

1961/28



**THE WESTERN SAMOA PLEBISCITE ORDER 1961,  
AMENDMENT NO. 1**

—  
COBHAM, Governor-General  
ORDER IN COUNCIL

At the Government Buildings at Wellington this 4th day of April 1961

Present:

THE RIGHT HON. KEITH HOLYOAKE, PRESIDING IN COUNCIL

PURSUANT to the Samoa Act 1921, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

—  
O R D E R

1. This order may be cited as the Western Samoa Plebiscite Order 1961, Amendment No. 1, and shall be read with and deemed part of the Western Samoa Plebiscite Order 1961\* (hereinafter referred to as the principal order).

2. (1) The principal order is hereby amended by inserting, after clause 40, the following clause:

“40A. **Voting by declaration voters**—(1) Any person whose name is not registered on the Register of Voters (not being a person whose name was not entered on the Register pursuant to an objection under Part III of this order or whose name was removed from the Register pursuant to such an objection) shall be entitled to vote as a declaration voter at the plebiscite, if—

“(a) He completes in the presence of the presiding officer at the polling booth at which he applies for a voting paper a declaration in form 1A in the Schedule to this order and answers to the satisfaction of the presiding officer the several questions therein; and

“(b) The presiding officer is satisfied that under clause 12 of this order that person is qualified to be registered as a voter at the plebiscite, as if he had applied to be registered on the date of the plebiscite.

\*S.R. 1961/6

“(2) Where any person applies to the presiding officer at any polling place for a vote at the plebiscite as a declaration voter, the presiding officer, on being satisfied that the applicant is entitled to vote as a declaration voter at the plebiscite in accordance with subclause (1) of this clause, shall issue to him a voting paper (hereinafter referred to as a declaration voting paper). The declaration made by the applicant shall be witnessed by the presiding officer, who shall add to his signature his official mark.

“(3) Every presiding officer issuing a declaration voting paper to any voter shall also issue with it—

“(a) An envelope (hereinafter referred to as the outer envelope) marked ‘Declaration Vote’ and addressed to the Returning Officer; and

“(b) Another envelope (hereinafter referred to as the inner envelope) on the face of which are printed the instructions specified in form 11A in the Schedule to this order.

“(4) After a declaration voter has exercised his vote in accordance with clause 43 (1) of this order, he shall place the voting paper in the inner envelope which, after being sealed, shall be placed in the outer envelope together with the declaration form. The outer envelope shall then be sealed and be deposited by the voter in the ballot box.

“(5) The name and address of the voter and the consecutive number of the voting paper issued to him shall be entered by the presiding officer on a list to be called the declaration votes list, and that list shall be admissible as evidence in any legal proceedings arising out of the plebiscite. The declaration votes list shall be in form 12A in the Schedule to this order.”

(2) The principal order is hereby further amended in the manner indicated in the Schedule to this order.

3. The principal order is hereby further amended—

- (a) By omitting from subclause (1) of clause 43 the words “each proposal”, and substituting the words “the proposals or either of them”:
- (b) By inserting in subclause (2) of clause 48, after the words “is not in favour of”, the words “at least one of”:
- (c) By inserting in paragraph (c) of subclause (2) of clause 54, after the words “not in favour of”, the words “at least one of”:
- (d) By omitting from form 8 in the Schedule the word “must” in paragraph 1 of the Directions to Voter, and substituting the word “should”.

4. The principal order is hereby further amended—

- (a) By inserting in subclause (2) of clause 51, after the words “United Nations Observers”, the words “and such assistants as the Plebiscite Administrator deems necessary”:
- (b) By omitting from subclause (1) of clause 52, the words “his assistants”, and substituting the words “the assistants of the Plebiscite Administrator and of the Chief Returning Officer”.

