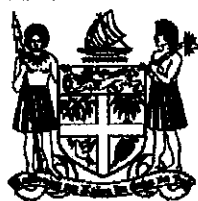


EXTRAORDINARY



GOVERNMENT OF FIJI GAZETTE

PUBLISHED BY AUTHORITY OF THE FIJI GOVERNMENT

Vol. 13

THURSDAY, 28th JUNE 2012

No. 91

[737]

GOVERNMENT OF FIJI

ELECTORAL (REGISTRATION OF VOTERS) DECREE 2012 (DECREE NO. 54 OF 2012)

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IN exercise of the powers vested in me as the President of the Republic of Fiji and the Commander in Chief of the Republic of Fiji Military Forces by virtue of the Executive Authority of Fiji Decree 2009, I hereby make the following Decree—

TO PROVIDE FOR THE REGISTRATION OF VOTERS FOR GENERAL ELECTIONS
AND FOR RELATED MATTERS

PART 1—PRELIMINARY

Short title and commencement

1. This Decree may be cited as the Electoral (Registration of Voters) Decree 2012 and shall come into force on 29th June, 2012.

Interpretation

2. In this Decree, unless the context otherwise requires—

“election” means an election of a member of the House of Representatives;

“list of post-register deletions” means a list containing those names that have been removed from the National Register of Voters during the period between the date fixed for the closure of the National Register of Voters and the first polling day;

“list of post-register registrations” means a list containing those names that are registered during the period between the date fixed for the closure of the National Register of Voters and the first polling day;

“mental disorder” has the same meaning under the Mental Health Decree 2010;

“Minister” means the Minister responsible for Elections;

“National Register of Voters” means a register of persons entitled to vote at an election and includes an electronic register;

“Permanent Secretary” means the Permanent Secretary responsible for Elections;

“polling day” in respect of an election, means the day or days appointed in the writ for that election for the polling to take place;

“publish” means to produce and make available to the public, including electronically;

“qualified person” means a person who has the right to be registered as a voter;

“registration officer” means any officer appointed by the Permanent Secretary to register qualified persons in the National Register of Voters;

“registration period” means—

(a) in respect of the election held for the first time immediately upon the commencement of this Decree – the period from and including the date of commencement of this Decree to and including the writ day for that election; and

(b) in respect of any other election – the period from and including the date of the official announcement of the election results of any previous election to and including the writ day for the following election;

“repealed Act” means the Electoral Act 1998;

“residential address” means the address where a person lives, including the province and division, provided however that he or she has lived there for a period of at least three (3) months immediately before registration;

“voter” means a qualified person whose name has been entered in the National Register of Voters;

“voter number” means a unique identification number assigned to every voter under section 10;

“writ” means a formal written order made by the President of the Republic of Fiji for an election; and
 “writ day” in respect of an election, means the day of the issue of the writ for that election.

PART 2—REGISTRATION OF VOTERS

Registration of voters

3.—(1) Subject to subsection (2), a person who—

- (a) has reached the age of eighteen (18) years; and
- (b) is a citizen of Fiji,

shall have the right to be registered as a voter.

(2) Any person who, during the registration period, is—

- (a) serving a sentence of imprisonment of twelve (12) months or longer imposed by a court in Fiji or by a court of another country; or
- (b) under a law in force in Fiji, adjudged or declared to have a mental disorder,

shall not have the right to be or shall cease to have the right to be registered as a voter unless the circumstances in paragraphs (a) and (b) cease to exist.

(3) The Permanent Secretary shall, at least once a year, publish a notice in a daily newspaper and broadcast a notice over the radio, calling upon every qualified person who has not been registered as a voter to apply for registration.

Application for registration

4.—(1) A qualified person may apply for registration as a voter in the National Register of Voters within the registration period.

