



*Tonga*

# **LEGISLATIVE ASSEMBLY ACT**

**Chapter 2.06**

**2020 Revised Edition**





## LEGISLATIVE ASSEMBLY ACT

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## LEGISLATIVE ASSEMBLY ACT

### AN ACT TO REGULATE THE ELECTIONS AND SITTINGS OF THE LEGISLATIVE ASSEMBLY<sup>1</sup>

Commencement [4<sup>th</sup> May, 1915]

#### 1 Short title

This Act may be cited as the Legislative Assembly Act.

#### 1A Interpretation<sup>2</sup>

In this Act —

“**Electoral Boundaries Commission**” means the Commission established under the Electoral Boundaries Commission Act<sup>3</sup>;

“**Electoral Commission**” means the Commission established under the Electoral Commission Act.<sup>4</sup>

## PART I - ELECTIONS

#### 2 Duration of Assembly<sup>5</sup>

- (1) The duration of the Assembly is, pursuant to clause 77 of the Constitution, limited to a period of 4 years following the date of the last general election.
- (2) A general election for the representatives of the nobles and the representatives of the people may be held at the same time and places.

### 3 Electoral constituencies and districts<sup>6</sup>

- (1) For the purpose of the election of representatives of the people —
  - (a) the Electoral Boundaries Commission shall divide the Kingdom into 17 electoral constituencies in accordance with the Electoral Boundaries Commission Act; and
  - (b) for each such electoral constituency there shall be elected one representative of the people.
- (2) For the purpose of the election of representatives of the nobles, the Kingdom shall be divided into 5 electoral districts namely —
  - (a) Tongatapu;
  - (b) Ha‘apai;
  - (c) Vava‘u;
  - (d) ‘Eua;
  - (e) Niufo‘ou and Niuatoputapu,

and there shall be elected for Tongatapu 3 representatives of the nobles, for each of the electoral districts of Ha‘apai and Vava‘u 2 representatives of the nobles and for each of the electoral districts of ‘Eua and Niufo‘ou and Niuatoputapu one representative of the nobles.

Provided that in the case of ‘Eua, the representative of the nobles shall be elected from the nobles of Tongatapu.<sup>7</sup>

- (3) The Electoral Commission with the approval of Cabinet shall appoint the places within each electoral constituency and district where the election shall be held.

### 4 Qualifications of elector for representatives of the nobles

Every noble shall be entitled to vote within his district at the election for representatives of the nobles to the Legislative Assembly provided always that he is not disabled by clause 23 of the Constitution and that he is not insane or imbecile.<sup>8</sup>

### 5 *Repealed by Act 23 of 1989*

### 6 Death, resignation or disfranchisement of Member

If any representative shall die or shall resign his seat or shall cease to be qualified for election under clauses 23 and 65 of the Constitution or be unseated in accordance with clause 66 of the Constitution or the provisions of the Electoral Act,<sup>9</sup> his seat in the Legislative Assembly shall thereupon become vacant and the Speaker of the Legislative Assembly shall issue a writ for the election of a successor. The Electoral Commission in consultation with the Speaker shall thereupon fix the time and place

of such election and the person elected thereat shall hold office for the balance of the term of his predecessor.<sup>10</sup>

## 7 Member absenting himself

If any representative shall be absent from the Legislative Assembly for more than 12 consecutive calendar months, or except on the ground of illness, for a period of 2 weeks during the session of the Legislative Assembly, without leave of the Speaker, his seat in the Legislative Assembly shall thereupon become vacant and his successor shall be determined in accordance with the provisions of section 6 hereof.<sup>11</sup>

## 8 *Repealed by Act 23 of 1989*

## 9 *Repealed by Act 23 of 1989*

# PART II - PENSIONS AND GRATUITIES FOR MEMBERS AND STAFF OF THE LEGISLATIVE ASSEMBLY

## 10 Pensions payable when Member retires<sup>12</sup>

- (1) Every Member of the Legislative Assembly who has served as such for a continuous period of not less than 15 years may be granted on his retirement in a capital sum or by instalments a gratuity of an amount equal to 2 years' basic salary at the rate of salary earned by such Member during the 12 months immediately preceding such retirement.<sup>13</sup>
- (2) Rather than or complementary to receiving the grant prescribed by subsection (1) a Member may elect to receive upon his retirement a capital sum or by instalments, a sum calculated by adding all of the annual sums for each of the years that a Member has worked (C) calculated in accordance with the formula —

$$C = ABS \times APA$$

Where —

**ABS** is the annual basic salary payable each year for a Member's service; and

**APA** is a Member's annual percentage accruals in accordance with the rates provided by the Schedule for each year.<sup>14</sup>

