‘oku kau ki ai -

- (a) ha fili pe fili si’i ‘oku fakahoko ‘i he ngaahi tu’utu’uni ‘o e Lao ki he Fili Fale Alea ‘a ia ‘oku ngaue’aki mei he taimi ki he taimi; pe
- (b) ko ha fili pe fili si’i ‘a ia ‘oku fakahoko ‘o fakatatau ki he ngaahi tu’utu’uni ‘o e Lao ki he Kau ‘Ofisa Fakavahefonua mo e ‘Ofisa Kolo ‘a ia ‘oku ngaue’aki mei he taimi ki he taimi;

“Aho Fili” ‘oku ‘uhinga ki he ‘aho ‘oku fakahoko ai ‘a e Fili;

“Vahenga Fili” ‘oku kau ki ai ‘a e Ngaahi Kolo ki hono fili ‘o e Kau ‘Ofisa Kolo, Ngaahi Vahefonua ki hono fili ‘o e Kau ‘Ofisa Fakavahefonua, mo e Ngaahi Vahenga Fili ‘oku ngaue’aki ki hono fili ‘a e kau fakafofonga ‘o e kakai mo e kau nopele ki he Fale Alea;

“Komisoni Fili” ‘oku ‘uhinga ki he Komisoni kuo fokotu’u ‘i he Lao ki he Komisoni Fili;

“Ngaahi Fakamole ‘i he Fili” ‘oku ‘uhinga ki he fa’ahinga fakamole kotoa pe kuo fakahoko ‘e ha kanititeiti ki he fili, pe ‘e ha taha ‘o fakafofonga’i ia, pe ‘e ha taha ‘o tatau ai pē pe ko hai ka ‘oku ne tu’uaki ‘a e kanititeiti, ‘i he vaha’ a ‘o e ‘aho tuku atu ‘o e Tohi Fekau Fili ki he ngaahi fili ki Fale Alea (pe ko e ‘aho fakaha ‘i he Kasete ‘o kau ki he ‘aho fili ‘a e Kau ‘Ofisa Fakavahefonua mo e ‘Ofisa Kolo) mo e ‘aho ‘o e Fakamatala ‘e ha kanititeiti ki he’ene Ngaahi Fakamole ki he Fili Fale Alea pea kau ai ‘a e ngaahi me’a ko eni ‘oku lau ko e ngaahi fakamole ‘i he fili, ‘o hange –

- (a) ko ha tokoni ki ha taha, pe ki he pe ma’ae lelei ‘a e kautaha, ‘i he vahenga fili ‘a e kanititeiti, kuo fakahoko ‘e he kanititeiti, pe ‘e ha taha ‘o fakafofonga’i ia, ‘i he mahina ‘e tolu kimu’a ‘i he ‘aho ‘o e fili;
- (b) ngaahi fakamole fefolau’aki pe fefononga’aki ‘a ia kuo totongi ‘e he pe ‘e ha fakafofonga ‘o e kanititeiti ke malava ‘a e kau fili ke fononga ki ha fai’anga fili ‘i he vahenga fili ‘o e kanititeiti.
- (c) “Ngaahi Tipositi” ‘oku ala totongi ‘o fekau’aki mo e kupu 9(3) ‘o e Lao ki he Fili Fale Alea [Vahe 2.03];
- (d) “Ngaahi Totongi ‘o e Lesisita” ‘oku ala totongi ‘o fekau’aki mo e Tu’utu’uni 10(3) ‘o e Ngaahi Tu’utu’uni Fili ki he Kau ‘Ofisa Fakavahefonua mo e Kau ‘Ofisa Kolo [Vahe 8.03.01];
- (e) ko e ngaahi totongi ‘oku ala totongi ki hono toe lau ‘o fekau’aki mo e kupu 17(5) ‘o e Lao ki he Fili Fale Alea [Vahe 2.03] pe Tu’utu’uni 17(5) mo e Tepile 2 ‘o e Ngaahi Tu’utu’uni Fili ki he Kau ‘Ofisa Fakavahefonua mo e Kau ‘Ofisa Kolo [Vahe 8.03.01]; mo e
- (f) ngaahi totongi ‘o ha fakafiefia (kau ki ai ‘a e me’atokoni, inu, pe ngaahi me’a kehe) ‘e ha taha fili ‘i he vahenga fili ‘o e kanititeiti ‘a ia ‘oku totongi ‘e he pe ‘e ha fakafofonga ‘o ha kanititeiti ‘i he mahina ‘e tolu

kimu'a 'i he 'aho 'o e fili, KA KUO PAU MA'U PE koe'uhi ko e ngaahi taumu'a 'o e Lao ni, ko ha fo'i pa'anga kuo fakamoleki 'e ha kanititeiti –

- (i) ki ha ma'u me'atokoni hili ha fakataha fili; pea
- (ii) ki he'ene ngaahi fakamole fakafo'ituitui, pe ko ia 'oku felave'i mo hono uaifi, ongo matu'a, fanga kui, fanau, fanga makapuna, ko e fanga tuonga'ane mo e tuofafine mo e fanga tuonga'ane mo e tuofafine tamai taha pe fa'e taha 'o 'ene ongo matu'a, ongo matu'a 'a e mali, fanga tuonga'ane mo e tuofafine mo e fanga tuonga'ane mo e tuofafine tamai taha pe fa'e taha pe ko 'enau fanau, pe ko e fanga tuonga'ane mo e tuofafine mo e fanga tuonga'ane mo e tuofafine tamai taha pe fa'e taha 'o 'ene mali pe ko 'enau fanau, kuo pau 'e 'ikai lau ia pea 'oku 'ikai ko ha ngaahi fakamole 'i he fili;

“Pa'anga Hu Mai 'i he Fili” 'oku 'uhinga ki he kotoa 'o e ngaahi tokoni pe pa'anga hu mai kehe 'o tatau ai pē pe ko e ha (kau ki ai 'a e ngaahi no) mei ha kanititeiti ke tu'uaki 'a 'ene fili; pe ma'u mai 'e ha kanititeiti ki he fili, pe 'e ha taha 'o fakafofonga'i ia, pe 'e ha taha 'o tatau ai pē pe ko hai 'a ia 'oku ne tu'uaki e fili 'a e kanititeiti, ka kuo pau ma'u pe ke tapui ha kanititeiti mei hono tali 'o ha pa'anga hu mai 'i he fili mei ha pe ha fakafofonga 'o ha pule'anga muli pe fakafofonga mei ai; ha kautaha fakavaha'apule'anga pe fakavahefonua; ha kautaha muli pe ngaahi kautaha muli kehe; pe ha taha 'oku 'ikai ko ha tangata'i fonua Tonga; mo e

“Ofisa Faifili” 'oku kau ki ai 'a e Sea mo ha Komisiona 'o e Komisoni Fili, Supavaisa 'o e Ngaahi Fili, Kau 'Ofisa Faifili, Kau 'Ofisa 'i he Fai'anga Fili, pea mo ha memipa 'o e kau ngaue 'a e Komisoni Fili.

3 Ngaahi Faka'ilo

- (1) Kuo pau ke kamata'i 'e he Talekita 'o e Ngaahi Talatalaaki Hia 'a e Pule'anga 'a e ngaahi faka'ilo 'i he Lao ni 'aki ha Tohi Hia Matea 'i he Fakamaau'anga Lahi 'o Tonga ka kuo pau ma'u pe he'ikai kamata'i 'a e faka'ilo ko ia kapau 'oku 'ikai tomu'a fakangofua 'e he 'Ateni Seniale 'i he tohi.
- (2) Kuo pau ke kamata'i ha fa'ahinga faka'ilo 'i he Lao ni 'i loto 'i he mahina 'e 4 mei he 'aho 'o e hia, pe ko e 'aho faka'osi 'o ia 'o kapau na'e fakahoko 'a e hia 'i ha vaha'ataimi.

4 Fakatātā'i loi

Ko ha taha 'oku ne fili 'i ha fili ko ha taha kehe, 'o tatau ai pē pe ko e taha ko ia 'oku kei mo'ui pe kuo pekia pe ko ha taha loi, pe 'oku ne tokoni, akonaki'i pe fakatupu 'a hono fakahoko 'o ia 'oku ne halaia ki he hia 'o e fakatātā'i loi.

