

REPRINT

PROVINCIAL ASSEMBLIES AND HONIARA CITY COUNCIL ELECTORAL ACT 2023

As in force at: 28 December 2023

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| STATUS: CURRENT For details see Endnotes |
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AN ACT TO REGULATE THE ELECTION OF MEMBERS OF THE PROVINCIAL ASSEMBLIES AND HONIARA CITY COUNCIL, AND FOR RELATED PURPOSES.

**PROVINCIAL ASSEMBLIES AND HONIARA CITY COUNCIL
ELECTORAL ACT 2023**

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PROVINCIAL ASSEMBLIES AND HONIARA CITY COUNCIL ELECTORAL ACT 2023

As in force at: 28 December 2023

1 Short title

This Act may be cited as the *Provincial Assemblies and Honiara City Council Electoral Act 2023*.

2 Commencement

This Act commences on the date nominated by the Minister by notice in the *Gazette*.

3 Definitions

In this Act, unless the contrary intention otherwise requires:

“Commission” means the Electoral Commission established by section 57 of the *Constitution*.

“election” or **“general elections”**:

- (a) means an election for one or more members of a Provincial Assembly or the Honiara City Council; and
- (b) includes the nomination of candidates, voting and the counting of votes;

“Provincial Assembly” means a Provincial Assembly established under section 7 of the *Provincial Government Act 1997*;

“Honiara City Council” means the Honiara City Council established under section 4(1) of the *Honiara City Act 1999*;

“respective Minister” means the Minister responsible for the Provincial Assemblies or the Honiara City Council whichever applies.

4 Provincial Assemblies and Honiara City Council Elections

There shall be general elections and by-elections for Provincial Assemblies and the Honiara City Council as provided for in this Act.

5 Time of elections

- (1) A general election in section 4 takes place:
 - (a) for a Provincial Assembly, within four months of its dissolution; and
 - (b) for the Honiara City Council, on the fourth anniversary of the date of the first sitting of Parliament with effect from 2024.
- (2) The respective Ministers responsible for Provincial Assemblies and Honiara City Council shall appoint a date for such elections on the advice of the Electoral Commission and the date shall be published in the *Gazette*.

6 Dissolution and term of office

- (1) A Provincial Assembly and the Honiara City Council may be dissolved:
 - (a) for the Provincial Assembly, under section 10(2) and 10(3) of the *Provincial Government Act 1997*; and
 - (b) for the Honiara City Council, under section 9(2) of the *Honiara City Act 1999*.
- (2) The term of office of members of the Provincial Assemblies and the Honiara City Council, unless sooner dissolved under subsection (1) shall be four years from the date of the first sitting of Parliament.

7 Functions of the Electoral Commission relating to elections

The Electoral Commission, in performing its functions under section 12 of the *Electoral Act 2018*, must carry out the registration of voters and the conduct of elections for the members of the Provincial Assemblies and the Honiara City Council.

8 Right to vote

- (1) For a Provincial Assembly the following apply:
 - (a) a person has the right to vote in the electoral ward in which he or she is registered; and
 - (b) a person may vote only once at a Provincial Assembly election; and
 - (c) a person shall not be entitled to vote at a Provincial Assembly election if the person is disqualified by virtue of section 55(3) of the *Constitution*.
- (2) For the Honiara City Council, the following apply:
 - (a) a person has the right to vote where the person is registered as a voter in the elections of members of the City Council if the person is entitled to be registered under section 55(1) of the *Constitution*; and
 - (b) the person is not disqualified from being registered as a voter under section 55(2) or (3) of the *Constitution*.

9 Qualification for membership for the Assembly and the Honiara City Council

Subject to the provisions of section 10 (for a provincial assembly); and section 11 (for the Honiara City Council), a person shall be qualified for membership of a Provincial Assembly or the Honiara City Council if the person:

- (a) is a citizen of Solomon Islands;
- (b) has attained the age of twenty-one years; and
- (c) is registered in the final list of electors for the constituencies in the relevant province, or in the final list of electors of the relevant ward of the Honiara City Council.

10 Disqualification from membership of a Provincial Assembly

- (1) A person shall be disqualified from membership of a Provincial

Assembly if the person:

- (a) is disqualified for election as a member of Parliament under section 49(1)(a) of the *Constitution*;
 - (b) is an undischarged bankrupt under Solomon Islands law;
 - (c) is certified to be insane or otherwise adjudged to be of unsound mind under Solomon Islands law;
 - (d) is under sentence of death imposed by a court in any part of the world, or is under a sentence of imprisonment (by whatever name called) for a term of, or exceeding, six months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed by such a court or substituted by a competent authority for some other sentence imposed by such a court;
 - (e) is disqualified from membership of Parliament or a Provincial Assembly or from registration as an elector or from voting at elections under Solomon Islands law relating to offences connected with elections;
 - (f) is a member of the National Parliament;
 - (g) holds, or is acting in, any public office or is a provincial government officer of any province;
 - (h) is not a resident of the province;
 - (i) is the Speaker of the Assembly.
- (2) For the purpose of subsection (1)(d):
- (a) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms;
 - (b) a person is not disqualified by virtue of that subsection unless the time of appealing against the sentence or conviction has expired without an appeal being made or the appeal has been disposed of or abandoned;
 - (c) a person disqualified by virtue of that subsection due to a

sentence imposed by a court outside Solomon Islands may petition the High Court for relief from such disqualification.

