

Parliament of Nauru – 20th Parliament

Electoral (Amendment) Bill 2012

EXPLANATORY MEMORANDUM

BACKGROUND

The principal object of this Bill is to redress the under-representation of the people of Meneng by increasing the number of Members for that constituency from 2 to 3.

It was proposed in the course of the constitutional review process to increase the number of members of Parliament for the constituency of Meneng from 2 members to 3.

Although the proposed constitutional amendments have not succeeded, it is possible to increase the number of members by making an amendment to the *Electoral Act 1965*. It does not require an amendment to the text of the Constitution, because Article 28(1) of the Constitution provides. that ‘Parliament shall consist of eighteen members or such greater number as is prescribed by law.’

In the first election held under the *Electoral Act*, there were 176 registered voters in Meneng. In the most recent general election in 2010 Meneng had 900 voters. The national voting population has more than tripled since the first election, but in Meneng the population has increased more than six-fold.

The discrepancy in the voter-to-member ratio between Meneng and other constituencies, with Meneng being significantly under-represented, was noted by the Constitutional Review Commission in 2007. The Commission recommended that Meneng should have a third seat in Parliament, which would bring the voter-to-Member ratio for Meneng in line with that in other constituencies.

NOTES ON CLAUSES

Clause 1 of the Bill provides the short title by which the Act may be cited.

Clause 2 of the Bill provides that the Act will commence on the day it is certified by the Speaker in accordance with Article 47 of the Constitution.

Clause 3 of the Bill provides that the Schedule has the effect of amending the *Electoral Act 1965*.

The Schedule: **amending item [1]** of the Schedule amends section 5 of the Act to increase the number of members for the constituency of Meneng from 2 to 3. The amending item also inserts a new subsection (2) in section 5, which provides that any increase in the number of members for a constituency has effect from the day of the next general election

after the commencement of the amendment. This means that the amendment to increase the number of members does not result in an immediate by-election to fill the vacancy, but rather, that the new member/s is/are elected in the course of the next general election. The item also inserts a subsection number for the existing provision.

Amending item [2] of the Schedule amends section 45 of the Act to change various definitions so that the transitional provision in relation to transfer of enrolment continues to apply, but the rest of the section applies to the current amending Act and not, as was previously the case, to the 2011 amending Act.

Amending item [3] of the Schedule corrects a numbering error by removing the superfluous subsection number in section 46, and also substitutes '15 April 2011' for 'the commencement date' so that section 46 clearly relates to the date of commencement of the 2011 amending Act, and not to the commencement date of the present amending Act.

Amending item [4] of the Schedule repeals and remakes section 47 of the Act in relation to transitional regulations. Section 47, which was inserted by the 2011 amending Act, expired on 15 April 2012, although the expiry of the provision does not have the effect of repealing the text of section 47 from the Act. In order to revive the application of section 47, it is repealed and remade, with minor alterations to the text of subsection (1) to achieve the same effect as the previous subsection (4) – providing that transitional regulations may be made for a period of 12 months after the commencement of this amending Act.