5 Fili tu’o lahi

Ko ha taha ‘oku ne fili ‘i ha fili ‘o laka hake ‘i he tu’o taha, ‘o tatau ai pē pe ‘i he vahenga fili tatau pe kehe, pe ‘oku ne tokoni, akonaki’i pe fakatupu ‘a hono fakahoko ‘o ia ‘oku ne halaia ki he hia ‘o e fili tu’o lahi.

6 Fakamatala loi ki ha ‘Ofisa Faifili

Ko ha taha ‘oku ne ‘oatu ‘i he ‘ilo pau ha fakamatala loi pe fakamatala hala ki ha ‘ofisa faifili, ‘o tatau ai pē pe ‘i he fuakava pe ‘i he tohinima pe lea, koe’uhi koe taumu’a ki hono fa’u ‘o e tohi fakakatoa, pe ke uesia ‘a e ngofua ‘a ha taha ke fili pe ke ne hoko ko ha kanititeiti ‘i ha fili, ‘oku ne halaia ki he hia ‘o e fakamatala loi.

7 To’onga Fakamanamana

Ko ha taha ‘oku ne fakamanamana’i ‘i ha fa’ahinga founa pē ha taha fili pe ko hono famili pe ko ‘ene koloa ‘i ha feinga ke uesia ‘a e fili ‘a e taha fili ‘i ha fili, pe ‘i ha feinga ke fakaloto’i ia ke fili pe ‘ikai fili ki ha kanititeiti pau ‘i ha fili ‘oku ne halaia ki he hia ‘o e to’onga fakamanamana.

8 Fakafaingata’a’ia

- (1) Ko ha taha ‘i ha fa’ahinga taimi pē ‘oku ne fakafaingata’a’ia’i, ta’ofi, fakamanamana’i pe ‘i ha fa’ahinga founa pē ke ne kaunoa pe feinga ke kaunoa ‘i ha ‘ofisa faifili ‘i hono fakahoko hono ngaahi fatongia ‘oku ne halaia ki he hia ‘o e fakafaingata’a’ia.
- (2) Ko ha taha ‘i he ‘aho ‘o e fili ‘oku ne fakafaingata’a’ia’i, ta’ofi, fakahoha’asi, fakafiu’i pe ‘i ha fa’ahinga founa pē ke ne kaunoa pe feinga ke kaunoa ‘i ha taha fili ‘i he’ene fononga ki he pe ‘i ha fai’anga fili mo e taumu’a ke toloi pe ta’ofi ‘a ‘ene a’u ki ha fai’anga fili, fakaloto’i ia ke ‘oua ‘e fili, pe ngaue’aki ‘a e fakamalohi ki ai ‘o kau ki he anga hono fakahoko ‘ene fili ‘oku ne halaia ki he hia ‘o e fakafaingata’a’ia.

9 Pa’anga Hu Mai mo e Ngaahi Fakamole ‘i he Fili

- (1) Kuo pau ke fakahu atu ‘e he kanititeiti taki taha ki he Komisoni Fili ‘i loto ‘i he ‘aho ‘e 28 hili ‘a e ‘Aho Fili ha Fakamatala ‘o e Pa’anga Hu Mai mo e Ngaahi Fakamole ‘i he Fili ‘i he Foomu 1 ‘o e Tepile ki he Lao ni.
- (2) ‘Oku ‘ikai ngofua ki ha kanititeiti ‘oku fili ki he Fale Alea ke ne fakamole ‘o lahi ange ‘i he pa’anga ‘e \$50,000 ‘i he’ene kemipeini fili; pea ‘oku ‘ikai ngofua ki ha kanititeiti ‘oku fili ko ha ‘Ofisa Fakavahefonua pe ‘Ofisa Kolo ke ne fakamole ‘o lahi ange ‘i he pa’anga ‘e \$15,000 ‘i he’ene kemipeini fili.

- (3) Ko ha kanititeiti 'oku ne fakamole 'o lahi ange 'i he mahu'inga ma'olunga taha 'oku fakangofua ia ke ne fakamole 'i he'ene kemipeini fili 'oku ne halaia ki ha hia.
- (4) Ko ha kanititeiti 'oku 'ikai ke ne 'ave ha Fakamatala 'o e Pa'anga Hu Mai mo e Ngaahi Fakamole ki he Komisoni Fili 'i loto 'i he 'aho 'e 28 hili 'a e 'Aho Fili 'oku ne halaia ki ha hia.
- (5) Ko ha kanititeiti 'oku ne 'ave ha Fakamatala hala 'o e Pa'anga Hu Mai mo e Ngaahi Fakamole 'oku ne halaia ki ha hia tuku kehe kapau te ne malava 'o fakamo'oni'i ki he fiemalie 'a e Fakamaau'anga ko e fehalaaki ko ia na'e makatu'unga ia 'i he ta'etokanga 'a'ana pe ko ha fakafofonga 'oku ne fakafofonga'i.

10 Totongi ke fakaloto'i

- (1) Ko e hia 'o e totongi ke fakaloto'i 'oku fakahoko ia 'e ha taha, fakahangatonu pe 'ikai fakahangatonu, 'e ia pē pe 'e ha taha 'o fakafofonga'i ia –
 - (a) kuo ne foaki ha pa'anga pe me'a'ofa mahu'inga ki pe ma'a ha taha fili, pe ki pe ma'a ha taha kehe ko e fakafofonga 'o ha taha fili pe ki pe ma'a ha taha kehe, koe'uhi ke fakaloto'i ha taha fili ke fili pe ta'ofi ia mei he fili 'i ha kanititeiti pau 'i ha fili;
 - (b) 'oku ne fakahoko 'i he loto kākā ha ngaue 'i he kupu ni koe'uhi ko ha taha fili kuo ne 'osi fili pe 'oku holomui mei he fili;
 - (c) 'oku ne foaki ha pa'anga pe me'a'ofa mahu'inga 'i he kupu ni ki ha pe ma'a ha taha koe'uhi ke fakaloto'i 'a e taha ko ia fakafufū ke ne ma'u mai, pe feinga ke ma'u mai, 'a hono fili 'o ha taha 'i ha fili pe fili 'a ha taha fili;
 - (d) koe'uhi ko ha me'a'ofa pehe 'i he kupu ni, 'oku ne ma'u mai, pe 'oku ne ngaue'aki pe tala'ofa pe feinga ke ma'u mai 'a hono fili 'o ha taha 'i ha fili pe ko e fili 'a ha taha fili;
 - (e) 'oku ne no atu pe 'oku ne totongi pe 'oku ne 'ai ke totongi ha pa'anga ki he pe ke ngaue'aki 'e ha taha kehe 'i he taumu'a ko e pa'anga ko ia pe ha kongā 'o ia kuo pau ke fakamoleki 'i ha totongi ke fakaloto'i 'i ha fili;
 - (f) 'oku ne totongi pe 'oku ne fakatupu ke totongi 'i he 'ilo pau ha pa'anga ki ha taha ke totongi pe totongi fakafoki 'aki ha pa'anga fakakatoa pe kongā kuo fakamoleki 'i ha totongi ke fakaloto'i 'i ha fili; pe
 - (g) 'oku ne tali kimu'a pe 'i he hili 'a e fili, pe 'oku ne loto taha pe aleapau ki ha pa'anga pe me'a'ofa mahu'inga kiate ia pe ha toe taha kehe ki he fili pe loto taha ke fili pe ta'ofi ia pe loto ke ta'ofi ia mei he fili pe fakaloto'i ha taha kehe ke fili pehe pe ke ta'ofi ia mei he fili.
- (2) 'I he kupu ni, ko ha lau ki he foaki pa'anga pe me'a'ofa mahu'inga 'oku kau ki ai ha lau ki he foaki, no atu, loto taha ke foaki pe no atu, tu'uaki, tala'ofa pe tala'ofa ke ma'u mai pe feinga ke ma'u mai, ha pa'anga pe me'a'ofa mahu'inga.