(2) An application for registration as a voter shall be made to a registration officer and the application shall have recorded the applicant's —

- (a) full name;
- (b) residential address;
- (c) occupation;
- (d) date of birth;
- (e) gender;
- (f) form of identification acceptable to the registration officer;
- (g) thumbprints;
- (h) facial photograph; and
- (i) such other particulars as a registration officer may require.

(3) The Permanent Secretary or a registration officer may reject an application that is not completed in accordance with this section.

Change of residential address

5.—(1) A registered voter who changes his or her residential address shall, within three (3) months from the date of the change of residential address, notify the Permanent Secretary of his or her new residential address.

(2) Any person who fails to comply with this section commits an offence and is liable on conviction to a fine of \$100.

Effect of failure to notify change of residential address

6.—(1) A registered voter who has changed his or her residential address shall not be disqualified from voting at an election by reason only that he or she has not given notice of the change of residential address as required by section 5.

(2) Subsection (1) shall apply for a period of six (6) months from the date when the registered voter changed his or her residential address, after which the voter shall not vote at an election.

Effect of registration

7. Any qualified person who has applied in accordance with this Part for registration as a voter and whose application has not been rejected, shall be a registered voter from the date his or her name is entered in the National Register of Voters under section 10.

PART 3—NATIONAL REGISTER OF VOTERS

Establishment of the National Register of Voters

8. This section establishes the National Register of Voters.

Form of the National Register of Voters

9. The National Register of Voters shall include the full name, residential address, occupation, if any, date of birth, gender, form of identification, thumbprints, facial photograph and voter number of each voter arranged alphabetically according to a voter's last name.

Preparation of the National Register of Voters

10.—(1) Every person applying under section 4 (1) shall have a voter number assigned to him or her and, upon the registration of the person as a voter, shall be entered in the National Register of Voters with the other particulars of the person specified in section 9.

(2) The Permanent Secretary may, before entering any person's name in the National Register of Voters, make any such enquiries as shall be necessary to satisfy himself or herself that the applicant is qualified to be registered as a voter.

Publication of the National Register of Voters

11. The Permanent Secretary shall, at least once in each year, publish the National Register of Voters in any sub-division or sub-divisions authorised by the Minister under section 14 (1).

Revision of the National Register of Voters

12.—(1) The Permanent Secretary may revise the National Register of Voters to —

- (a) correct any mistake or omission in the particulars of the registration of a person;
- (b) on the application of a person who is a registered voter, record a change in the person's name, residential address, postal address or occupation, or any other particulars contained in the National Register of Voters in respect of that person;
- (c) remove from the National Register of Voters the name of any person whom the Permanent Secretary has good reason to believe —
 - (i) is dead;
 - (ii) has ceased to be a citizen of Fiji;
 - (iii) has been adjudged or otherwise declared to have a mental disorder under any law in force in Fiji;
 - (iv) is serving a sentence of imprisonment for a term of twelve (12) months or more; or
 - (v) is otherwise disqualified from registration in the National Register of Voters;
- (d) remove a superfluous entry, if the same person is registered more than once in the National Register of Voters;
- (e) remove the name of every person who, on an inquiry made at the last residential address for that person of which the Permanent Secretary was notified under this Decree, cannot be found;
- (f) remove the name of every person who has been disqualified from voting by an order of a court under this Decree;
- (g) reinstate the name of every person whose disqualification has expired or has been removed;
- (h) reinstate any name removed by mistake, clerical error or false information; and
- (i) if the name of a street or any other part of a residential address that appears on the National Register of Voters is changed, substitute the changed name or other part of the address.

(2) Any revision of the National Register of Voters under subsection (1) may be made at any time prior to the closure of the National Register of Voters under section 19.

Notice of deletions from the National Register of Voters

13.—(1) The Permanent Secretary shall, at least once every six (6) months for the purpose of notifying persons whose names have been removed from the National Register of Voters since the last notice was published under this section, publish in the *Gazette* and in a daily newspaper a notice listing the names of all such persons.

