



REPUBLIC OF SAN MARINO

We the Captains Regent of the Most Serene Republic of San Marino

Having regard to Article 4 of Constitutional Law no. 185/2005 and Article 6 of Qualified Law no. 186/2005;

Hereby promulgate and order the publication of the following Qualified Law, approved by the Great and General Council during its sitting of 12 September 2019 with 42 votes in favour:

QUALIFIED LAW NO. 3 OF 16 SEPTEMBER 2019

TECHNICAL ELECTORAL PROVISIONS

(AMENDMENTS TO LAW NO. 6 OF 31 JANUARY 1996 "ELECTORAL LAW", AS AMENDED BY QUALIFIED LAW NO. 1/2007, BY QUALIFIED LAW NO. 1/2008, BY QUALIFIED LAW NO. 3/2016 AND BY QUALIFIED LAW NO. 2/2019. AMENDMENTS TO QUALIFIED LAW NO. 186 OF 16 DECEMBER 2005, AS AMENDED BY QUALIFIED LAW NO. 1/2007 AND BY QUALIFIED LAW NO. 2/2019)

Art.1

1. Paragraph 8 bis of Article 14 (*Submission of lists of candidates and possibility of coalitions among them*) of Law no. 6 of 31 January 1996 "Electoral Law", as introduced by Article 1 of Qualified Law no. 2/2019, shall be modified as follows:

"8 bis. Within ninety-six hours of the expiry of the deadline for submission referred to in paragraph 1, lists or coalitions of lists shall be required to file an attachment to the Government programme (Attachment A), under penalty of exclusion from the elections, indicating whether they intend to start - in the event that no list or coalition of lists participating in the elections obtains the minimum number of valid votes required for electoral victory and not even the 30 (thirty) quotients based on the operations referred to in paragraph 8 of Article 40 - negotiations to form a majority, pursuant to paragraphs 11 and 12 of the aforementioned Article 40, indicating the lists or coalitions of lists, filed pursuant to paragraphs 1 and 7 above, respectively, with which they intend to negotiate. The list or coalition of lists that has received from the Captains Regent the mandate referred to in paragraphs 11 and 12 shall not start negotiations with lists or coalitions of lists that are not indicated in the attachment to the Government programme referred to in this paragraph."

Art.2

1. Article 40 (*Allocation of seats and announcement of the winning list or coalition of lists*) of Law no. 6/1996 and subsequent amendments shall be modified as follows:

“Art. 40

(Allocation of seats and announcement of the winning list or coalition of lists)

"1. The Central Electoral Office, on the basis of the protocols of the precinct electoral offices, with the assistance, when necessary, of one or more experts chosen by the President, shall perform the following operations: it shall sum up the votes obtained by each list and by each candidate, according to the protocols of all electoral offices.

2. The operation referred to in paragraph 1 shall determine the electoral score of each list, the total number of votes for the list, and the individual electoral score of each candidate.

3. The electoral score of each list shall be the result of the sum of valid votes received by the list in all electoral districts. This shall be the basis to determine:

- The admission of the list to the allocation of seats;
- The number of seats of the Great and General Council to which each list is entitled.

4. Each list shall be admitted to the seat allocation if it receives a number of votes equal or greater than 5% of the total number of valid votes.

5. The individual electoral score of each candidate shall be the result of the sum of the list electoral score and the number of valid preferential votes obtained by the candidate in all electoral sections, as counted by the electoral offices. The individual score shall determine the ranking of candidates within the same list. If the individual score is identical, preference shall be given according to the following criteria:

- Female candidate;
- Greatest seniority in office as Council Member;
- Higher age.

6. The Central Electoral Office shall determine the coalition electoral score, by summing up:

- a) The electoral score of each of the lists belonging to the same coalition, including lists which are not admitted to the allocation of seats according to paragraph 4;
- b) The votes cast only for the coalition, without having been marked for any list, according to Art. 36, paragraph 1.

7. The Central Electoral Office shall divide the total number of valid votes by 2 and add 1 to the quotient, rounded up if need be. The result of this operation shall determine the minimum number of valid votes required to declare the electoral victory of a coalition or a single list. If no list or coalition of lists reaches the required minimum number of valid votes, victory shall be declared for the list or coalition of lists which, having received the highest number of votes, reaches also 30 (thirty) of the 60 (sixty) valid quotients, as a result of the operations referred to in paragraph 9.

8. The result of the first round shall determine the allocation of seats to each list, according to the following rules:

- The lists which are not eligible for the allocation of seats according to paragraph 4 shall be excluded;
- The electoral scores of each of the lists eligible for seat allocation according to paragraph 4 shall be successively divided by 1, 2, 3, 4, and so forth, until the number 60 (sixty) of members of the Great and General Council to be elected is reached;
- Quotients thus obtained shall be ranked in descending order, from the highest to the smallest.

9. Seats of the Great and General Council shall be allocated, according to the operations described in paragraph 8, to the list or coalition of lists declared as winner for having reached the minimum number of votes according to paragraph 7 or, if this is not the case, for having reached the highest number of votes and the 30 highest quotients. If, according to the operations described in paragraph 8, the number of seats to which the winning list or coalition of lists is entitled is lower than 35, additional seats shall be allocated to the winner as a “stability reward”, in a number which is equal to the quantity of seats missing to reach the number of 35.