- (3) Koe'uhi ko e ngaahi taumu'a 'o e Lao ni, ko ha pa'anga pe me'a'ofa mahu'inga kuo foaki pe tu'uaki atu pe loto taha ke foaki ('i he 'ikai ke 'i ai ha fakakaukau fakapotopoto) ki ha taha (tuku kehe ha taha 'oku hā hono hingoa 'i he kupu ki he 'uhinga'i lea 'o e Ngaahi Fakamole 'i he Fili 'i he kupu 2) 'i loto 'i he mahina 'e 3 mei ha fili 'e ha pe koe'uhi ko ha kanititeiti, kuo pau ke lau ia na'e foaki pe tu'uaki atu pe loto taha ke foaki koe'uhi ko e taumu'a ke fakaloto'i ke fili, tuku kehe 'o ka fakamo'oni'i 'oku 'ikai ke pehe ki he fiemalie 'a e Fakamaau'anga.

11 Fetu'utaki 'o e Fakamatala Loi

- (1) 'Oku fakahoko 'e ha taha 'a e hia 'o e fetu'utaki 'o e fakamatala loi 'i he taimi 'oku fakafetu'utaki ai 'e he taha ko ia ha fakamatala 'a ia 'oku ne 'ilo pe 'oku fakapotopoto ke ne 'ilo ko e fakamatala loi 'o e mo'oni'i me'a pea ko e fetu'utaki ko ia 'o e fakamatala na'e ngalingali ke ne uesia 'a e ola 'o ha fili pe fili si'i 'o ha fakafounga 'o e kau nopele pe kakai ki he Fale Alea pe 'o ha 'ofisa fakavahefonua pe ha 'ofisa kolo.
- (2) Koe 'uhi ko e ngaahi taumu'a 'o e kupu ni –
- “**fakamatala**” 'oku 'uhinga ki ha fakamatala 'oku fakafetu'utaki 'aki 'a e lea pe 'i ha fotunga kuo paaki pe 'oku faka'atā ia ki ha taha pe tokolahia ange 'o fakafou 'i he 'initaneti pe MMS pe SMS pe ha me'a kehe ange;
- “**MMS**” 'oku 'uhinga ki he founa ngaue 'oku ne faka'atā 'a e fe'ave'aki 'o fakafou 'i he ngaahi fetu'utaki mitia 'i he netiueka telefoni to'oto'o; mo e
- “**SMS**” 'oku 'uhinga ki he founa ngaue 'oku ne faka'atā 'a e fe'ave'aki 'o fakafou 'i he fetohi'aki 'i he founa ngaue telefoni to'oto'o.

12 Fakangatangata 'i he Kemipeini

- (1) Ko e taha kotoa pē, 'i ha taimi pē 'i he 'aho fili pe kimu'a 'a e fakaha 'o e ola, pe mei he taimi 9.00 pongipongi 'o e 'aho kimu'a, 'oku kemipeini ma'ae pe fakafepaki ki he fili, 'oku ne halaia ki he hia 'i he kupu ni.
- (2) Koe'uhi ko e ngaahi taumu'a 'o e kupu si'i (1) ko e “ngaahi kemipeini” 'oku kau ki ai ha taha 'o e ngaahi me'a ni –
- (a) fakahoko ha lea pe fakamatala lea 'o felave'i fakahangatonu pe 'ikai fakahangatonu mo e fili;
- (b) tuku atu ki he kakai ha lea pe fakamatala lea pehe 'a ia 'oku hā 'i he palakalafi si'i (a), pe ha kongā 'o ia, 'i he letio, televisone, mitia fakasosiale, 'initaneti, pe fetohi'aki 'i he telefoni pe ha founa kehe ange;
- (c) paaki, tufaki pe 'oatu ki ha taha ha fakamatala tohi 'o fekau'aki fakahangatonu pe 'ikai fakahangatonu mo e fili;

- (d) tuku atu ki he kakai ha fakamatala pehe 'a ia 'i he palakalafi si'i (c), pe kakato pe 'i he konga, 'i he letio, televisone, mitia fakasosiale, 'initaneti fetohi'aki 'i he telefoni pe ha founga kehe ange; pe
- (e) fakaha 'o ha ngaahi kemipeini fili 'i loto 'i ha feitu'u 'oku ala vakai ki ai 'i he fai'anga fili.

13 Ngaahi tautea

- (1) Ko ha taha 'e mo'ua 'i ha hia fili Fale Alea 'i ha taha pe lahi ange 'o e kupu 4, 5, 6, 7, 8, 9, 10, 11 pe 12 'o e Lao ni 'oku ne ala mo'ua ki ha mo'ua pa'anga 'oku 'ikai lahi hake 'i he pa'anga 'e 20,000 pe ki he ngaue popula ki ha vaha'ataimi 'oku 'ikai laka hake 'i he ta'u 'e 5, pe mo'ua pa'anga mo e ngaue popula ko ia fakatou'osi.
- (2) Tanaki atu ki ai, kapau kuo mo'ua 'i ha hia fili Fale Alea ha kanititeiti kuo lava 'i ha fili ki ha taha pe lahi ange 'o e kupu 4, 5, 6, 7, 8, 9, 10, 11 pe 12 'o e Lao ni –
 - (a) kuo pau ke fakaha 'e he Fakamaau'anga 'oku *ta'e'aonga pea 'ikai fakalao* hono fili ia pea fakatatau ki he kupu 6 'o e Lao ki he Fale Alea [Vahe 2.06], kuo pau ke tu'utu'uni leva 'e he Komisoni Fili 'i ha'ane femahino'aki mo e Sea 'o e Fale Alea 'a e taimi mo e feitu'u ke fakahoko ai ha fili si'i koe'uhi ke fakakakato 'a e lakanga 'atā ko ia tuku kehe, 'o ka fakaha ha 'uhinga, 'oku pehe 'e he Fakamaau'anga 'e fu'u mamafa mo fakafe'ātungi ha fakaha pehe 'i he ngaahi tu'unga kotoa: pea
 - (b) kapau kuo fili 'a e kanititeiti 'i ha fili Fale Alea ki pea kuo ne ma'u hono sea 'i he Fale Alea, kuo pau ke fakahifo ia mei he lakanga 'e he Fale Alea, 'o kapau kuo pau ke fakaha 'e he Fakamaau'anga 'oku *ta'e'aonga pea 'ikai fakalao* hono fili ia.
- (3) Ko ha taha kuo fakahoko ki ai ha Tu'utu'uni Fakamaau'anga pe ha Tu'utu'uni 'i he kupu si'i (1) pe (2), neongo ha pule kehe 'o e lao, 'oku tuku kiate ia 'a e 'aho pē 'e 14 ke ne fakahu atu ai ha Fanongonongo Tangi ki he Fakamaau'anga Tangi: pea ko ha Tu'utu'uni Fakamaau'anga pe Tu'utu'uni, pea mo hano fakahoko pe hilifaki 'o ia, 'oku toloi –
 - (a) ki ha 'aho 'e 14 'o kapau 'oku 'ikai fakahu ha tangi; pea
 - (b) kapau 'oku fakahu 'a e tangi, kae'oua kuo fakahoko 'a e tangi 'i he Fakamaau'anga Tangi.

14 Fakata'e'aonga'i

- (1) Ko ha taha kuo fakahifo mei hono sea 'e he Fale Alea, pe ko hono fili kuo fakaha 'oku *ta'e'aonga pea 'ikai fakalao* 'i he Lao ni, kuo pau 'e 'ikai ha'ane totonu ke kau ki he fili 'i ha fa'ahinga fili pē 'a ia 'e fakahoko 'i loto 'i he ta'u 'e 5 mei he 'aho na'e tu'utu'uni ai ia ke fakahifo mei hono sea pe fakaha 'oku 'ikai fakalao hono fili ia.

- (2) Ko ha taha kuo mo'ua ki ha hia fili Fale Alea 'i ha taha pe lahi hange 'o e kupu 4, 5, 6, 7, 8, 9, 10, 11 pe 12 'o e Lao ni kuo pau 'e 'ikai ha'ane totonu ke kau ki he fili 'i ha fa'ahinga fili 'a ia 'e fakahoko 'i loto 'i he ta'u 'e 5 mei he 'aho na'e mo'ua ai.