(2) A notice published under this section shall list the name, address, occupation and voter number of each person whose name has been removed from the National Register of Voters.

Sub-division of the National Register of Voters

14.—(1) The Minister may, by Order, require the Permanent Secretary to sub-divide the National Register of Voters into statistical or other sub-divisions.

(2) The Permanent Secretary may, from time to time, cause to be printed any sub-division of the National Register of Voters in subsection (1).

(3) Any sub-division of the National Register of Voters under subsection (1) shall be available for public inspection at the office of the Permanent Secretary or at such other convenient places as the Minister or the Permanent Secretary may specify, without payment, at any reasonable time.

(4) Any person may, upon an application to the Permanent Secretary and upon payment of a prescribed fee, obtain copies of any sub-division of the National Register of Voters in subsection (1).

Inspection of the National Register of Voters

15.—(1) The National Register of Voters shall be kept for public inspection at the office of the Permanent Secretary or at such other convenient places as the Minister or the Permanent Secretary may specify.

(2) Any person may, without payment, inspect at the office of the Permanent Secretary or at such other convenient places as specified under subsection (1) at any reasonable time in which the office is open for business —

- (a) the National Register of Voters;
- (b) the most recent computer-compiled list held by the Permanent Secretary showing the names and particulars of every person who has applied for registration as a voter, but whose name does not appear on the National Register of Voters;
- (c) the list of post-register deletions;
- (d) the list of post-register registrations; or
- (e) his or her own application for registration as a voter.

(3) The right to inspect under subsection (2) shall apply to the application for registration as a voter and any other application or any declaration made by a person —

- (a) whose name is in the National Register of Voters; or
- (b) who has applied to be registered as a voter pursuant to section 4 (1) and is yet to be registered as a voter.

(4) Subsection (3) shall only apply if the —

- (a) person whose application or declaration is to be inspected consents to such inspection; or
- (b) Permanent Secretary is satisfied that the application to inspect the application or declaration is prompted by a genuine and proper interest.

(5) The right to inspect the National Register of Voters under this section shall not include the right to copy it.

Objections

16.—(1) A person whose name appears on the National Register of Voters may make an objection to the inclusion of the name of any other person on the National Register of Voters.

(2) An objection made in subsection (1) shall —

- (a) identify the full name as it appears on the National Register of Voters, including the residential address, occupation, gender and voter number of—
 - (i) the person making the objection; and
 - (ii) the registered voter concerned;
- (b) set out the grounds of the objection;
- (c) set out the facts giving rise to the objection;
- (d) contain a statutory declaration that the objector has made a conscientious effort to determine that those facts are true to the best of his or her knowledge and belief; and
- (e) be delivered to the Permanent Secretary.

(3) Upon receiving an objection under this section, the Permanent Secretary shall make such enquiries as he or she may deem necessary.

(4) If—

- (a) an objection does not comply with subsection (2); or
- (b) the Permanent Secretary deems that an objection is frivolous,

the Permanent Secretary shall, subject to subsection (5), dismiss the objection and advise the objector in writing accordingly.

(5) The Permanent Secretary shall not dismiss an objection solely on the ground that it does not comply with subsection (2) (a) if he or she is satisfied with the identity of the objector and the voter.

(6) If an objection is not dismissed under subsection (4), the Permanent Secretary shall—

- (a) send a notice by registered post or by personal service requiring the voter to answer the objection; and
- (b) state the time within which the voter shall answer the objection, either in person or in writing.

(7) If the voter does not answer the objection within the time allowed, the Permanent Secretary shall proceed to deal with the objection and may either dismiss or uphold the objection.

(8) If an objection is upheld, the Permanent Secretary shall notify the objector and the voter in writing and the voter's name shall be removed from the National Register of Voters and, if the objection is upheld in the period between the date fixed for the closure of the National Register of Voters and the first polling day, the name of the voter shall be removed from the National Register of Voters and entered in the list of post-register deletions.