- (3) Notwithstanding subsection (2), where a Member is entitled to a grant under subsection (1), the calculation of his entitlements under subsection (2) shall

only commence from the date that he was entitled to the grant under subsection (1).<sup>15</sup>

- (4) Pursuant to subsection (2), where a Member was not a Member during the whole of the financial year, his annual percentage accrual for that year is reduced by multiplying the applicable rate provided by the Schedule by a number in accordance with the formula —

**NDM**

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**365**

Where — **NDM** is the number of days in that financial year on which that person was a Member.<sup>16</sup>

## **11 Gratuities payable when Member dies<sup>17</sup>**

- (1) Where a Member of the Legislative Assembly dies, it shall be lawful to grant to the widow or legitimate child or children or the lawful heir of such Member a gratuity at the rate set out below or according to section 10(2) whichever is preferable to that person, in a capital sum or by instalments which shall be available for the payment of all debts and funeral and testamentary expenses of the deceased Member —
- (a) if the deceased Member has served as a Member for a continuous period of not less than 15 years the gratuity shall be an amount equal to 2 years of his annual basic salary;
  - (b) if the deceased Member has served as a Member for a continuous period of not less than 8 years but less than 15 years the gratuity shall be an amount equal to two thirds of his annual basic salary for 2 years;
  - (c) in all other cases the gratuity shall be an amount equal to one third of his annual basic salary for 2 years.<sup>18</sup>
- (2) When a Member of the Legislative Assembly dies, the Legislative Assembly shall bear the cost of medical and embalming expenses. Where the deceased Member's body is returned to his permanent home the Legislative Assembly shall also bear the cost of the return of the body and the travel expenses of the spouse and one other person nominated by the spouse to attend the funeral.<sup>19</sup>
- (3) Where a Member of the Legislative Assembly retires on medical grounds on the recommendation of a medical doctor it shall be lawful to grant a pension or gratuity to such Member in a capital sum or by instalments at the rate and amount set out in subsection (1) for a deceased Member or according to section 10(2) whichever is preferable to that Member.<sup>20</sup>



**12 Staff benefit**

- (1) Any person who is employed in the staff of the Legislative Assembly, shall be entitled to the same benefits given to Members of the Legislative Assembly under sections 10 and 11 of this Act, but at the appropriate rate of his or her salary.<sup>21</sup>
- (2) An officer who resigns from the civil service to join the permanent staff of the Legislative Assembly shall have the period in which he was a civil servant taken into account in the computation of benefits given under sections 10 and 11.<sup>22</sup>

**13 Re-elected Member's pension**

Where a Member of the Legislative Assembly is re-elected for a new term, after he has retired and received his pension in accordance with section 10(2) of this Act, he shall be entitled to continue on the annual percentage accrual rate on which he retired but he shall not be entitled to any sum for which he had already received.<sup>23</sup>

## PART III - SESSIONS

**14 Cabinet determines times**

The Legislative Assembly shall meet at least once in every 12 calendar months at Nuku'alofa in Tongatapu at such time as may be determined by the Cabinet. But it shall be lawful for the King to summon the Legislative Assembly for business at any time:

Provided that the first session of the Legislative Assembly after a general election shall commence within 6 weeks of the declaration of the election result by the return of the writs of election, and the date of the first meeting of the session shall be decided by the Prime Minister and the Speaker, and after the date has been agreed, the Speaker shall inform the King accordingly.<sup>24</sup>

**15 The Speaker**

The King shall on the recommendation of the Legislative Assembly appoint one of the elected representatives of the nobles to be the Speaker who shall preside over all meetings and he shall hold office as provided in clause 61 of the Constitution.<sup>25</sup>

**16 Deputy Speaker<sup>26</sup>**

- (1) The King shall, upon recommendation of the Legislative Assembly appoint a Deputy Speaker from the elected representatives of the nobles.

- (2) The Deputy Speaker shall hold office until the dissolution of the Assembly before the next general election, unless he earlier dies, resigns, ceases to be an elected representative or his appointment is revoked by the King on the recommendation of the Prime Minister with the approval of at least half of the Members of the Assembly.
- (3) If the Speaker is not presiding, or if there is no Speaker, the Deputy Speaker shall preside over the Assembly and perform the duties of the Speaker until the Speaker is able to resume the chair and perform his duties.
- (4) The Deputy Speaker shall, unless he is presiding over the Assembly, vote as an elected representative and have the same rights and duties as any elected representative.

## **17 Opening and closing of the Legislative Assembly<sup>27</sup>**

The sessions of the Legislative Assembly shall be opened and closed by the King or the Regent or by a commission of 3 nobles appointed by the King.