Clause 2 (2)

## SCHEDULE

## AMENDMENTS OF PRINCIPAL ORDER

Clause or Schedule Amended	Amendment
Clause 2 (1)	<p>By inserting, after the definition of the term "corrupt practice", the following definition:</p> <p style="padding-left: 40px;">"Declaration voter" means a person voting as a declaration voter under clause 40A of this order; and 'declaration vote' has a corresponding meaning:".</p> <p>By omitting from the definition of the term "Register of Voters" or "Register" the words "containing the names of the persons entitled to vote at the poll".</p> <p>By adding to the definition of the term "voter" the words "and includes a declaration voter".</p>
Clause 25 .....	<p>By revoking this clause, and substituting the following clause:</p> <p style="padding-left: 40px;"><b>"25. Persons entitled to vote</b>—Subject to the provisions of clause 40A of this order, the several persons whose names are on the Register, and no other persons, shall be entitled to vote at the plebiscite."</p>
Clause 33 (c)	<p>By inserting, after the words "voting papers", the words "and forms of declaration by declaration voters".</p>
Clause 40 (1)	<p>By omitting the words "Every voter", and substituting the words "Every registered voter".</p>
Clause 40 (2)	<p>By omitting the words "Any voter", and substituting the words "Any registered voter".</p>
Clause 42 (1)	<p>By inserting, before the word "voter" where it first occurs, the word "registered".</p>
Clause 43 (2)	<p>By inserting, after the word "voter", the words "not being a declaration voter".</p>
Clause 46 .....	<p>By revoking this clause, and substituting the following clause:</p> <p style="padding-left: 40px;"><b>"46. Application for voting paper after another person has voted in same name</b>—(1) If—</p> <p style="padding-left: 80px;">"(a) Any person representing himself to be a voter named in the Register of Voters applies for a voting paper after another person has voted in the name appearing in the Register; or</p> <p style="padding-left: 80px;">"(b) Any person applies for a declaration vote after another person has exercised a declaration vote in the same name as the applicant,—</p> <p style="padding-left: 40px;">the applicant shall, upon giving satisfactory answers to any questions put to him by the presiding officer, and, in the case of an applicant for a declaration vote, subject to the provisions of clause 40A of this order, be entitled to receive a voting paper in the same manner as any other voter (such a voting paper being hereinafter referred to as a tendered voting paper). The provisions</p>

SCHEDULE—*continued*AMENDMENTS OF PRINCIPAL ORDER—*continued*

Clause or Schedule Amended	Amendment
Clause 46— <i>ctd.</i>	<p>of subclauses (2) and (3) of clause 41 of this order shall apply with respect to any questions and answers under this subclause.</p> <p>“(2) Where the voter is a registered voter,—</p> <p>“(a) The tendered voting paper, instead of being put into the ballot box, shall be given to the presiding officer, who shall place it in an envelope and endorse the envelope with the name of the voter and his number in the Register of Voters; and</p> <p>“(b) The envelope containing the tendered voting paper shall be placed in the ballot box by the presiding officer in the presence of the voter; and</p> <p>“(c) The name of the voter and his number in the Register of Voters shall be entered by the presiding officer on a list to be called the tendered votes list.</p> <p>“(3) Where the voter is a declaration voter,—</p> <p>“(a) The voting paper shall be dealt with as provided in subclause (4) of clause 40A of this order; and</p> <p>“(b) The name and address of the voter shall be entered by the presiding officer on the tendered votes list.</p> <p>“(4) The tendered votes list shall be in form 12 in the Schedule to this order, and shall be admissible in any legal proceedings arising out of the plebiscite.”</p>
Clause 48 (2)	<p>By omitting the words “(other than tendered voting papers placed therein under clause 46 of this order)”, and substituting the words “(other than declaration voting papers placed therein under clause 40A (4) of this order or tendered voting papers placed therein under clause 46 (2) of this order)”.</p>
Clause 50 (1)	<p>By inserting, after the words “at which he presided”, the words “and all envelopes containing declaration votes and the declaration votes list”.</p>
Clause 52 .....	<p>By inserting, after this clause, the following new clause:</p> <p>“52A. <b>Declaration voting papers</b>—(1) The Plebiscite Administrator shall, in the presence and hearing of the persons specified in subclause (1) of clause 52 of this order,—</p> <p>“(a) Compare the several declaration votes lists with the Master Register and on the Master Register draw a line through the number and name of any voter who is shown on any of the declaration votes lists as having received a voting paper:</p>

