

Samoa

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| <b>Background</b>     | <b>Name of EMB:</b>   | Office of the Electoral Commissioner (Samoa)                |
|                       | <b>Status:</b>  | Permanent   |
|                       | <b>Number of commissioners:</b>   | One commissioner  |
|                       | <b>Number of full-time EMB staff:</b>   | Forty   |
|                       | <b>Constitutional and/or legislative provisions for establishment of the EMB:</b>   | It was established under the Electoral Amendment Act, 2005. |
| <b>EMB's mandate:</b> | <ol style="list-style-type: none"> <li>1. The commissioner has the following responsibilities, functions and duties:             <ol style="list-style-type: none"> <li>a. to exercise the responsibilities, functions, duties and powers given to the commissioner under the Electoral Act 1963 and any applicable law;</li> <li>b. to advise the Head of State, the Legislative Assembly and a Committee of the Legislative Assembly (through the speaker), the government and the minister concerning Samoa's electoral system, policies and laws;</li> <li>c. to provide reasonable and appropriate assistance and advice to the speaker, members, the clerk of the Legislative Assembly, candidates and persons declaring an intention to become a candidate as to their compliance with the Electoral Act 1963 Act and any applicable law;</li> <li>d. upon written direction from the Legislative Assembly (through the speaker) or Cabinet (through the minister) or the minister or by the commissioner's own determination, to initiate, sponsor, carry out and publish studies and research on Samoa's electoral system and laws;</li> <li>e. to undertake public awareness and education programmes concerning Samoa's electoral system and laws;</li> <li>f. within six months of the end of each financial year, to prepare and provide to the minister an annual report on the work of the office of the commissioner, such report to include financial statements and accounts;</li> <li>g. within six months from the date of each general election and each by-election to prepare and provide to the speaker a report on the conduct and result of such election;</li> </ol> </li> </ol> |   |

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| <p>h. to provide, in cases approved by Cabinet, assistance in matters relating to elections and referendums (including the secondment of personnel and the supply or loan of materials) to authorities of foreign countries and international and regional organisations;</p> <p>i. to determine issues of eligibility of electors and voters and candidates, and other complex issues in a timely manner prior to the closing of rolls or immediately prior to polling day;</p> <p>j. to perform such other responsibilities, functions, duties and powers conferred on the commissioner under any other law.</p> <p>2. Upon receipt of a report under: (a) subsection (1)(f), the minister shall lay the report before the Legislative Assembly forthwith; (b) subsection (1)(g), the speaker shall lay the report before the Legislative Assembly forthwith.</p> <p>3. The Commissioner shall have the power to exercise all of the responsibilities, functions and duties conferred by this act and any applicable law.</p> |  |   |
| <p><b>EMB model:</b></p>  | <p>Government-controlled</p>                                   |   |
| <p><b>What standards are established in the constitution or other legislation for democratic legitimacy?</b></p>  | <p>None specified</p>  |   |
| <p><b>Appointment, tenure and removals</b></p>  | <p><b>Provisions for the appointment of commissioners:</b></p> | <p>First the EMB has to advertise the position. Then interviews are carried out with a three-member panel chaired by the Public Service Commission. This panel then makes a recommendation to Cabinet, which makes the final decision of the appointment.</p> |
|   | <p><b>Political status of commissioners:</b></p>               | <p>Based on merit.</p>  |
|   | <p><b>Chair qualifications:</b></p>                            | <p>The EMB does not have a chair.</p>   |

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|                                    | <p><b>Commissioner qualifications:</b></p> <p>Based on experience and merit.</p>  |
|                                    | <p><b>Tenure of chair and commissioners:</b></p> <p>Three years</p>   |
|                                    | <p><b>Provisions for the removal of commissioners:</b></p> <p>Public Service Commission can recommend to Cabinet, then Cabinet will decide. However, it needs to get approval from the Head of State.</p>   |
|                                    | <p><b>Provisions for the appointment of EMB senior staff:</b></p> <p>For contract staff, the Public Service Commission (PSC) appoints EMB senior staff through interviews. The EMB appoints lower-level staff. Every position has to go through the same process: advertisement, then interviews.</p>   |
|                                    | <p><b>Tenure of EMB senior staff:</b></p> <p>For contract staff, tenure is three years. Then they have to go through the same process.</p>  |
|                                    | <p><b>Provisions for the removal of EMB senior staff:</b></p> <p>The Electoral Commission has the power to recommend to the Public Service Commission for the removal of any staff. Then the PSC will decide if this is legal or not and for what reasons. The commissioner cannot just fire a staff member; he or she has to go through the correct process and there are guidelines to be followed.</p>                                       |
| <p><b>Funding arrangements</b></p> | <p>The EMB sets the budget and the Treasury decides on it.</p>  |
|                                    | <p><b>Financial autonomy:</b></p> <p>The EMB has financial autonomy with what is approved, but there are certain cases that need authorisation from the Treasury.</p>   |
|                                    | <p><b>Legal provisions for financial autonomy:</b></p> <p>Public Finance Management Act</p>   |
| <p><b>Electoral system</b></p>     | <p>Unicameral</p>   |
|                                    | <p><b>Voting system:</b></p> <p>First-past-the-post</p>   |
|                                    | <p><b>Amendments to electoral laws:</b></p> <p>The EMB can propose amendments; there is also a Commission of Inquiry after every election, which can recommend changes. However, every change needs to be approved by Cabinet before it goes to parliament for first reading. It is then passed to a Parliament Select Committee to research and consult, before it goes back to parliament for the final reading and for it to become law.</p> |
|                                    | <p><b>Drafting of electoral regulations:</b></p> <p>The EMB has the authority to draft regulations.</p>   |

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| <b>Electoral disputes</b>         | <b>Electoral dispute resolution mechanisms:</b> | There are petitions: for example, the recent election had six petitions. After declaration of results, members are then given ten working days to file their petitions. Only a running candidate can file a petition against the winning member, given that he or she polled 50 per cent of the votes polled by the winning candidate. |
| <b>Other issues:</b>              |   |  |
| <b>Secretariat</b>                |   | The EMB does have the power to create, promote or abolish staff posts, but it has to get approval from the PSC.  |
| <b>Women in senior positions:</b> |   | There is one woman in a contract position, two principals and three women in senior positions.   |
| <b>Administrative structure:</b>  |   | There is one commissioner and six divisions, all headed by contract officers. These include Registration, Returning, Legal, IT and Corporate Divisions.  |