15 Lipooti mo e Fakatotolo

- (1) Ko ha taha 'oku ne pehe kuo fakahoko ha hia fili Fale Alea 'i he Lao ni kuo pau ke ne lipooti leva 'a e ngaahi makatu'unga ki he Supavaisa.
- (2) 'I hono ma'u mai 'o ha Lipooti pehe kuo pau ke fakatotolo'i 'e he Supavaisa 'i he taimi pē ko ia 'a e launga, tu'utu'uni ki he taha faihia kuo tukuaki'i ke ne tuku mai ha fakamatala, pea kapau 'e fiemalie 'oku 'i ai ha *fakamo'oni fe'unga* 'a hono fakahoko 'o ha hia fili Fale Alea kuo pau ke fakaha ia ki he 'Ateni Seniale 'o fakatatau ki ai.

16 Malu 'i he Ngaahi Fai'anga Fili

- (1) Kuo pau ke fekau 'e he Minisitā Polisi ke ngaue 'i he fai'anga fili taki taha 'i ha fa'ahinga 'aho fili ha taha pe lahi hake 'o ha kau 'ofisa polisi 'oku teunga fakapolisi 'a ia ko honau fatongia kuo pau ke —
- (a) fakapapau'i 'oku fakahoko tau'ataina, potupotutatau mo malu 'o fakatatau ki he Ngaahi Lao 'o Tonga 'oku felave'i mo e fili;
- (b) tauhi 'o e maau 'i loto 'i he fai'anga fili mo e feitu'u ofi ki ai;
- (c) tokoni mo poupou ki he kau 'ofisa faifili 'i hono fakahoko 'o 'enau ngaahi fatongia; pea
- (d) fakamavahe'i mei ha fai'anga fili, pea kapau 'oku pehe 'oku fiema'u ke puke 'o 'ikai 'i ai ha tohi fakamafai ke puke, ha taha 'oku ne fakahoko ha to'onga fakamaveuveu, 'o fakatupu ai ha maveuveu, fakahoko ha to'onga 'i ha fa'ahinga founa 'oku talangata'a ai ki ha tu'utu'uni 'oku 'oatu 'e ha 'ofisa faifili, pe fakahoko ha ngaue 'oku ne maumau'i ai 'a e ngaahi kupu 'o e Lao ni.
- (2) Koe'uhi ko e ngaahi taumu'a 'o e kupu ni 'oku kau 'i he **"kau 'ofisa 'oku teunga fakapolisi"** 'a e kau polisi, kau 'ofisa pilisone mo e kau 'ofisa tamate afi.

17 Founa 'o hono Fakafehu'i kau ki he Fili

Kuo pau 'e 'ikai ha fili pea 'ikai ha fakahā 'o e fili 'e fehu'ia, pea kuo pau 'e 'ikai fakata'e'aonga'i ha fili, tuku kehe 'i hano faka'ilo hia 'i he Lao ni.

18 Ngaahi Fetōkaki 'e 'Ikai Ta'e'aonga ai 'a e Fili

Kuo pau 'e 'ikai fakahā 'oku ta'e'aonga ha fili koe'uhi ko ha —

- (a) 'ikai ke muimui pau ki he taimi pe ngaahi taimi kuo tu'utu'uni ki hono fakahoko 'o ha ngaue;
- (b) 'ikai fakahoko pe fetōkaki 'i hono fakakakato ha foomu 'oku felave'i mo ha fili 'a ia kuo tu'utu'uni 'i he Lao pe Ngaahi Tu'utu'uni (Regulations), pe Ngaahi Tu'utu'uni (Rules) kuo fa'u 'i ai;
- (c) tōnounou pe ta'ekakato 'i hono fokotu'u 'o ha 'Ofisa Faifili; pe
- (d) mama'o 'o e, pe fehalaaki pe 'ikai fakahoko 'o maumau'i ai ha fatongia 'e ha 'Ofisa Faifili 'o fekau'aki mo e fili.

Ka kuo pau ma'u pē ke fiemalie 'a e Fakamaau'anga na'e fakahoko 'a e fili 'o muimui pau ki he lao felave'i mo e fili, pea ko e 'ikai ke lava, 'ikai fakahoko, fetōkaki, tōnounou, ta'ekakato, mama'o, fehalaaki pe maumau ko ia na'e 'ikai ke ne uesia 'e ia 'a e ola 'o e fili.

Na'e tali 'e he Fale Alea 'i he 'aho 'o 2023.

TEPILE

LAO KI HE NGAahi HIA FILI FALE ALEA 2023

FOOMU 1 – FAKAMATALA ‘O E PA’ANGA HU MAI MO E FAKAMOLE ‘I HE FILI

(KUPU 9)

FAKAHĀ

Ko au _____

(fakahu ‘a e hingoa kakato ‘o e Kanititeiti)

‘o _____

(fakahu ‘a e kolo na’a ke lesisita ai ko e taha fili)

ko ha Kanititeiti ‘i he _____

_____ (vakai ki he Fakamatala 1) ‘a ia na’e fakahoko ‘i he ‘aho

_____ *(fakahu ‘a e ‘aho ‘o e fili)*

‘OKU OU FAKAHĀ HENI ko e FAKAMATALA ko ‘eni ko e lekooti mo’oni, totonu mo kakato ‘o (1) ‘eku pa’anga hu mai ki he fili mo e (2) ngaahi fakamole na’a ku fakahoko ‘i he pe na’e fakahoko ‘e he taha na’a ne fakafofonga’i au ‘i he fili ‘oku fakahā ‘i ‘olunga.

Fakamo’oni Hingoa _____

‘Aho ‘o e Fakamo’oni Hingoa _____

Fakamatala 1: Fakamahino pe ko e Fili pe Fili Si’i, pea mo e Kolo, Vahefonua pe Vahenga Faka-Fale Alea ‘oku Fehu’ia.

FAKAIKIKI 'O E NGAHI FAKAMOLE KI HE FILI

Ko e kotoa 'o e ngaahi tohi 'oku fiema'u ke fakamo'oni'i 'aki 'a e fakamole taki taha kuo pau ke 'oatu fakataha ia mo e Fakamatala ni.

- *Kapau na'e ngaue'aki ha koloa pe ngaahi ngaue (kae 'ikai ko ha pa'anga), kuo pau ke fakakau ha mahu'inga fakamaketi potupotutatau 'o e koloa pe ngaahi ngaue.*
- *Kuo pau ke 'oatu 'a e kotoa 'o e lekooti 'o e fakamole kotoa pe ('o kau ki ai 'a e "fakahu pa'anga" kau ki he fili 'o e kanititeiti mo ha fa'ahinga totongi ki ha "toe lau").*

Totongi kia	'Aho 'o e Totongi	Fakamatala 'o e Totongi	Lahi 'i he Pa'anga
FAKAKATOA			

FAKAMATALA FAKAMAHINO

(‘Oku ‘ikai hoko ‘a e fakamatala ni ko ha konga ‘o e Lao Fakaangaanga pea ‘oku fakataumu’a pe ke fakamatala’i hono ngata’anga mo e taumu’a)

Ko e Lao Fakaangaanga fo’ou ‘eni ‘oku fokotu’u atu ki ha Lao ke tu’utu’uni ki he ngaahi hia fili Fale Alea ‘i he ngaahi fili fakafonua mo fakakolo mo fakavahe ‘i Tonga ni pea ne fetongi ‘a e ngaahi kupu ko ia ‘i he Lao ki he Fili Fale Alea [Vahe 2.03] (‘a ia ‘oku ngaue’aki pē ki he ngaahi fili ki Fale Alea).