- (3) A person who would otherwise be disqualified from membership of an Assembly on any of the grounds specified in subsection (1)(f) to (i), shall, if such disqualification is to be disregarded within thirty days after the election, have the ground of disqualification removed.
- (4) For the avoidance of doubt, this section is for the purposes of the conduct of elections administered by the Electoral Commission under this Act.

11 Disqualification as a member of the City Council

- (1) A person is disqualified for election as a member of the City Council if, at that time, the person:
 - (a) is disqualified for election as a member of Parliament under sections 48 or 49(1)(a), (c), (d) and (f) of the *Constitution*; or
 - (b) is under any sentence as specified in section 49(1)(e) of the *Constitution*; or
 - (c) has been convicted in Solomon Island or in any other Commonwealth country of any offence for which he was liable on conviction to imprisonment for a period of six months or more and a period of less than four years has elapsed since the date of the conviction; or
 - (d) is a member of a Provincial Assembly; or
 - (e) is an employee of the City Council; or
 - (f) has been ordinarily resident in Honiara City for a period less than one year.
- (2) For the avoidance of doubt, this section is for the purposes of the conduct of elections administered by the Electoral Commission under this Act.

12 By-elections

- (1) Subject to subsection (3), where the seat of a member of a Provincial

Assembly or the Honiara City Council is vacant, a by-election shall be held to fill the vacancy.

- (2) The date of the by-election must:
 - (a) be fixed by the respective Ministers, acting on the advice of the Electoral Commission, by notice published in the *Gazette*; and
 - (b) be no later than 6 months after the vacancy comes to the notice of the respective Minister.
- (3) The by-election may not be held if the last date for holding it would fall within the six months preceding the next general election to be held under section 5.

13 Regulations

The Electoral Commission may make regulations to give effect to this Act, inclusive of regulations:

- (a) for the conduct of elections of members of a Provincial Assembly and the Honiara City Council; and
- (b) as to the questioning of such elections and the consequences of irregularities; and
- (c) for appropriate offences and penalties in respect of the conduct of elections; and
- (d) any other matters the Electoral Commission considers is appropriate and necessary for the effective implementation of this Act.

14 Dissolution of 7 Provincial Assemblies on 31 December 2023

Despite anything in this Act, for the Provincial Assemblies elections in 2024, the following Provincial Assemblies will dissolve on 31 December 2023:

- (a) Central Islands Province;
- (b) Guadalcanal Province;

- (c) Isabel Province;
- (d) Makira Ulawa Province;
- (e) Malaita Province;
- (f) Rennel and Bellona Province;
- (g) Temotu Province.

15 Savings and transitional - Electoral Regulations

The *Provincial Government (Electoral) Regulations 2010* made under the *Provincial Government Act 1997*, and the *Honiara City Council (Election) Regulations 1999* made under the *Honiara City Act 1999*, continue to be in force until new electoral regulations are made under section 13 of this Act.

16 Consequential amendments

- (1) Sections 9, 10 (except for subsections (2) and (3)), 11, 11A, 12, 13, and 14 are repealed from the *Provincial Government Act 1997*.
- (2) Sections 6 (except for subsection (3A)), 9 (except for subsection (2)), 10, 11, 17, 17A, 18 are repealed from the *Honiara City Act 1999*.
- (3) Subsection 9(2) of the *Honiara City Act 1999* is amended by substituting “Notwithstanding the provisions of subsection (1), the” with “The”.
- (4) Section 9A(3) of the *Provincial Government Act 1997* is amended in paragraph (b) by:
 - (a) substituting “in subsection (1),” with “in subsection (1); and”;
and
 - (b) inserting a new paragraph (c):
 - “(c) despite anything in this Act, for the 2028 Provincial Assemblies general elections, the two Provincial Assemblies (Choiseul Province and Western Province) dissolve on the same date as the Provincial Assemblies referred to in subsection (1).”

ENDNOTES

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KEY

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| amd = amended | Pt = Part |
| Ch = Chapter | rem = remainder |
| Div = Division | renum = renumbered |
| exp = expires/expired | rep = repealed |
| GN = Gazette Notice | Sch = Schedule |
| hdg = heading | Sdiv = Subdivision |
| ins = inserted | SIG = Solomon Islands Gazette |
| lt = long title | st = short title |
| LN = Legal Notice | sub = substituted |
| nc = not commenced | |

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LIST OF LEGISLATION

Provincial Assemblies and Honiara City Council Electoral Act (No. 14 of 2023)

| | |
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| Assent date | 22 December 2023 |
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LIST OF AMENDMENTS