

ELECTORAL

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The Electoral Act 2016 No 15 was certified and commenced on 10 March 2016 (GN No 157/2016; Gaz 35/2016).

Amending Legislation	Certified	Date of Commencement
Electoral (Amendment) Act 2016 No 23	12 May 2016	12 May 2016
Electoral (Amendment) No 2 Act 2016 No 30	9 June 2016	9 June 2016
Electoral (Amendment) No 3 Act 2016 No 59	23 December 2016	23 December 2016
Electoral (Amendment) Act 2017 No 9	5 May 2017	5 May 2017
Electoral (Amendment) Act 2018 No X	6 March 2018	6 March 2018
Electoral (Amendment) Act 2019 No 6	10 May 2019	10 May 2019
Electoral (Amendment) No 2 Act 2019 No 21	12 July 2019	12 July 2019
Electoral (Amendment) Act 2020 No 2	28 January 2020	28 January 2020
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Electoral (Amendment) Act 2021 No 18	14 September 2021	14 September 2021
Electoral (Amendment) Act 2022 No 8	8 June 2022	8 June 2022
Electoral (Amendment) Act 2024 No 17	20 August 2024	20 August 2024

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An Act to regulate the conduct of the election of Members of the Parliament of Nauru, establishing the Electoral Commission with its role and duties, providing processes and procedures for free and fair elections, the repeal of the *Electoral Act 1965* and for related purposes.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Electoral Act 2016*.

2 Commencement

This Act came into effect on 10 March 2016.

3 Interpretation

In this Act:

‘absolute majority of votes’ in relation to the votes cast at a poll for the election of a member for a constituency, means a number greater than the number equal to one-half of the number of ballot-papers other than invalid ballot papers received into the scrutiny;

‘by-election’ means a by-election held for the purpose of electing a Member of Parliament to fill a vacancy in a seat of Parliament due to a vacancy contemplated under Article 32(1)(b), (c), (d) and (e) of the *Constitution*;

[def am Act 8 of 2022 s 4, opn 8 June 2022]

‘campaign material’ includes any poster, placard, flag, badge, emblem, symbol, clothing, apparel or accessory disseminated through any medium including email, internet or other electronic means and that indicates or purports to represent a particular candidate and is used by that candidate for the purpose of advancing his or her campaign for an election;

‘candidate’, in relation to an election, means a person nominated as a candidate for election as a member in accordance with Section 57;

‘Chief Secretary’ means the person appointed as the Chief Secretary under Article 25 of the *Constitution*;

‘conflict of interest’ includes any conflict between the public duty and private interest of an official, in which the official in his or her private capacity or interest could unduly influence the way that official fulfils his or her responsibilities;

‘constituency’ means a constituency described in the Second Schedule of the *Constitution*;

‘Court of Disputed Returns’ means the Court referred to in Section 95;

‘days’ includes Saturdays, Sundays and public holidays;

‘declaration’, in relation to an election, means a declaration made under Section 88;

‘District’ means each of the following Districts, namely, Aiwo, Anabar, Anibare, Anetan, Baitisi, Boe, Buada, Denigomodu, Ewa, Ijuw, Meneng, Nibok, Uaboe and Yaren, being Districts into which the Republic is divided by the customs of the Nauruan people;

‘early voting’ refers to the provision of facilities to allow those voters who, due to prescribed circumstances cannot attend a polling station on polling day to vote prior to polling day;

[def insrt Act 6 of 2019 s 4, opn 10 May 2019; am Act 8 of 2022 s 15, opn 8 June 2022]

‘election’ means:

- (a) a general election of members;
- (b) a by-election; or
- (c) a supplementary election;

‘election official’ means:

- (a) a presiding officer; or
- (b) other election official;

‘Electoral Commission’ means the Electoral Commission established by Section 4;

‘Electoral Commissioner’ means the office of an Electoral Commissioner established by Section 14;

[def am Act 18 of 2021 s 21, opn 14 Sep 2021]

‘force majeure’ includes storm, tempest, flood or any other natural disaster whether actual or imminent and other circumstances such as structural damage to polling stations, loss of electricity, insufficient material or staff to conduct polling;

‘Government resources’ includes information, material, staff, buildings, office space, vehicles, computers, printers, facsimile, email and internet access;

‘instrumentality of the Republic’ includes for the purpose of Section 121, a statutory corporation or authority listed in paragraphs 3 to 9 of Schedule 10 or a corporation owned and controlled by Government and subject to Cabinet or Ministerial direction;