Ko e makatu’unga ki he Lao Fakaangaanga fo’ou ko ‘eni ‘oku fakahoko ia ke fakapapau’i he’ikai ke fakahalaia ha taha ki ha hia kau ki he fili tuku kehe kapau ko e fakamo’oni ‘o e halaia ‘oku ‘ikai ke toe ‘i ai ha veiveiua fakapotopoto. Tanaki atu, ko ha hopo ‘oku kau ki ai ha ngaahi hia ki he fili –

- (a) ‘E ‘ikai faka’ilo ha fa’ahi tuku kehe kapau ‘oku fiemalie ‘a e Kalauni ‘oku fiema’u ‘eni ‘i he’enau Ngaahi Tu’utu’uni Faka’ilo; pea
- (b) ‘Oku loto ki ai ‘a e ‘Ateni Seniale ‘i he tohi.

Ko e ngaahi malu’i mahu’inga ‘eni ‘oku fenapasi mo e Pule ‘a e Lao.

Ko e ni’ihi ‘o e ngaahi kupu ‘i he Lao Fakaangaanga ni ‘oku to’o ia mei he Konga V mo e Konga VI ‘o e Lao ki he Fili Fale Alea [Vahe 2.03] lolotonga ‘a ia ‘oku ‘ai ke fakapekia ‘i he Lao Fakaangaanga (Fakatonutonu) (Fika 4) ki he Fili Fale Alea 2023. ‘Oku fakamahino eni ‘i he tepile ‘i lalo ‘o anga pehe ni –

Kupu	Fakamatala Fakamahino
Kupu 1 – Hingoa nounou	‘Oku ‘oatu ‘i he kupu ni ‘a e hingoa nounou ‘o e Lao Fakaangaanga ni.
Kupu 2 – ‘UHINGA’i Lea	‘Oku ‘oatu ‘i he kupu ni ‘a e ngaahi ‘uhinga’i lea ‘i he Lao Fakaangaanga ni.
Kupu 3 – Ngaahi Faka’ilo	Ko e kupu fo’ou eni ‘oku tu’utu’uni ki hono faka’ilo ‘o e ngaahi hia ‘i he Lao Fakaangaanga ni ‘a ia kuo pau ke kamata’i ‘e he Talekita ‘o e Ngaahi Talatalaaki Hia ‘a e Pule’anga ‘aki ha Tohi Hia Matea ‘i he Fakamaau’anga Lahi ‘o Tonga ka kuo pau ke tomu’a fakangofua ‘e he ‘Ateni Seniale ‘i he tohi. ‘Oku toe tu’utu’uni ki he vaha’ataimi ke kamata’i ai ha faka’ilo ki ha hia ‘i he Lao Fakaangaanga ni.

Kupu 4 - Fakatātā'i loi	Ko e kupu ni ko e kupu 19(1)(a) lolotonga ia 'o e Lao ki he Fili Fale Alea [Vahe 2.03] 'a ia 'oku tu'utu'uni ki he hia 'o e fakatātā'i loi.
Kupu 5 – Fili tu'o lahi	Ko e kupu ni ko e kupu 19(1)(b) lolotonga ia 'o e Lao ki he Fili Fale Alea [Vahe 2.03] 'a ia 'oku tu'utu'uni ki he hia 'o e fili 'o lahi hake 'i he tu'o taha. 'Oku 'ikai fakakau 'i he kupu fo'ou ko eni 'a e ngaahi mo'ua pa'anga mo e ngaahi tautea 'oku hilifaki 'i he kupu lolotonga kae pehe ki hono lipooti 'o e hia 'e he Supavaisa.
Kupu 6 – Fakamatala loi ki ha 'Ofisa Faifili	Ko e kupu ni ko e kupu 20(1) lolotonga ia 'o e Lao ki he Fili Fale Alea [Vahe 2.03] 'a ia 'oku tu'utu'uni ki he hia 'o hono 'oatu 'o e fakamatala loi ki ha 'Ofisa Faifili. 'Oku 'ikai fakakau 'i he kupu fo'ou ko eni 'a e ngaahi mo'ua pa'anga mo e ngaahi tautea 'oku hilifaki 'i he kupu lolotonga kae pehe ki hono lipooti 'o e hia 'e he Supavaisa.
Kupu 7 – To'onga Fakamanamana	Ko e kupu ni ko e kupu 22 lolotonga ia 'o e Lao ki he Fili Fale Alea [Vahe 2.03] 'a ia 'oku tu'utu'uni ki he hia 'o e to'onga fakamanamana. Oku 'ikai fakakau 'i he kupu fo'ou ko eni 'a e ngaahi mo'ua pa'anga mo e ngaahi tautea 'oku hilifaki 'i he kupu lolotonga.
Kupu 8 - Fakafaingata'a'ia	Ko e kupu fo'ou eni ka na'e to'o ia mei he kupu 23(1) lolotonga 'o e Lao ki he Fili Fale Alea [Vahe 2.03] 'a ia 'oku tu'utu'uni ki he hia 'o e fakafaingata'a'ia. 'Oku tu'utu'uni 'a e kupu lolotonga ki hono fakahoko 'a e hia ki ha taha fili ka ko e kupu fo'ou ko eni 'oku tu'utu'uni ia ki hono fakahoko 'a e hia ko eni ki ha 'ofisa faifili mo ha taha fili fakatou'osi.
Kupu 9 – Pa'anga Hu Mai mo e Ngaahi Fakamole 'i he Fili	Ko e kupu fo'ou eni 'a ia 'oku tu'utu'uni ki he fiema'u ke fakahu atu ha Fakamatala 'o e Pa'anga Hu Mai mo e

	<p>Ngaahi Fakamole 'i he Fili mo hono vaha'ataimi. 'Oku toe tu'utu'uni ki he ma'olunga taha 'o e pa'anga hu mai mo e ngaahi fakamole 'i he fili 'a ia 'oku fakangofua lolotonga 'a e kemipeini ki he fili ki he Fale Alea mo e fili ki ha 'Ofisa Fakavahefonua mo e 'Ofisa Kolo fakatou'osi. Faka'osi, 'oku tu'utu'uni ko e hia kapau 'e fakamole 'a e kanititeiti 'o lahi ange 'i he mahu'inga ma'olunga taha 'oku fakangofua kae pehe foki ki he 'ikai ke 'ave ha Fakamatala 'o e Pa'anga Hu Mai mo e Ngaahi Fakamole 'i he Fili.</p>
Kupu 10 – Totongi ke fakaloto'i	<p>Ko e kupu 21 lolotonga eni 'o e Lao ki he Fili Fale Alea [Vahe 2.03] 'a ia 'oku tu'utu'uni ki he hia 'o e totongi ke fakaloto'i.</p>
Kupu 11 – Fetu'utaki 'o e Fakamatala Loi	<p>Ko e kupu fo'ou eni 'oku tu'utu'uni ki he hia 'o hono fetu'utaki 'o e fakamatala loi 'a ia kapau ko e taha ko ia 'oku ne fakahoko 'a e fetu'utaki 'oku ne 'ilo pe fakapotopoto ke ne 'ilo ko e fakamatala na'e fakafetu'utaki na'e loi pea na'e ngalingali ke uesia 'e he fetu'utaki ko eni 'a e ola 'o ha fili pe fili si'i 'o ha fakafofonga nopele pe kakai ki he Fale Alea pe 'ofisa fakavahefonua pe 'ofisa kolo. 'Oku toe kau foki mo e sipinga 'o e fetu'utaki 'oku fakahoko mo e founa fakahoko 'aki 'o tatau ai pe pe fakafou 'i he fakamatala, MMS pe SMS.</p>
Kupu 12 – Fakangatangata 'i he Kemipeini	<p>Ko e kupu fo'ou eni 'oku ngaue ki he ngaahi fakangatangata ki he kemipeini 'a ia 'oku kau ki ai 'a e taimi ke ngata ai ha kemipeini mo e ngaahi founa 'o e kemipeini.</p>
Kupu 13 – Ngaahi tautea	<p>Ko e kupu fo'ou eni 'oku tu'utu'uni ki he ngaahi tautea ke hilifaki ki ha taha 'oku mo'ua ki ha hia fili Fale Alea 'i he taha pe lahi ange 'o e kupu 4 ki he 12 'o e Lao</p>