SCHEDULE—*continued*AMENDMENTS OF PRINCIPAL ORDER—*continued*

Clause or Schedule Amended	Amendment
Clause 52— <i>ctd.</i>	<p>“(b) Compare one with another all the declaration votes lists on which the fact that any person has received a declaration voting paper has been noted.</p> <p>“(2) If on that comparison it appears that the same person has received an ordinary voting paper and also one or more declaration voting papers or two or more declaration voting papers, the Plebiscite Administrator shall open the packets of voting papers (including declaration voting papers) used at the several polling places at which that person appears to have received a voting paper, and shall select therefrom the voting papers received by that person, and shall disallow every vote appearing to have been given by means of the voting papers so selected.</p> <p>“(3) The provisions of subclause (3) of clause 52 of this order shall apply with respect to packets opened under this clause and to the voting papers therein.”</p>
Clause 54 (1)	<p>By omitting this subclause, and substituting the following subclauses:</p> <p>“(1) Upon the completion of the scrutiny and comparison of the Register and of the declaration votes lists hereinbefore directed, the Chief Returning Officer, in the presence of the Plebiscite Administrator and the Samoan Plebiscite Administrator and with such assistants as the Plebiscite Administrator deems necessary, and in the presence of such persons as were entitled to attend at the scrutiny and choose to be present, shall open—</p> <p>“(a) All the packets of voting papers used at the plebiscite (other than the separate packets mentioned in subclause (2) of clause 53 of this order); and</p> <p>“(b) All the envelopes containing declaration voting papers allowed by the Returning Officer under subclause (1A) of this clause; and</p> <p>“(c) All the envelopes containing tendered voting papers,—</p> <p>and, after deciding whether or not any tendered voting papers should be allowed and setting aside all informal voting papers and all tendered voting papers disallowed, shall ascertain and shall publicly notify the total number of votes received for each proposal and the total number of votes received against each proposal at the plebiscite.</p> <p>“(1A) For the purpose of deciding whether any declaration voting papers should be allowed or disallowed, the following provisions shall apply:</p>

SCHEDULE—*continued*AMENDMENTS OF PRINCIPAL ORDER—*continued*

Clause or Schedule Amended	Amendment
Clause 54 (1)— <i>continued</i>	<p>“(a) The Returning Officer shall, in the presence of the persons specified in subclause (1) of this clause, open the outer envelopes and extract therefrom the declaration forms and inner envelopes:</p> <p>“(b) The declaration forms shall be consecutively numbered by the Returning Officer, and in each case he shall place the same number on the relative inner envelope:</p> <p>“(c) Where the Returning Officer has reason to believe that the declaration form in respect of any declaration vote is enclosed in the inner envelope, he may open the inner envelope and extract the declaration, in which case he shall immediately reseal the inner envelope containing the voting paper and do everything possible to preserve the secrecy of the ballot:</p> <p>“(d) The Returning Officer shall then decide whether the voter was qualified to exercise a declaration vote, whether from the answers in the declaration or from other information available to the Returning Officer:</p> <p>“(e) Where the Returning Officer allows a declaration vote, he shall endorse on the declaration form and also on the inner envelope the word ‘Allowed’, and shall then place the inner envelope (unopened) in a receptacle specially set aside for the purpose:</p> <p>“(f) Where the Returning Officer disallows a declaration vote, he shall endorse on the declaration form and also on the inner envelope the word ‘Disallowed’:</p> <p>“(g) The Returning Officer shall not open the inner envelopes containing declaration votes allowed until all the declaration votes have been dealt with under this subclause:</p> <p>“(h) The Returning Officer shall make up into separate parcels—</p> <p>    “(i) All declaration forms:</p> <p>    “(ii) All unopened inner envelopes containing declaration voting papers disallowed.”</p>
Clause 77 (1)	<p>By omitting paragraphs (a) and (b), and substituting the following paragraphs:</p> <p>“(a) Claims that any other person who was not qualified to vote voted at the plebiscite; or</p>