‘member’ means an elected member of the Parliament;

‘Minister’ means the Minister responsible for the administration of this Act;

‘mobile polling station’ means polling stations determined by the Electoral Commissioner under Section 63;

‘Nauruan’ means a person, other than a person who has ceased to be a Nauruan citizen under a law made under Article 75 of the *Constitution*, who is a citizen of Nauru under:

- (a) Article 71, 72, 73 or 74; or
- (b) a law made under Article 75;

‘nomination day’, in relation to an election, means the day which is the fourteenth day before polling day commencing at 9:00 am;

‘petition’ means a petition under Section 93;

‘polling day’, in relation to an election, means the day fixed in the writ for the election as the day when the poll is to be taken;

‘polling station’ in relation to an election, means a place at which the poll is to be taken and that has been notified under Section 62(b);

‘presiding officer’ means a person appointed under Section 28(1)(a);

‘proxy voting’ means a form of voting permitted under Section 78;

‘Registrar’ means the Registrar of the Electoral Commission appointed under Section 24;

[def insrt Act 18 of 2021 s 4, opn 14 Sep 2021]

‘Returning Officer’ means an Electoral Commissioner as referred to in Section 19(3);

[def am Act 18 of 2021 s 21, opn 14 Sep 2021]

‘Roll’ means a roll of voters kept in accordance with Section 37;

‘Speaker’s Residence’ means the official residence from time to time of the Speaker of Parliament;

‘State House’ means the official residence from time to time of the President;

‘supplementary election’ means an election held under the circumstances described in Section 60;

‘Supreme Court’ means the Supreme Court as established under Article 48(1) of the *Constitution*;

‘vacancy’ means any vacancy occurring in a seat of Parliament other than a vacancy under Article 32(1)(a) of the *Constitution*; and

‘voter’ means a Nauruan who is eligible to vote and whose name appears on a Roll.

[The next page is 390,801]

PART 2 — THE ELECTORAL COMMISSION

4 Establishment of the Electoral Commission

- (1) This Section establishes the Electoral Commission.
- (2) The composition of the Electoral Commission shall consist of 3 Electoral Commissioners appointed under Section 14.

[subs (2) subst Act 18 of 2021 s 5, opn 14 Sep 2021]

- (3) An Electoral Commissioner shall swear an oath of office before a Judge of the Supreme Court as provided in Schedule 1.

[subs (3) subst Act 18 of 2021 s 5, opn 14 Sep 2021]

5 Status of the Electoral Commission

The Electoral Commission is a body corporate with a common seal, may sue and be sued, enter into contracts and with powers to do all acts and things that are necessary for or incidental to the performance of its functions under this Act.

6 Functions of the Electoral Commission

- (1) The Electoral Commission has the general duty, responsibility and authority to formulate policy, the registration of voters for the election of members of Parliament and the conduct of elections in accordance with this Act, including responsibility and authority with respect to the following matters:
 - (a) registration and transfer of registration of voters;
 - (b) receipt and return of the writ of an election in accordance with Section 56;
 - (c) monitoring and enforcing compliance with this Act;
 - (d) issuance of a code of conduct for the effective conduct of the elections; and
 - (e) has such other functions as are conferred upon it by any other written law.

[subs (1) am Act 8 of 2022 s 5, opn 8 June 2022]

- (2) The Electoral Commission shall ensure that voter information and education programmes are established and implemented from time to time to assist voters in exercising their rights and for the effective conduct of the elections.
- (3) The Electoral Commission shall have the authority to appoint, remove and take disciplinary action against any employee of the Electoral Commission, and shall have the authority to determine all matters relating to the employment of all staff in the Electoral Commission including the:
 - (a) terms and conditions of employment;
 - (b) qualification requirements for appointment and the process to be followed for appointment, which shall be an open, transparent and competitive selection process based on merit;
 - (c) salaries, benefits and allowances payable in accordance with the budget of the Electoral Commission; and
 - (d) total number of staff that are required to be appointed in accordance with the budget of the Electoral Commission.

(4) In appointing a person to the Electoral Commission, the Electoral Commission shall ensure the independence, impartiality and integrity of the Electoral Commission is upheld and maintained.

[subs (4) am Act 18 of 2021 s 21, opn 14 Sep 2021]

(5) In exercising its powers to remove or to take disciplinary action against any employee of the Electoral Commission, the Electoral Commission shall ensure that the process followed in the exercise of its powers is transparent and is in accordance with the Code of Conduct adopted by the Electoral Commission.