	<p>Fakaangaanga ni. Ko e ngaahi tautea ko ha mo'ua pa'anga 'o 'ikai lahi hake 'i he pa'anga 'e 20,000 pe ngaue popular 'o 'ikai laka hake 'i he ta'u 'e 5 pe fakatou'osi. Ko e ongo tautea 'e ua 'oku hilifaki heni ko e fakaha 'oku <i>ta'e'aonga pea 'ikai fakalao</i> 'a e fili 'o ha kanititeiti 'e he Fakamaau'anga pea mo hono fakahifo 'e he Fale Alea 'i hono fakaha 'e he Fakamaau'anga 'oku <i>ta'e'aonga pea 'ikai fakalao</i> 'a e fili.</p>
Kupu 14 – Fakata'e'aonga'i	<p>Ko e kupu ni ko e kupu 40 lolotonga ia 'o e Lao ki he Fili Fale Alea [Vahe 2.03] 'a ia 'oku tu'utu'uni 'e 'ikai 'i ai ha totonu ha taha kuo fakahifo pe fakaha 'oku ta'e'aonga pe 'ikai fakalao 'a 'ene fili 'i he Lao Fakaangaanga ni ke fili 'i ha fa'ahinga fili 'e fakahoko 'i loto 'i he ta'u 'e 5 mei he 'aho na'e tu'utu'uni ai ke fakahifo pe fakaha 'oku 'ikai fakalao 'ene fili. 'Oku ne toe tu'utu'uni ki he fakata'e'aonga tatau ki ha taha kuo mo'ua ki he hia 'i he taha pe lahi ange 'o e kupu 4 ki he 12 'o e Lao Fakaangaanga ni.</p>
Kupu 15 – Lipooti mo e Fakatotolo	<p>Ko e kupu fo'ou eni 'oku tu'utu'uni ki hono lipooti mo fakatotolo 'a e ngaahi hia fili Fale Alea 'i he Lao Fakaangaanga ni. Ko e lipooti 'o e hia fili Fale Alea 'oku tukuaki'i 'oku fakahoko ia ki he Supavaisa pea 'oku fakafatongia'aki leva 'a e Supavaisa 'a hono fakatotolo 'i he taimi 'oku ne ma'u ai 'a e lipooti.</p>
Kupu 16 – Malu 'i he Ngaahi Fai'anga Fili	<p>Ko e kupu ni ko e kupu 16 lolotonga ia 'o e Lao ki he Fili Fale Alea [Vahe 2.03] 'a ia 'oku tu'utu'uni ki hono tuku atu 'o e kau 'ofisa polisi 'oku teunga fakapolisi 'e he Minisita Polisi ki he fai'anga fili taki taha. 'Oku tatau pe 'a e ngaahi fatongia mo e kupu lolotonga ka 'oku tanaki ki he kupu fo'ou ko eni 'a e tokoni mo pou pou ki he kau 'ofisa faifili 'i hono fakahoko 'o 'enau ngaahi</p>

	fatongia pea mo hono fakamavahe'i 'o ha taha mei he fai'anga fili 'a ia 'oku ne fakahoko ha to'onga fakamaveuveu, 'o fakatupu ai ha maveuveu, fakahoko ha to'onga 'i ha fa'ahinga founa 'oku talangata'a ai ki ha tu'utu'uni 'oku 'oatu 'e ha 'ofisa faifili, pe fakahoko ha ngaue 'oku ne maumau'i ai 'a e ngaahi kupu 'o e Lao ni.
Kupu 17 – Founa 'o hono Fakafehu'i kau ki he Fili	Ko e kupu 25 lolotonga eni 'o e Lao ki he Fili Fale Alea [Vahe 2.03] 'a ia 'oku ngaue ki he founa 'o hono fakafehu'i kau ki he fili. Ko e kupu lolotonga 'oku tu'utu'uni 'o pehe 'e 'ikai ha fili pea 'ikai ha fakaha 'o e fili 'e fehu'ia tuku kehe ka fakahoko 'aki ha kole 'o launga ko ha fili ta'efakalao pe fakaha ta'efakalao (kole tu'unga 'i he fili) kuo 'oatu. Ko e kupu fo'ou 'oku tu'utu'uni 'e 'ikai ke fehu'ia tuku kehe ka fakahoko 'aki ha faka'ilo hia 'i he Lao Fakaangaanga ni.
Kupu 18 – Ngaahi Fetōkaki 'e 'Ikai Ta'e'aonga ai 'a e Fili	Ko e kupu 36 lolotonga eni 'o e Lao ki he Fili Fale Alea [Vahe 2.03] 'a ia 'oku tu'utu'uni ki he ngaahi 'uhinga (ngaahi fetokaki) ke 'ikai fakata'e'aonga'i ai ha fili.

Hon. Samiu Kuita Vaipulu
Minisita Lao mo e Pilisone



Tonga

ELECTORAL OFFENCES BILL 2023



ELECTORAL OFFENCES BILL 2023

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ELECTORAL OFFENCES BILL 2023

A BILL FOR AN ACT TO MAKE PROVISIONS FOR ELECTORAL OFFENCES IN NATIONAL AND LOCAL ELECTIONS

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

1 Short Title

This Act may be cited as the Electoral Offences Act 2023.

2 Interpretation

In this Act unless the context requires otherwise –

“**Court**” means the Supreme Court of Tonga;

“**Charitable purpose**” shall have the same meaning as in section 2 of the Charitable Trust Act;

“**Director of Public Prosecutions**” means the senior officer of the Attorney General’s Office designated by the Attorney General to direct public prosecutions;

“**Election**” includes -

- (a) any election or by-election held under the provisions of the Electoral Act in force from time to time; or
- (b) any election or by-election held under the provisions of the District and Town Officers Act in force from time to time;

“Election Day” means the day on which an Election is held;

“Electoral Constituency” includes Towns for the election of Town Officers, Districts for the Election of District Officers, and the Constituencies used for election of peoples and nobles’ representatives to the Legislative Assembly;

“Electoral Commission” means the Commission constituted under the Electoral Commission Act;

“Election Expenses” means all expenses whatsoever incurred by a candidate for election, or by anyone on his behalf, or by any person whomsoever which promotes the election of the candidate, between the date of issue of the Election Writ for elections to the Legislative Assembly (or the date of notification in the Gazette of the date of the election for District and Town Officers) and the date of the Return by a candidate of his Election Expenses and includes the following which are deemed to be election expenses, namely –

- (a) any donation to any person, or to or for the benefit of organization, in the candidate’s electoral constituency, made by the candidate, or anyone on his behalf, in the three months immediately prior to the day of the election;
- (b) travelling or transport expenses paid by or on behalf of a candidate to enable electors to travel to a polling station in the candidate’s electoral constituency;
- (c) “Deposits” payable in terms of section 9(3) of the Electoral Act [Cap. 2.03];
- (d) “Registration Fees” payable in terms of Regulation 10(3) of the District and Town Officer Elections Regulations [Cap. 8.03.01];
- (e) fees payable for a recount in terms of section 17(5) of the Electoral Act [Cap. 2.03] or Regulation 17(5) and Schedule 2 of the District and Town Officer Elections Regulations [Cap. 8.03.01]; and
- (f) the cost of any entertaining (including food, drink, or provisions) of an elector in the candidate’s electoral constituency paid by or on behalf of a candidate in the three months immediately prior to the day of the election, PROVIDED ALWAYS that for the purposes of this Act any sum expended by a candidate –
 - (i) in the provision of a light supper after any election meeting; and
 - (ii) for his personal expenses, or those relating to his spouse, parents, grandparents, children, grandchildren, the brothers and sisters and half-brothers and half-sisters of his parents, spouse’s parents, brothers and sisters and half-brothers and half-sisters or their

children, or the brothers and sisters and half-brothers and half-sisters of his spouse or their children,

shall be disregarded and are not election expenses;

“Election Income” means all donations or other income whatsoever (including loans) from a candidate to promote his election; or received by a candidate for election, or by anyone on his behalf, or by any person whomsoever which promotes the election of the candidate, provided always that a candidate for election is prohibited from accepting any election income from or on behalf of a foreign state or any instrumentality thereof; an international or regional organisation; a foreign company or other foreign organisations; or any person who is not a Tongan national; and

“Electoral Official” includes the Chairman and any Commissioners of the Electoral Commission, the Supervisor of Elections, Returning Officers, Polling Officials, and any member of staff of the Electoral Commission.