SCHEDULE—*continued*

AMENDMENTS OF PRINCIPAL ORDER—*continued*

Clause or Schedule Amended	Amendment
Clause 77 (1)— <i>continued</i>	<p>“(b) Claims that any other person who was qualified to vote voted a second time at the plebiscite under the same or another name; or</p> <p>“(bb) Being qualified to vote, complains that he was refused a declaration vote or that his declaration vote was disallowed; or</p> <p>“(bbb) Being qualified to vote, claims that his vote was accepted on the tendered votes list only and was disallowed; or”.</p>
Clause 82 .....	By inserting, after the word “counterfoils”, the words “declaration votes list”.
Schedule .....	<p>By inserting, after form 1, the following form:</p> <p style="text-align: right;">Form 1A</p> <p style="text-align: center;">“DECLARATION BY DECLARATION VOTER</p> <p style="text-align: right;">Consecutive No.: .....</p> <p style="text-align: right;"><i>[To coincide with consecutive number on voting paper.]</i></p> <p>I [<i>Name in full</i>] hereby declare that the answers to the following questions are true and correct in every particular:</p> <ol style="list-style-type: none"> <li>1. Did you apply before the closing of the Register of Voters to have your name inserted in the Register? .....</li> <li>2. If the answer to question 1 is ‘Yes’,—             <ol style="list-style-type: none"> <li>(a) Was your claim for enrolment rejected by the Registrar? .....</li> <li>(b) Was your name removed from the Register pursuant to an objection? .....</li> </ol> </li> <li>3. Have you attained the age of 21 years? .....</li> <li>4. Are you a citizen of Western Samoa pursuant to the Citizenship of Western Samoa Ordinance 1959? .....</li> <li>5. What is your present full residential address? .....</li> <li>6. What is your occupation? .....</li> <li>7. What is the full name of your father? .....</li> <li>8. What is the full name of your mother? .....</li> <li>9. Have you been convicted in Western Samoa of an offence punishable by death or by imprisonment for a term of two years or upwards? .....</li> <li>10. If the answer to question 9 is ‘Yes’,—             <ol style="list-style-type: none"> <li>(a) Have you received a free pardon? .....</li> <li>(b) Have you undergone the sentence or punishment to which you were adjudged for the offence? .....</li> </ol> </li> </ol>

SCHEDULE—*continued*

AMENDMENTS OF PRINCIPAL ORDER—*continued*

Clause or Schedule Amended	Amendment
Schedule— <i>ctd.</i>	<p>11. Are you disqualified in accordance with any law for the time being in force in Western Samoa relating to corrupt practices at elections? .....</p> <p>12. Have you already voted at the plebiscite? .....</p> <p>Signature of voter: .....</p> <p>Signature of witness: .....</p> <p style="text-align: right;">Returning Officer (or Deputy Returning Officer)</p> <div style="text-align: right; border: 1px solid black; padding: 5px; display: inline-block;">Official Mark</div> „ <p style="text-align: center;">_____</p> <p>By inserting in form 9, after the words “Register of Voters” the words “(if any)”.</p> <p>By inserting, after form 11, the following form:</p> <p>“Clause 40A (3) (b) <span style="float: right;">Form 11A</span></p> <p>“INSTRUCTIONS TO BE PRINTED ON FACE OF INNER ENVELOPE</p> <p style="text-align: center;"><b>ENVELOPE FOR VOTING PAPERS ONLY</b></p> <p style="text-align: center;"><i>Instructions to Declaration Voters</i></p> <ol style="list-style-type: none"> <li>1. Mark the voting paper, in accordance with the directions printed thereon, to indicate how you wish to vote.</li> <li>2. Place the voting paper, but NOT the declaration form, in this envelope and seal it.</li> <li>3. Place the declaration form and this envelope in the envelope addressed to the Returning Officer.</li> <li>4. Seal that envelope and put it in the ballot box.”</li> </ol>