[subs (5) am Act 18 of 2021 s 21, opn 14 Sep 2021]

7 Protection from liability

The Office of the Electoral Commission, Electoral Commissioners, Registrar, presiding officers and other election officials and staff shall not be liable in any civil or criminal proceedings for any act or matter done or omitted to be done in good faith in the *bona fide* exercise or attempted exercise of any of the powers, functions and duties conferred by this Act.

[s 7 am Act 18 of 2021 s 6, opn 14 Sep 2021]

8 Meetings of the Electoral Commission

(1) The Electoral Commission shall meet as and when required to for the purposes of carrying out its functions or exercising its powers in accordance with this Act.

(2) The quorum for a meeting of the Electoral Commission shall not be less than 2 Electoral Commissioners at any given time.

(3) The decision of the majority of the Electoral Commissioners present at the meeting shall be the decision of the Electoral Commission.

(4) Where in a meeting of the Electoral Commission, only 2 Electoral Commissioners are present and a majority decision is not reached, the Electoral Commission shall re-constitute with the 3 Electoral Commissioners to reconsider its decision.

(5) The secretary shall attend all meetings of the Electoral Commission and in his or her absence from the Republic, the Registrar shall in consultation with the Electoral Commissioners, nominate a senior staff of the Electoral Commission to attend and perform the secretary's functions in such meetings.

(6) The secretary shall keep minutes of the meetings of the Electoral Commission as records of the Electoral Commission.

(7) The minutes of the meetings with any amendment shall be adopted by the Electoral Commission in a subsequent meeting, which shall be executed by the secretary, as the record of the meeting.

(8) The Electoral Commission shall determine its own procedure for its meetings.

[s 8 subst Act 18 of 2021 s 7, opn 14 Sep 2021]

9 Independence of the Electoral Commission

(1) Subject to any decision of a court, in the performance of its functions and in exercise of its powers, the Electoral Commission is not subject to the direction or control of a person or authority.

- (2) Notwithstanding subsection (1), the Electoral Commission may consult the Minister or any other person on any matter.

10 Impartiality in election administration

- (1) An Electoral Commissioner shall:
- (a) conduct his or her duties and functions and exercise his or her powers with the utmost impartiality, in compliance with the *Constitution* and the law and without regard to any political or personal factor; and
 - (b) refrain from participating in any decision in the course of his or her work that raises a conflict of interest, and where it raises a conflict of interest the Electoral Commissioner in question shall on notice immediately provide to his or her appointing authority a written explanation on the matter.
- (2) In relation to subsection (1)(b), the President may, on his or her consideration of the written explanation provided, take no further action or decide that action be taken against the offending Electoral Commissioner or if the case is of a serious nature, refer the matter for proceedings to be taken against the Electoral Commissioner in accordance with Section 23 or 27.

[s 10 am Act 8 of 2022 s 15, opn 8 June 2022]

11 Transparency in election administration

All activities of the Electoral Commission, Electoral Commissioner, Deputy Commissioners, presiding officers and other election officials shall be conducted in a transparent manner including as follows:

- (a) at any time an election is held the Electoral Commission shall submit a post-election report within 3 months of the date of election to the Parliament concerning the conduct of the election including recommendations for changes that may be considered for implementation before the next election; and
- (b) the submission of an Annual Report, which shall include an audited statement of the Electoral Commission's financial affairs for the year of the report to the Parliament concerning the operation of the Electoral Commission and may submit additional reports.

12 Funding of the Electoral Commission

Parliament shall ensure that the Electoral Commission is allocated sufficient resources from the national budget for the timely and effective performance of its duties and functions.

13 Financial authorities

Despite the *Public Finance (Control and Management) Act 1997*, the Electoral Commission is authorised to conduct public procurement procedures through simplified and expedited means as agreed to by the Minister for the purpose of the effective conduct of elections.