3 Prosecutions

- (1) Prosecutions under this Act shall be commenced on Indictment in the Supreme Court of Tonga by the Director of Public Prosecutions provided always that no such prosecution shall not commence without the prior consent in writing of the Attorney General.
- (2) Any prosecution under this Act shall be commenced within 4 months of the date of the offence, or the last day thereof where the offence has been committed over a period of time.

4 Impersonation

Any person who votes in an election as some other person, whether that person is alive or dead or a fictitious person, or who aids, counsels or procures the doing thereof is guilty of the offence of impersonation.

5 Multiple Voting

Any person who votes in an election more than once, whether in the same electoral constituency or another, or who aids, counsels or procures the doing thereof is guilty of the offence of multiple voting.

6 False Information to an Electoral Official

Any person who knowingly gives false or misleading information to an electoral official, whether under oath or in writing or orally, for the purpose of the compilation of the electoral roll, or to affect the eligibility of any person to vote or to be a candidate at an election, is guilty of the offence of giving false information.

7 Threatening Conduct

Any person who in any way whatsoever threatens an elector or his family or his property in an attempt to influence the elector's vote at an election, or in an attempt to induce him to vote or not to vote for any particular candidate at an election is guilty of the offence of threatening conduct.

8 Obstruction

- (1) Any person who at any time obstruct, hinders, threatens or in any way whatsoever interferes or attempts to interfere with an electoral official in the performance of his duties is guilty of the offence of obstruction.
- (2) Any person who on the day of an election obstruct, hinders, annoys, pesters or in any way whatsoever interferes or attempts to interfere with an elector on his way to or at a polling place with the intention of delaying or preventing his arrival at a polling place, persuading him not to vote, or exerting pressure on him as to how to cast his vote is guilty of the offence of obstruction.

9 Election Income and Expenses

- (1) Each candidate shall lodge with the Electoral Commission within 28 days after Election Day a Return of Election Income and Expenses in Form 1 of the Schedule to this Act.
- (2) No candidate for election to the Legislative Assembly is permitted to spend more than \$50,000 pa'anga on his election campaign: and no candidate for election as a District or Town Officer is permitted to spend more than \$15,000 pa'anga on his election campaign.
- (3) A candidate who spends more than the maximum which he is permitted to spend on his election campaign is guilty of an offence.
- (4) A candidate who fails to deliver a Return of Election Income and Expenses to the Electoral Commission within 28 days after Election Day is guilty of an offence.
- (5) A candidate who delivers an inaccurate Return of Election income and Expenses is guilty of an offence unless he can prove to the satisfaction of the Court that the inaccuracy was due to inadvertence by him or any agent on his behalf.

10 Bribery

- (1) A person commits the offence of bribery who, directly or indirectly, by himself or by another on his behalf -
 - (a) gives any money or valuable gift to or for any elector, or to or for any other person on behalf of any elector or to or for any other person, in

- order to induce any elector to vote or refrain from voting for a particular candidate at an election;
- (b) corruptly does any act under this section on account of any elector having voted or refrained from voting;
 - (c) gives any money or valuable gift under this section to or for any person in order to induce that person corruptly to procure, or to try to procure, the return of any person at an election or the vote of any elector;
 - (d) in consequence of any such gift under this section, procures, or engages, promises or tries to procure, the return of any person at any election or the vote of any elector;
 - (e) advances or pays or causes to be paid any money to or to the use of any other person with the intent that money or any part thereof shall be expended in bribery at any election;
 - (f) knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election; or
 - (g) receives before or after an election, or agrees or contracts for any money or valuable gift for himself or any other person for voting or agreeing to vote or refraining or agreeing to refrain from voting or inducing any other person to so vote or refrain from voting.
- (2) In this section, a reference to giving money or valuable gift includes a reference to giving, lending, agreeing to give or lend, offering, promising or promising to procure or try to procure, any money or valuable gift.
- (3) For the purposes of this Act, any money or valuable gift given or offered or agreed to be given (in the absence of reasonable consideration) to any person (except a person named in the proviso to the definition of Election Expenses in section 2) within 3 months of any election by or on behalf of a candidate, shall be deemed to have been given or offered or agreed to be given for the purpose of influencing the vote, unless the contrary be proved to the satisfaction of the Court.

11 Communication of False Information

- (1) A person commits the offence of communication of false information where that person communicates a statement which he knows or reasonably ought to have known was a false statement of fact and the communication of that statement was likely to influence the outcome of an election or by-election of a nobles' or peoples' representative to the Legislative Assembly or of a district officer or a town officer.
- (2) For the purposes of this section –
- “**statement**” means a statement that is communicated verbally or in printed form or if it is made available to one or more end-users on or through the internet or MMS or SMS or otherwise whatsoever;

“MMS” means a system that enables the transmission through a mobile network of multimedia messages; and

“SMS” means a system that enables the transmission through a mobile system of text messages.

12 Prohibition on Campaigning

- (1) Every person who at any time on any election day or prior to the declaration of results, or from 9.00 am on the immediately preceding day, campaigns for or against the election is guilty of the offence under this section.
- (2) For the purpose of subsection (1) “campaigns” includes any of the following –
 - (a) making a speech or verbal statement relating directly or indirectly to the election;
 - (b) publicising any such speech or verbal statement as referred to in sub-paragraph (a), or excerpts therefrom, on radio, television, social media, internet, text messaging or otherwise whatsoever;
 - (c) printing, distributing and delivering to any person written material relating directly or indirectly to the election;
 - (d) publicising any such material as referred to in sub-paragraph (c), whether in whole or in part, on radio, television, social media, internet, text messaging or otherwise whatsoever; or
 - (e) within sight of a polling station, exhibiting any election campaign displays.

13 Penalties

- (1) A person convicted of an electoral offence under any one or more of sections 4, 5, 6, 7, 8, 9, 10, 11 or 12 of this Act is liable to a fine not exceeding 20,000 pa’anga or to imprisonment for a term not exceeding 5 years, or both such fine and imprisonment.
- (2) In addition, where a successful candidate at an election has been convicted of an electoral offence under any one or more of sections 4, 5, 6, 7, 8, 9, 10, 11 or 12 of this Act –
 - (a) the Court shall declare his election to be *null and void ab initio* and subject to section 6 of the Legislative Assembly Act [Cap 2.06], the Electoral Commission in consultation with the Speaker of the Legislative Assembly shall fix the time and place to hold a by-election in order to fill that vacancy unless, on cause shown, the Court considers that such a declaration would be harsh and oppressive in all the circumstances; and
 - (b) where the candidate in a parliamentary election has been elected to and taken his seat in the Legislative Assembly, he shall be unseated by the

Legislative Assembly, if the Court shall declare his election to be *null and void ab initio*.

- (3) Any person in respect of whom Judgement has been entered or an Order made under subsections (1) or (2), notwithstanding any other rule of law to the contrary, has only 14 days in which to lodge a Notice of Appeal with the Court of Appeal: and any such Judgement or Order, and any enforcement or execution thereof, is stayed –
 - (a) for 14 days where no appeal is lodged; and
 - (b) where an appeal is lodged, until the appeal has been determined by the Court of Appeal.

14 Disqualification

- (1) A person who is unseated by the Legislative Assembly, or whose election is declared null and void *ab initio* under this Act, shall not be entitled to stand for election at any election whatsoever held within 5 years of the date when he is ordered to be unseated or his election declared void.
- (2) A person convicted of an electoral offence under any one or more of sections 4, 5, 6, 7, 8, 9, 10, 11 or 12 of this Act shall not be entitled to stand for election at any election whatsoever held within 5 years of the date of his conviction.

15 Reporting and Investigation

- (1) Any person who considers that an electoral offence under this Act has been committed, shall forthwith report the circumstances to the Supervisor.
- (2) Upon receipt of any such Report the Supervisor immediately shall investigate the complaint, require the alleged offender to provide an explanation, and if satisfied that there is *prima facie* evidence of an electoral offence having been committed shall notify the Attorney General accordingly.