## **18 Passages and expenses of members**

When the Assembly has been convoked, the Prime Minister shall make all arrangements as to the arrival and departure of the members of the Legislative Assembly and the Assembly shall have the power to make such provision as it thinks fit for the members and staff during and between sessions of the Legislative Assembly.<sup>28</sup>

## **19 *Repealed by Act 23 of 1989***

## **20 Clerk of the Assembly<sup>29</sup>**

- (1) There shall be a Clerk of the Legislative Assembly.
- (2) The Clerk shall remain in office regardless of a change in the composition of the Government.
- (3) The Speaker shall appoint the Clerk with the approval of the Assembly in accordance with the terms of employment approved by the Assembly.
- (4) The duties of the Clerk include —
  - (a) providing procedural, legal, and administrative services to the Speaker and Members of the Legislative Assembly;
  - (b) employing, (in conjunction with the Speaker and with the approval of the Assembly), and supervising and setting general guidelines for all staff employed at the offices of the Assembly;

- (c) providing a secretariat to the Assembly and its committees; and
- (d) advising the Speaker and Members on parliamentary law and procedure

### SCHEDULE

#### TABLE FOR PENSIONS AND GRATUITY RATES FOR MEMBERS AND STAFF OF THE LEGISLATIVE ASSEMBLY

	Number of Years of Service	Percentage Rates on Basic Salary
1.	1-9 years	15% each year
2.	10-15 years	20% each year
3.	16-18 years	25% each year
4.	19 years and over	30% each year

**ENDNOTES**

<sup>1</sup> **1988 Revised Edition Cap. 4 - Ordinance 7 of 1915**; Acts 10 of 1938, 9 of 1946, 8 of 1948, 16 of 1951, 14 of 1952, 17 of 1957, 6 of 1958, 4 of 1964, 7 of 1978, 4 of 1982, 16 of 1982, 13 of 1983, 14 of 1985, 6 of 1986, 46 of 1988,

**Amending Acts after 1988**

<b>Amending Acts</b>	<b>Commencement</b>
Act 23 of 1989	11 December 1989 (Section 7) 1 July 1990 (Sections 1-6 and 8-11)
Act 18 of 1990	7 November 1990
Act 23 of 1992	14 April 1993
Act 5 of 1993	26 August 1993
Act 12 of 1997	22 October 1997
Act 13 of 2004	17 January 2005
Act 12 of 2010	6 May 2010
Act 21 of 2010	24 November 2010
Act 4 of 2013	3 May 2013
Act 8 of 2014	25 August 2014

<sup>2</sup> Inserted by Act 12 of 2010

<sup>3</sup> Refer to Volume 1

<sup>4</sup> Refer to Volume 1

<sup>5</sup> Substituted by Act 21 of 2010

<sup>6</sup> Substituted by Act 12 of 2010

<sup>7</sup> Amended by Act 8 of 2014

<sup>8</sup> Amended by Act 4 of 2013

<sup>9</sup> Refer to Volume 1

<sup>10</sup> Substituted by Act 17 of 1957; Amended by Acts 23 of 1989 and 21 of 2010

<sup>11</sup> Substituted by Act 10 of 1938; Amended by Act 17 of 1957

<sup>12</sup> Amended by Act 13 of 2004

<sup>13</sup> Added by Act 4 of 1964; Amended by Act 13 of 1983

<sup>14</sup> Inserted by Act 13 of 2004, this section commenced on the 23<sup>rd</sup> June 2003.

<sup>15</sup> Inserted by Act 13 of 2004, this section commenced on the 23<sup>rd</sup> June 2003

<sup>16</sup> Inserted by Act 13 of 2004, this section commenced on the 23<sup>rd</sup> June 2003

<sup>17</sup> Substituted by Act 6 of 1986; Amended by Act 13 of 2004

<sup>18</sup> Amended by Act 23 of 1992

<sup>19</sup> Inserted by Act 23 of 1992

<sup>20</sup> Inserted by Act 18 of 1990; Amended by Act 13 of 2004

<sup>21</sup> Inserted by Act 14 of 1985; Amended by Act 13 of 2004

<sup>22</sup> Inserted by Act 5 of 1993; Amended by Act 13 of 2004

<sup>23</sup> Inserted by Act 13 of 2004

<sup>24</sup> Amended by Act 21 of 2010

<sup>25</sup> Substituted by Act 21 of 2010

<sup>26</sup> Substituted by Act 21 of 2010

<sup>27</sup> Substituted by Act 21 of 2010

<sup>28</sup> Amended by Act 18 of 1990

<sup>29</sup> Inserted by Act 21 of 2010