[s 13 am Act 18 of 2021 s 21, opn 14 Sep 2021]

14 Appointment of an Electoral Commissioner

- (1) This Section establishes the office of an Electoral Commissioner.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) An Electoral Commissioner is appointed by the President, acting on the advice of the Cabinet, and exercises the responsibilities, functions, duties and powers conferred on him or her by this Act.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (3) A person is qualified for appointment as an Electoral Commissioner if he or she:

- (a) is a person qualified to be a Judge of the Supreme Court and who possesses knowledge and experience relevant to electoral laws, policy and systems and the conduct or administration of national elections; or
- (b) has held senior leadership and management positions in the Republic or elsewhere and who is competent and has a proven record in the positions that he or she has held or has extensive knowledge of electoral laws, policy and systems, and relevant experience in the management, conduct or administration of national elections.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

15 Term of appointment of an Electoral Commissioner

- (1) An Electoral Commissioner is appointed for a period of 4 years on terms and conditions approved by the Cabinet.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The appointment of an Electoral Commissioner shall be gazetted within 7 days of appointment.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (3) [subs (3) rep Act 18 of 2021 s 8, opn 14 Sep 2021]

[s 15 am Act 18 of 2021 s 21, opn 14 Sep 2021]

16 Disqualification from appointment as an Electoral Commissioner

- (1) A person is not qualified to be appointed or hold the office of an Electoral Commissioner if he or she:

- (a) is an undischarged bankrupt or insolvent and who has been declared bankrupt or insolvent according to law;
- (b) is a person certified or otherwise adjudged according to law to be intellectually impaired;
- (c) has been convicted and is under sentence or is subject to be sentenced for an offence punishable according to law by death or by imprisonment for 1 year or longer; or
- (d) holds an office of profit in the service of the Republic or of a statutory corporation, being an office prescribed as such by Section 59(1) for the purposes of this Act.

[subs (1) am and renum Act 18 of 2021 s 9, opn 14 Sep 2021]

- (2) An Electoral Commissioner shall be deemed to be disqualified from holding office as an Electoral Commissioner and that office becomes immediately vacant, where he or she:

- (a) intends to be a candidate in an election; or
- (b) has actual or constructive knowledge that his or her parent, spouse, son, daughter, brother or sister intends to be a candidate in an election.

[subs (2) insrt Act 18 of 2021 s 9, opn 14 Sep 2021]

- (3) Where an Electoral Commissioner knowingly continues to hold office as an

Electoral Commissioner with actual or constructive knowledge of the matters contained in subsection (2), he or she:

- (a) is not qualified to contest an election; and
- (b) commits an offence of abuse of public office under the *Crimes Act 2016*.

[subs (3) insrt Act 18 of 2021 s 9, opn 14 Sep 2021]

[s 16 am Act 18 of 2021 s 21, opn 14 Sep 2021]

17 Remuneration

- (1) An Electoral Commissioner shall be paid such salaries, allowances and benefits equivalent to or above that of the Chief Secretary.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) Where the salaries, allowances and benefits are above that of the Chief Secretary, such salaries, allowances and benefits are subject to the determination of the Cabinet.
- (3) The salaries, allowances and benefits under subsection (1) shall not be reduced during the term of office.

18 Independence of the Electoral Commission

- (1) The Electoral Commission is independent and is not subject to the direction or control of a person or authority in the exercise of any function or duty under this Act.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) Subject to subsection (1), the Electoral Commission may consult with the Minister or any other person on any matter.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

[s 18 am Act 18 of 2021 s 21, opn 14 Sep 2021]

19 Functions of an Electoral Commissioner

- (1) An Electoral Commissioner has a general duty and responsibility to administer the registration of voters, the conduct of election of members of Parliament and provide leadership and direction to the Commission.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) An Electoral Commissioner shall perform the following functions:
 - (a) to conduct and manage elections and ensure efficient delivery of polling services including the conduct of voting, counting, tabulation, declaration and publication of election results ensuring the highest degree of integrity and transparency;
 - (b) to advise the President, the Parliament and any Committee of Parliament, through the Speaker, and the Government concerning the Republic's electoral system, policies and laws;
 - (c) to provide reasonable and appropriate assistance and advice to the Speaker, Members of Parliament, the Clerk of Parliament, and candidates;
 - (d) to undertake the long term planning for the proper conduct of elections and the establishment and maintenance of proper and accurate records and rolls;
 - (e) to establish and maintain an impartial and independent electoral system for voters;

- (f) to consider and determine applications by voters for transfer between Districts;
- (g) to devise, undertake and review programmes of education for voters, candidates and others involved in elections;
- (h) to publish for general information, such data and reports on elections as an Electoral Commissioner thinks fit;
- (i) to oversee, manage and implement electoral boundary redistributions;
- (j) to make proposals for electoral law reform designed to strengthen and improve the process of voting and related matters;
- (k) to promote fairness and equal opportunities for all candidates and to prevent abuse;
- (l) to regulate the use of radio, television, internet and other political notices, reports, appeals and advertising during the election period; and
- (m) to perform any other functions as conferred by this Act or any other written law.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (3) An Electoral Commissioner shall serve as the Returning Officer and is entrusted with the duty to effectively carry out and deliver on the functions specified in subsection (2)(a).