16 Security at Polling Stations

- (1) The Minister of Police shall cause to be stationed at each polling station on any election day one or more uniformed police officers whose duties shall be to –
 - (a) ensure that the election is conducted freely, fairly and safely in accordance with the Laws of Tonga relating to elections;
 - (b) maintain order within the polling station and in the vicinity thereof;
 - (c) aid and assist electoral officials in the performance of their duties; and
 - (d) remove from a polling station, and where considered necessary arrest without warrant, any person conducting himself in a disorderly manner, causing a disturbance, acting in any manner in defiance of any direction

given by an electoral official, or acting in breach of the provisions of this Act.

- (2) For the purposes of this section “**uniformed police officers**” include special constables, prison officers and fire officers.

17 Method of Questioning Election

No election and no declaration of poll shall be questioned, and no election shall be avoided, except by a criminal prosecution under this Act.

18 Irregularities not to Invalidate Election

No election shall be declared invalid by reason of –

- (a) any failure to comply with the time or times prescribed for doing any act;
- (b) any omission or irregularity in completing any form relating to an election prescribed by Statute or Regulations, or Rules made thereunder;
- (c) any want or defect in the appointment of any Electoral Official; or
- (d) any absence of, or mistake or omission for breach of duty by any Electoral Official in respect of the election.

Provided always that the Court is satisfied that the election was so conducted as to be substantially in compliance with the law as to elections, and that the failure, omission, irregularity, want, defect, absence, mistake or breach did not affect the result of the election.

Passed by the Legislative Assembly this day of 2023.

SCHEDULE

ELECTORAL OFFENCES ACT 2023

FORM 1 - RETURN OF ELECTION INCOME AND EXPENDITURE

(SECTION 9)

DECLARATION

I _____

(insert full name of Candidate)

of _____

(insert town where registered as elector)

a Candidate at the _____

_____ (see Note 1) held on _____

(insert date of election)

DO HEREBY DECLARE that this RETURN is a true, accurate and complete record of (1) my election income and (2) expenses incurred by me on or on my behalf at the election above-named.

Signature _____

Date of Signature _____

Note 1: Specify whether Election or By- Election, and the Town, District or Parliamentary Constituency Contested.

EXPLANATORY NOTES

(These notes do not form part of the Bill and is only intended to explain its scope and purpose)

This is a newly introduced Bill for an Act to make provisions for Electoral Offences in national and town and district officers' elections in Tonga and replaces the provisions thereon in the Electoral Act [Cap 2.03] (which applies only to elections to the Legislative Assembly).

The rationale for this new Bill is to ensure that no person can be convicted of an electoral criminal offence unless the evidence of guilt is clear beyond all reasonable doubt. In addition, in a case involving electoral offences –

- (a) No party is prosecuted unless the Crown is satisfied that this is required under their Prosecutions Guidelines; and
- (b) The Attorney General consents thereto in writing.

These are important safeguards consistent with the Rule of Law.

Some of the provisions in this Bill are taken from Part V and Part VI of the current Electoral Act [Cap.2.03] which are being repealed under the Electoral (Amendment) (No.4) Bill 2023. The table below clarifies this as follows –

Provision	Explanatory Notes
Section 1 – Short Title	This section provides for the short title of this Bill.
Section 2 - Interpretation	This section provides for the definitions under this Bill.
Section 3 – Prosecutions	This is a new section that provides for the prosecution of offences under this Bill which shall be commenced on Indictment in the Supreme Court of Tonga by the Director of Public Prosecutions but with the prior consent of the Attorney General in writing. It also provides for the timeframe in which the prosecution of an offence under this Bill is to be commenced.
Section 4 - Impersonation	This section is the current section 19(1)(a) of the Electoral Act [Cap. 2.03] which provides for the offence of impersonation.
Section 5 – Multiple Voting	This section is the current section 19(1)(b) of the Electoral Act [Cap. 2.03] which provides for the offence

	of voting more than once at any election. The fines and penalties imposed under the current section are not included in the new section as well as the reporting of the offence by the Supervisor.
Section 6 – False Information to an Electoral Official	This section is the current section 20(1) of the Electoral Act [2.03] which provides for the offence of giving false information to an Electoral Official. The fines and penalties imposed under the current section are not included in the new section as well as the reporting of the offence by the Supervisor.
Section 7 – Threatening Conduct	This section is the current section 22 of the Electoral Act [Cap. 2.03] which provides for the offence of threatening conduct. The fines and penalties imposed under the current section are not included in the new section.
Section 8 - Obstruction	This is a new provision but it was taken from the current section 23(1) of the Electoral Act [Cap. 2.03] which provides for the offence of obstruction. The current section provides for the offence being committed against an elector whereas this new section provides for this offence being committed against both an electoral official and an elector.
Section 9 – Election Income and Expenses	This is a new provision which provides for the requirement to lodge a Return of Election Income and Expenses and its timeframe. It also provides for the maximum amount of election income and expenses that are permitted during the campaign for both elections to the Legislative Assembly and elections for a District and Town Officer. Lastly, it provides that it is an offence when a candidate spends more than the maximum

	permitted as well as the failure to deliver a Return of Election Income and Expenses.
Section 10 – Bribery	This is the current section 21 of the Electoral Act [Cap. 2.03] which provides for the offence of bribery.
Section 11 – Communication of False Information	This is a new provision which provides for the offence of communicating false information where such person making the communication knows or reasonably ought to have known that the statement communicated was false and that communication was likely to influence the outcome of an election or by-election of a nobles’ or peoples’ representative to the Legislative Assembly or district officer or town officer. It also includes the type of communication being made and how it is made whether through a statement, MMS or SMS.
Section 12 – Prohibition on Campaigning	This is a new provision that deals with the prohibitions on campaigning which includes when a campaign is to end and the methods of campaigning.
Section 13 – Penalties	This is a new provision which provides for the penalties to be imposed against a person who is convicted of an electoral offence under one or more of sections 4 to 12 of this Bill. The penalties would be a fine not exceeding 20,000 pa’anga or imprisonment for a term not exceeding 5 years or both. Two other penalties imposed would be the declaration of the candidate’s election <i>null and void ab initio</i> by the Court and being unseated by the Legislative Assembly upon the Court’s declaration that the election is <i>null and void ab initio</i> .
Section 14 – Disqualification	This provision is the current section 40 of the Electoral Act [Cap. 2.03] which provides that a person who has been unseated or whose election is declared void under this Bill will not be entitled to stand for election at any

	<p>election whatsoever held within 5 years of the date when he is ordered to be unseated or his election declared void. It also provides the same disqualification for a person who has been convicted of the offences under one or more of section 4 to 12 of this Bill.</p>
Section 15 – Reporting and Investigation	<p>This is a new provision which provides for the reporting and investigation of electoral offences under this Bill. The reporting of the alleged electoral offence is made to the Supervisor and the Supervisor is responsible for the investigation upon receipt of the report.</p>
Section 16 – Security at Polling Stations	<p>This provision is the current section 16 of the Electoral Act [Cap. 2.03] which provides for the provision of uniformed police officers by the Minister of Police to each polling stations. The duties are the same as the current section but with the addition of aiding and assisting electoral officials in the performance of their duties and the removal of any person from the polling station who conduct himself in a disorderly manner, causing a disturbance, acting in any manner in defiance of any direction given by an electoral official, or acting in breach of the provisions of this Act.</p>
Section 17 – Method of Questioning Election	<p>This is the current section 25 of the Electoral Act [Cap. 2.03] which deals with the method of questioning election. The current section provides that no election and no declaration of poll shall be questioned except by a petition complaining of an unlawful election or unlawful declaration (election petition) presented. The new section provides that they shall not be questioned except by a criminal prosecution under this Bill.</p>

Section 18 – Irregularities not to Invalidate Election	This is the current section 36 of the Electoral Act [Cap. 2.03] which provides for the reasons (irregularities) why an election is not to be invalidated.
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Hon. Samiu Kuita Vaipulu
Minister of Justice and Prisons