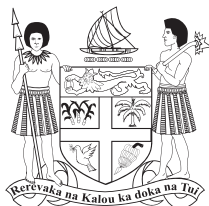


ACT NO. 49 OF 2022

I assent.

W. KATONIVERE
President

[1 September 2022]

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 2022.

(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 deleting the definition of “person” and substituting the following—

““person” means a natural or legal person and includes a company, association or body of persons, whether corporate or unincorporated, government department, non-governmental organisation, statutory authority or any other entity;”.

Section 6 amended

3. Section 6 of the Principal Act is amended after subsection (1) by inserting the following new subsections—

“(1A) Subject to the provisions of this Act, the Supervisor has all powers necessary to carry out his or her functions under this Act.

(1B) Notwithstanding the generality of subsection (1A), if the Supervisor has reason to believe that a person has information or documents relevant to or required by the Supervisor for the performance of his or her functions under this Act, the Supervisor must, by notice in writing, direct the person to furnish such information or documents to the Supervisor.

(1C) Any person who, having been lawfully required under this section to disclose any information or document to the Supervisor under subsection (1B) must, notwithstanding the provisions of any other written law on confidentiality, privilege or secrecy, comply with such direction and any such person who fails to comply with the directions of the Supervisor or provides information that is false, commits an offence and is liable on conviction—

- (a) in the case of a natural person, to a fine not exceeding \$50,000 or a term of imprisonment not exceeding 5 years or both; and
- (b) in the case of a company, association or body of persons, whether corporate or unincorporated, government department, non-governmental organisation, statutory authority or any other entity, to a fine not exceeding \$500,000 and for the director, chief executive officer, minister, manager or officer in charge for the time being, to a fine not exceeding \$50,000 or a term of imprisonment not exceeding 5 years or both.”.

Section 36 amended

4. Section 36 of the Principal Act is amended by deleting subsection (7).

Section 100 amended

5. Section 100 of the Principal Act is amended by deleting subsection (2) and substituting the following—

“(2) The Electoral Commission must approve the method of packing the unused, used and spoiled ballot papers after the count of the ballot papers.”.

Section 110A inserted

6. The Principal Act is amended after section 110 by inserting the following new section—

“Guidelines on opinion polls, surveys and research

110A.—(1) Pursuant to section 3(1)(h), the Electoral Commission must adopt and publish guidelines on opinion polls, surveys or research related to elections as it deems fit for the orderly conduct of free and fair elections.

(2) Any person who publishes an opinion poll, survey or research on elections must comply with the guidelines adopted by the Electoral Commission under subsection (1).

(3) If the Supervisor has reason to believe that there is inconsistency between the adopted guidelines under subsection (1) and any publication under subsection (2), the Supervisor must, by notice in writing, direct the person to furnish information or documents on the methodology used to generate the statistics for the opinion poll, survey or research, to the Supervisor.

(4) The Supervisor must also direct the person to remove or correct any information published under subsection (2) and the person must immediately remove or correct the information.

(5) Any person aggrieved by a decision of the Supervisor under this section may appeal the decision of the Supervisor to the Electoral Commission within 14 days from the date of the decision of the Supervisor.

(6) The Electoral Commission must make a decision on the appeal in accordance with the rules adopted by the Electoral Commission.

(7) The decision of the Electoral Commission on an appeal is final and is not subject to any further appeal to or review by any court, tribunal or other adjudicating body.

(8) Any person who fails to comply with a directive under subsection (3) or (4) commits an offence and is liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.”.

Passed by the Parliament of the Republic of Fiji this 1st day of September 2022.