(9) If an objection is dismissed, the Permanent Secretary shall notify the objector and the voter in writing.

Settling objections

17. The Permanent Secretary shall either uphold or dismiss an objection within fourteen (14) days from the date the objection is delivered to him or her.

Review of decision of the Permanent Secretary on objection

18.—(1) If the objector or the voter is dissatisfied with the decision of the Permanent Secretary on an objection, the objector or voter may, within fourteen (14) days from the date of the decision or within such further period as the Chief Justice or a person authorised by him or her either before or after the expiration of that period allows, apply in writing to the Chief Justice for a review of the decision.

(2) An application for review under subsection (1) shall state the reasons for the application.

(3) Upon receipt of an application in subsection (1), the Chief Justice shall give written notice of it to the Permanent Secretary and to either the objector or the voter who is not the applicant.

(4) The Chief Justice shall, within fourteen (14) days of the receipt of an application, review the decision in question and make a decision in writing—

- (a) affirming the decision; or
- (b) setting aside the decision and making a decision in substitution for it.

(5) The Chief Justice shall give written notice of his or her decision to the objector or the voter and the Permanent Secretary.

(6) If the effect of the decision of the Chief Justice under subsection (4) is to uphold the objection, the name of the voter shall remain removed from the National Register of Voters and, if the registration objected to was in the period between the date fixed for the closure of the National Register of Voters and the first polling day, the name of the voter shall remain on the list of post-register deletions.

(7) If the effect of the decision of the Chief Justice under subsection (4) is to dismiss the objection, the name of the voter shall, if it was removed from the National Register of Voters as a result of the objection, be reinstated on the National Register of Voters and, if the decision of the Chief Justice is made in the period between the date fixed for the closure of the National Register of Voters and the first polling day, the name of the voter shall be entered in the list of post-register registrations.

(8) The Chief Justice may inquire into any matter relevant to the objection and may require from the objector or the voter concerned such evidence relating to the objection as he or she deems necessary.

Date of closure of the National Register of Voters

19. The National Register of Voters shall be closed on the writ day and no name shall be entered into it after such day until the beginning of the following registration period.

PART 4—MISCELLANEOUS

Regulations

20. The Minister may make Regulations to give effect to the provisions of this Decree.

Power to summon

21. The Permanent Secretary shall have the power to summon any person for the purposes of exercising his or her powers conferred by or duties conferred under section 12.

Delegation of powers

22. The Permanent Secretary may delegate any of his or her powers under this Decree to an officer of the office of Supervisor of Elections, except the power to revise the National Register of Voters.

Repeal and savings

23.—(1) The Electoral Act 1998 is hereby repealed.

(2) Notwithstanding subsection (1), a political party registered under the repealed Act will continue as a registered party until such time further laws are made in this respect pertaining to the registration of political parties.

Consequential amendments

24.—(1) This Decree shall have effect notwithstanding any provision of any written law, and accordingly, to the extent that there is any inconsistency between this Decree and any other written law, this Decree shall prevail.

(2) The State Services Decree 2009 is amended —

(a) in section 4 by inserting the following new subsection after subsection (8)—

“(9) Until such time as the members of the Electoral Commission are appointed by the President under this section, the functions of the Electoral Commission shall be performed, and the powers of the Electoral Commission shall be exercised by the Minister responsible for Elections.”;

(b) in section 5 by —

(i) inserting the words “office of” after “The” in subsection (2); and

(ii) inserting the following new subsection after subsection (4)—

“(5) Until such time as the Supervisor of Elections is appointed by the President under this section, the functions of the office of Supervisor of Elections shall be performed, and the powers

of the office of Supervisor of Elections shall be exercised by the Permanent Secretary responsible for Elections.”

GIVEN under my hand this 28th day of June 2012.

EPELI NAILATIKAU
President of the Republic of Fiji