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

[s 19 am Act 18 of 2021 s 21, opn 14 Sep 2021]

20 Exercise of powers of an Electoral Commissioner

- (1) An Electoral Commissioner shall conduct his or her duties and exercise his or her powers in an impartial manner and in accordance with the law.
- (2) Except as provided in this Act, and without diluting his or her duties and responsibilities specified in Section 19, an Electoral Commissioner may delegate to the Registrar his or her functions specified in Section 19(2)(b) to (l) and may issue to election officials such directions in writing or otherwise as he or she from time to time considers necessary to ensure the effective performance of their functions.

[subs (2) am Act 18 of 2021 s 10, opn 14 Sep 2021]

- (3) In the course of performing his or her functions, an Electoral Commissioner may correct any error, omission or duplication or any application, the Roll, voter lists or any other document made or issued under this Act which appears to have been made in error.

21 Assistance of departments and instrumentalities of the Republic

- (1) The Electoral Commission may, in consultation with the Chief Secretary, request any government department and instrumentality of the Republic for assistance to facilitate the effective organisation and implementation of an election.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The assistance required under subsection (1) may include the provision of any information, material, personnel, staff, vehicles or any other relevant form of assistance.
- (3) Any government department or instrumentality of the Republic shall on a request made under subsection (1) do all it reasonably can to comply with the request in a timely manner and within its available resources.

22 Resignation of an Electoral Commissioner

(1) An Electoral Commissioner may resign by notice in writing addressed to the President and copied to the Speaker of Parliament.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

(2) The resignation takes effect, and the office becomes vacant either:

(a) at such time or on such date, if any, as may be specified in the notice;
or

(b) when the notice is received by the President or by such other person as may be authorised by the President to receive it,
whichever is the later.

[s 22 am Act 18 of 2021 s 21, opn 14 Sep 2021]

23 Removal of Electoral Commissioner

(1) An Electoral Commissioner may not be removed from office on the grounds of incapacity, negligence, incompetence or misconduct except by a resolution of Parliament approved by not less than two-thirds of the total number of members of Parliament.

(2) This Section does not apply to an Electoral Commissioner who is not qualified to hold the office of an Electoral Commissioner under Section 16.

[s 23 subst Act 18 of 2021 s 11, opn 14 Sep 2021]

24 Registrar of the Electoral Commission

(1) There shall be a Registrar of the Electoral Commission, who shall be:

(a) the administrative head of the Electoral Commission; and
(b) the secretary to the Electoral Commission.

(2) The Registrar shall be appointed by the President acting on the advice of the Cabinet.

(3) The Registrar shall be appointed for a period of 4 years on terms and conditions approved by the Cabinet.

(4) The qualifications for the Registrar shall be determined by the President in consultation with the Electoral Commission.

[s 24 subst Act 18 of 2021 s 12, opn 14 Sep 2021]

25 Functions of Registrar

The Registrar shall:

- (a) be the administrative head of the Electoral Commission;
- (b) oversee the daily management and operations of the Electoral Commission;
- (c) have organisational, management and administrative control over the staff of the Electoral Commission;
- (d) implement the directions or decisions of the Electoral Commission;
- (e) compile and maintain the records of the Electoral Commission;
- (f) exercise general administrative direction and supervision over the conduct of elections;
- (g) may issue directions to election officials as he or she may from time to time deem necessary to ensure effective execution of their duties;
- (h) with the consultation and approval of the Electoral Commission, may:
 - (i) correct any error, omission or duplication in the electoral rolls;
 - (ii) on an application of a voter, amend the roll to record his or her name, address or occupation; and

- (iii) strike off or update the electoral rolls, where he or she has reason to believe that a voter is deceased or disqualified from registration;
- (i) ensure that applications for registration or transfer of voters are carried out in accordance with the requirements of this Act and in a timely manner;
- (j) supervise the formation and development of a corporate and strategic plan for the Electoral Commission; and
- (k) carry out such functions and exercise such powers as may be delegated to him or her by the Electoral Commission.