The additional seats, allocated as a “stability reward”, shall be those corresponding to the lowest quotients according to the operations described in paragraph 8; those seats shall be taken away from lists other than the winning list or which are not part of the winning coalition, starting from the lowest quotients. If one list is entitled to more seats than its number of candidates, seats in excess shall be allocated to other lists within the same coalition, according to the decreasing order of quotients. Council groups that would fall below the minimum number of three Council members as a result of the reallocation of seats due to the “stability reward” shall not lose the funding benefits referred to in Law no. 170 of 23 November 2005 and subsequent amendments.

10. If, on the basis of the outcome of the first round of the elections, the conditions for determining the victory of the list or coalition of lists are met, once the operations referred to above are concluded, the Central Electoral Office shall officially proclaim the elected Council members, as well as the winning list or coalition of lists, which will receive the majority of seats and a possible “stability reward”.

11. In the event that no list or coalition of lists obtains the minimum number of valid votes required for electoral victory and not even the 30 (thirty) quotients based on the operations referred to in paragraph 8, the Captains Regent, within twenty-four hours of the communication by the Minister of Internal Affairs of the outcome of the Central Electoral Office - to be made at the same time as the publication referred to in Article 42 - shall confer on the list or coalition of lists that has reached the relative majority of votes a 15-day mandate to form the majority through agreement with other lists or coalitions of lists on the basis of the declarations referred to in paragraph 8 bis of Article 14 and of the number of seats obtained in the first round, provided that the lists and coalitions of lists maintain the aggregation with which they stood for election and that the majority to be formed reaches the minimum number of 35 seats.

12. If the mandate referred to in paragraph 11 is not successful, the Captains Regent shall confer a new mandate, in the same manner and with the same deadline as the previous one, to the list or coalition of lists ranking second in the first round of the elections.

13. Once the negotiations have been successfully completed, the Captains Regent shall immediately inform thereof the Minister of Internal Affairs who, in his capacity as President of the Central Electoral Office, on the basis of the results of such Office, as referred to in paragraph 8, shall officially proclaim the elected Council members and report the composition of the seats of the majority that has been formed.

14. If no list or coalition of lists obtains the minimum number of valid votes and not even the 30 (thirty) quotients referred to in paragraph 8, and the two mandates referred to in paragraphs 11 and 12 are not successful, the Captains Regent, by means of a Regency Decree, shall call for a second round of voting between the two lists or coalitions of lists that obtained the highest number of votes during the first round.

15. In case of a second round of voting, the Central Electoral Office shall receive from the precinct electoral offices the protocols containing the results of the counting of votes. It shall verify which of the two lists or coalitions of lists received the highest number of valid votes, allocate the seats according to the previous paragraphs, and finally proclaim the elected Council members, as well as the winning list or coalition of lists, which will receive the majority of seats and the “stability reward”.

16. The publication of the Regency Decree calling for the second round of voting shall open the election campaign, which shall terminate by 24:00 of the second day preceding the elections, according to Art. 1, paragraph 1 of Law no. 36 of 14 March 1997. The same lists admitted to the first round of the elections can participate in the electoral campaign for the second round of voting. The appointment of polling station chairpersons and poll-watchers, performed by the Election Commission according to Art. 23 of this Law, shall be extended for the possible second round of voting.”.

Art. 3

(Voting procedures - Restoration of Article 36 of Law no. 6/1996)

1. Article 36 of Law no. 6/1996 shall be restored in its original wording, of which only paragraph 2 shall be modified as follows:
“2. The voter who resides in the territory can express preference for three candidates belonging to the chosen list. The voter who resides outside the territory can express preference for one single candidate belonging to the chosen list.”.

Art. 4

(Use for electoral purposes of data held by public entities)

1. Personal data contained in registers or lists held by a public body may be processed, upon reasoned request, by parties, political movements and referendum committees exclusively for the purposes of electoral propaganda and forwarding of related political communications, without requesting the consent of the persons concerned, in full compliance with Law no. 171 of 21 December 2018.
2. The voter lists held at the Vital Statistics Office - Population and Electoral Services shall be transmitted, circulated or made available, subject to a reasoned request, to parties, political movements or referendum committees for the purposes of applying the legislation on active and passive electorate and only in the period between the date of issue of the decree calling for elections and the date of the elections or referenda.

Art. 5

1. This Law shall enter into force on the fifth day following that of its legal publication.

Done at Our Residence, on 16 September 2019/1719 since the Foundation of the Republic

THE CAPTAINS REGENT
Nicola Selva – Michele Muratori

THE MINISTER OF
INTERNAL AFFAIRS
Guerrino Zanotti

DECLARATION UNDER ARTICLE 14, PARAGRAPH 8 BIS OF LAW NO. 6/1996 (ELECTORAL LAW) AND SUBSEQUENT AMENDMENTS

The List or Coalition of Lists (name)... standing for the elections of (date) under paragraph 8 bis of Article 14 of Law no. 6/1996 and subsequent amendments

Hereby declares that

it intends - in the event that no list or coalition of lists participating in the above mentioned elections obtains the minimum number of valid votes required for electoral victory and not even the 30 (thirty) quotients on the basis of the operations referred to in paragraph 8 of Article 40 - to start negotiations in order to form a majority with the following lists/coalitions of lists

or

Hereby declares that

it does not intend - in the event that no list or coalition of lists participating in the above mentioned elections obtains the minimum number of valid votes required for electoral victory and not even the 30 (thirty) quotients on the basis of the operations referred to in paragraph 8 of Article 40 - to start negotiations in order to form a majority with any of the lists and/or coalitions of lists.

San Marino (date)

Signature of the Delegate of the List/Coalition