SCHEDULE—continued

AMENDMENTS OF PRINCIPAL ORDER—continued

Clause or Schedule Amended	Amendment																				
Schedule— <i>ctd.</i>	<p>By omitting form 12, and substituting the following forms:</p> <p style="text-align: right;">“Clause 46 (4) <span style="float: right;">Form 12</span></p> <p style="text-align: center;">“TENDERED VOTES LIST</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%; text-align: left;">Name of Voter</td> <td style="width: 40%; text-align: right;">Number in Register (or, in Case of Declaration Voter, Full Address)</td> </tr> <tr> <td>1. ....</td> <td style="text-align: right;">.....</td> </tr> <tr> <td>2. ....</td> <td style="text-align: right;">.....</td> </tr> <tr> <td>3. ....</td> <td style="text-align: right;">.....</td> </tr> </table> <p>Each of the above-named persons, representing himself to be qualified to vote, applied for a voting paper after another person had voted as that voter. Each applicant gave satisfactory answers to the questions put to him under clause 46 of the Western Samoa Plebiscite Order 1961, and I therefore entered on this list his name and, in the case of a registered voter, his number on the Register, and, in the case of a declaration voter, his full address.</p> <p>District: .....</p> <p>Polling place at: .....</p> <p style="text-align: right;">..... Presiding Officer. .....1961</p> <hr style="width: 20%; margin: 10px auto;"/> <p style="text-align: right;">“Clause 40A (5) <span style="float: right;">Form 12A</span></p> <p style="text-align: center;">“DECLARATION VOTES LIST</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 35%; text-align: left;">Name of Voter</td> <td style="width: 30%; text-align: left;">Full Address</td> <td style="width: 35%; text-align: right;">Consecutive No. of Voting Paper Issued</td> </tr> <tr> <td>1. ....</td> <td style="text-align: left;">.....</td> <td style="text-align: right;">.....</td> </tr> <tr> <td>2. ....</td> <td style="text-align: left;">.....</td> <td style="text-align: right;">.....</td> </tr> <tr> <td>3. ....</td> <td style="text-align: left;">.....</td> <td style="text-align: right;">.....</td> </tr> </table> <p>Each of the above-named persons, representing himself to be qualified to vote, applied for a voting paper as a declaration voter. Each applicant gave satisfactory answers to the questions in form 1A in the Schedule to the Western Samoa Plebiscite Order 1961, and I therefore entered on this list his name, his full address, and the consecutive number of the voting paper issued to him.</p> <p>District: .....</p> <p>Polling place at: .....</p> <p style="text-align: right;">..... Presiding Officer. .....1961.”</p>	Name of Voter	Number in Register (or, in Case of Declaration Voter, Full Address)	1. ....	.....	2. ....	.....	3. ....	.....	Name of Voter	Full Address	Consecutive No. of Voting Paper Issued	1. ....	.....	.....	2. ....	.....	.....	3. ....	.....	.....
Name of Voter	Number in Register (or, in Case of Declaration Voter, Full Address)																				
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Name of Voter	Full Address	Consecutive No. of Voting Paper Issued																			
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3. ....	.....	.....																			

T. J. SHERRARD,  
Clerk of the Executive Council.

## EXPLANATORY NOTE

*This note is not part of the order, but is intended to indicate its general effect.*

The effect of clause 2 is to allow any person who is qualified to be registered in the Register of Voters, but who is not registered, to vote at the plebiscite on making before the presiding officer at a polling place a declaration containing the particulars which he would require to supply to the Registrar in an application for registration.

The effect of clause 3 is that a voting paper will not be informal if it clearly indicates the wishes of the voter in relation to at least one of the proposals to be voted on at the plebiscite.

Clause 4 allows assistants of the Plebiscite Administrator to be present at the scrutiny and comparison of the Register of Voters.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 6 April 1961.

These regulations are administered in the Department of Island Territories.