[s 25 subst Act 18 of 2021 s 13, opn 14 Sep 2021]

26 Resignation of Registrar

- (1) The Registrar may resign in writing to the Electoral Commission.
- (2) The resignation takes effect on the date approved by the Electoral Commission acting in consultation with the President.

[s 26 subst Act 18 of 2021 s 14, opn 14 Sep 2021]

27 Disqualification and removal of Registrar

- (1) A person is not qualified to be appointed as the Registrar, if he or she:
 - (a) is an undischarged bankrupt, insolvent or who has been declared bankrupt or insolvent according to law;
 - (b) is a person certified or otherwise adjudged according to law to be intellectually impaired;
 - (c) has been convicted and is under sentence or is subject to be sentenced for an offence punishable according to law by imprisonment for 1 year or longer; or
 - (d) holds an office of profit in the service of the Republic or of a statutory corporation, being an office prescribed as such by Section 59(1) for the purposes of this Act.
- (2) The Registrar may be removed from office by the President in consultation with the Electoral Commission:
 - (a) for proven misconduct in the performance of his or her functions or duties under this Act;
 - (b) for incompetence, persistent failure or negligence;
 - (c) if convicted of a criminal offence, the maximum punishment for which is more than 12 months imprisonment;
 - (d) if declared bankrupt or becomes insolvent; or
 - (e) if there is a conflict of interest which directly or indirectly relates to the functions of the Registrar.
- (3) The provisions of Section 16(2) and (3) in relation to deemed disqualification of Electoral Commissioners, *mutatis mutandis* apply to the Registrar.

[s 27 subst Act 18 of 2021 s 15, opn 14 Sep 2021]

28 Appointment of presiding officers and other election official

- (1) The Electoral Commission may appoint persons with relevant qualifications, knowledge and experience of electoral systems to the positions of:
 - (a) presiding officers;

- (b) other election officials as required to carry out the provisions of this Act; and
- (c) substitutes for any persons appointed under paragraph (a) or (b) to act in case of their illness, absence, death or removal.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) An appointment made under subsection (1) may be for a term of years or months as determined by the Electoral Commission and shall be published in the Gazette within 14 days from the date of appointment.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (3) In making an appointment under subsection (1), the Electoral Commission may, if it considers it desirable, consult with the Minister.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (4) Before taking office, a presiding officer shall, before the Electoral Commission, swear an oath as provided in Schedule 1.

[subs (4) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (5) Section 10 applies to the presiding officers and other election officials to the extent that they are to conduct themselves in accordance with subsection (1)(a) and (b) of that Section and in the case of subsection (1)(b), the Electoral Commission may on its consideration of the explanation provided, take no further action or decide that action be taken against the offending officer or if the case is of a serious nature, refer the matter for proceedings to be taken against the officer in accordance with Section 32.

[subs (5) am Act 18 of 2021 s 21, opn 14 Sep 2021]

29 Duty of presiding officer

- (1) A presiding officer is to preside and be responsible for the conduct of the election in accordance with this Act at the polling station to which he or she is assigned.
- (2) The presiding officer, on polling day, shall:
 - (a) be present at the relevant polling station for the duration of the poll at that station; and
 - (b) receive the votes of all persons whose names are on the Roll for that polling station and who appear and apply for a ballot paper.
- (3) The presiding officer is responsible for the orderly conduct of the voting process at the polling station to which he or she is assigned.
- (4) Every presiding officer shall keep the peace, and may cause to be removed from a polling station a person who:
 - (a) obstructs the approaches to a polling station;
 - (b) wilfully and unnecessarily obstructs the procedures at the polling station;
 - (c) conducts himself or herself in a disorderly way, or causes a disturbance;
 - (d) wilfully acts in defiance of the lawful directions of an Electoral Commissioner or presiding officer or other officials at the polling station; or
 - (e) is unlawfully present within the polling station.

[subs (4) am Act 18 of 2021 s 21, opn 14 Sep 2021]

30 Police to assist

- (1) The Electoral Commission may request the Commissioner of Police or any

police officer to provide assistance in the conduct of elections at the polling stations and during the scrutiny and counting of ballot papers.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) All police officers shall, when circumstances demand, assist the Electoral Commission, presiding officers and election officials in maintaining order and security at polling stations and at the scrutiny and count of ballot papers.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

31 Resignation of presiding officer

- (1) A presiding officer may resign by notice in writing addressed to the Electoral Commission, copied to the Minister.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The resignation takes effect, and the office becomes vacant either:
- (a) at such time or on such date, if any, as may be specified in the notice; or
 - (b) when the notice is received by the Commissioner or by such other person as may be authorised by the Commissioner to receive it, whichever is the later.

32 Removal of presiding officer and other election official

- (1) A presiding officer and other election official may be removed from office by the Electoral Commission:

- (a) for proven misconduct in the performance of his or her functions and duties under this Act;
- (b) incompetence, persistent failure or negligence;
- (c) if convicted of a criminal offence, the maximum punishment for which is 1 year; or
- (d) if declared a bankrupt or becomes insolvent.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The Electoral Commission may, if it considers it desirable, consult with the Minister.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

33 Observers

The Electoral Commissioners may jointly invite a person, organisation or entity to be observers on any election on such terms of reference as determined by the Electoral Commissioners.

[s 33 am Act 18 of 2021 s 16, opn 14 Sep 2021]

[The next page is 391,001]

PART 3 — CONSTITUENCIES AND ELECTORAL ROLL

34 Constituencies

- (1) The members to be elected for the respective constituencies are as follows:
 - (a) 2 members for Aiwo;
 - (b) 2 members for Anabar;
 - (c) 2 members for Anetan;
 - (d) 2 members for Boe;
 - (e) 2 members for Buada;
 - (f) 3 members for Meneng;
 - (g) 4 members for Ubenide; and
 - (h) 2 members for Yaren.
- (2) Any amendment made to this Act altering the number of members to be elected for a constituency has effect from the day of the next general election after the commencement of the amendment.

35 Presidential residence

The President of the Republic is deemed to be residing in that District where he or she would ordinarily be residing were he or she not the President and occupying the State House.

36 Speaker's Residence

The Speaker of the Parliament of the Republic is deemed to be residing in that District where he or she would ordinarily be residing were he or she not the Speaker of Parliament and occupying the Speaker's residence.

37 Roll of voters

- (1) There is a Roll of voters to be kept by the Electoral Commission that contains the name of all voters.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The Roll is classified into Districts with each voter's name entered into the District the voter has registered in under Section 39 or 45.
- (3) The Roll is to be updated from time to time following consultations between the Electoral Commission and the Registrar for Births, Deaths and Marriages.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

38 Qualification for automatic registration of voters

Subject to the provisions of the *Constitution* and of this Act, a person is qualified to be automatically registered as a voter if he or she has attained the age of 20 years and is a Nauruan citizen.

39 Automatic registration of voters

- (1) A person who is registered in the Register for Births at the office of the Registrar of Births, Deaths and Marriages is, upon attaining the age of 20, automatically entered into the Roll of voters maintained under Section 37.

- (2) Every person is entitled to have his or her name in the Roll for the District for which he or she is registered under Section 9 of the *Births, Deaths and Marriages Registration Act 2017*.

[subs (2) subst Act 6 of 2019 s 5, opn 10 May 2019]

- (3) It is the duty of the Registrar for Births, Deaths and Marriages, consistent with Section 37(3), to advise and provide for the benefit of the Electoral Commissioner, such information, data and material to give full effect to subsection (1) to enable the updating of the Roll.

- (4) A person who is registered under subsection (1), may apply for the transfer of his or her name from the Roll of a District in which his or her name is entered under subsection (2) to the Roll of another District if the person is entitled under Section 42 to have his or her name entered on the Roll of that other District.

[subs (4) insrt Act 23 of 2016 s 5, opn 12 May 2016]

- (5) An application made under subsection (4) shall be in Form 2 of Schedule 2.

[subs (5) insrt Act 23 of 2016 s 5, opn 12 May 2016]

- (6) An application made under subsection (4) is exempted from the payment of any fee.

[subs (6) insrt Act 23 of 2016 s 5, opn 12 May 2016]

40 Persons not entered in the Roll compiled under Section 39

An eligible voter whose name is not entered in the Roll compiled in accordance with Section 39, may apply in Form 1 of Schedule 2 for the entry of his or her name based on any of the criteria specified in Section 42.

41 Application and entitlement for transfer of registration

- (1) A person may apply for the transfer of his or her name from the Roll for a District in which his or her name is entered in the Roll of another District if the person is entitled under Section 42 to have his or her name entered in the Roll of the District he or she wishes to have his or her registration transferred to.
- (2) If he or she is entitled under Section 42(2) to have his or her name entered in the Roll of his or her choice, he or she is not entitled to have his or her name transferred in the Roll for another District unless he or she is entitled to have his or her name entered in the Roll for the other District under Section 42(1).
- (3) An application for a transfer of registration shall be:
- (a) made in Form 2 of Schedule 2;
 - (b) accompanied by a fee of \$1,000; and
 - (c) subject to the limitations imposed by Section 47.

[subs (3) am Act 2 of 2020 s 4, opn 28 Jan 2020; Act 8 of 2022 s 6, opn 8 June 2022]

42 Criteria for entitlement for entry in the Roll in respect of applications for registration or transfer of registration

- (1) The Roll on which a person is entitled to have his or her name entered is:
- (a) the Roll for the District in which he or she is currently living and has been living for not less than 1 month;

- (b) if he or she is living outside the Republic, the District in which he or she had been living for not less than 1 month immediately before he or she ceased to live in the Republic;
- (c) the Roll for the District that is entered in the Register of Births maintained under Section 9 of the *Births, Deaths and Marriages Registration Act 2017*;
- (d) in any register or record of births certified under Section 8 of the *Births, Deaths and Marriages Registration Act 2017* as his or her place of birth; or
- (e) the Roll in respect of a District with which the Electoral Commission has certified in accordance with Schedule 3 that he or she has substantial connection through:
 - (i) Nauruan custom, customary links and affiliation;
 - (ii) birth by either his or her parent in that District;
 - (iii) the registration for any electoral purposes of either his or her parent in that District; or
 - (iv) his or her spouse being born in that District or registered for the purposes of this Act in that District.

[subs (1) am Act 6 of 2019 s 6, opn 10 May 2019; Act 18 of 2021 s 21, opn 14 Sep 2021; Act 8 of 2022 s 7, opn 8 June 2022]

- (2) A person is entitled to have his or her name entered in a Roll of his or her choice if he or she:
 - (a) is unable to satisfy the enrolment requirements of Section 42(1)(a) and 42(1)(b) because he or she has never lived:
 - (i) in the Republic; or
 - (ii) in one District for not less than 1 month; and
 - (b) is unable to satisfy the enrolment requirements of Section 42(1)(c) and 42(1)(d) because he or she:
 - (i) is not registered in the Register of Births; and
 - (ii) does not have a certified District of birth under Section 8 of the *Births Deaths and Marriages Registration Act 2017*.

[subs (2) am Act 6 of 2019 s 6, opn 10 May 2019]

- (3) For the purposes of this Section, '*Nauruan custom or customary links and affiliation*' includes customary adoptions, de facto relations or land ownership.

[subs (3) insrt Act 6 of 2019 s 6, opn 10 May 2019; am Act 8 of 2022 s 7, opn 8 June 2022]

- (4) Where an application for transfer is made under subsection (1)(e)(i) on the ground of Nauruan custom, customary links and affiliation, the Electoral Commission shall:
 - (a) process the application based on all the information provided;
 - (b) make a recommendation to either grant or reject the application to the Cabinet;
 - (c) approve or reject the application under Section 45 after considering any recommendation from the Cabinet; and
 - (d) make its decision in respect of this criterion within 21 days of receiving the application notwithstanding Section 45(4).

[subs (4) insrt Act 17 of 2024 s 4, opn 20 Aug 2024]

43 Proof of entitlement to register

- (1) A person who intends to apply to have his or her name entered on or

transferred to a Roll under Section 42 shall submit his or her application in Form 1 of Schedule 2 in relation to registration or Form 2 of Schedule 2 in relation to transfer of registration and have the form witnessed in accordance with subsection (3).

- (2) A person, other than the applicant, may on his or her own initiative, make a statutory declaration in Form 3 of Schedule 2 or provide relevant evidence in another form in support of an application made under Sections 39 and 41 and have the form witnessed in accordance with subsection (3).
- (3) A form submitted for the purpose of subsection (1) and (2) shall only be witnessed by:
 - (a) barrister and solicitor;
 - (b) a pleader;
 - (c) a commissioner for oaths; or
 - (d) any other person appointed by the Electoral Commission to be a witness.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

44 Electoral Commission to enquire

The Electoral Commission may enquire into an application made to verify the information provided by the applicant against the grounds and criteria specified in Sections 41 and 42.

[s 44 am Act 18 of 2021 s 21, opn 14 Sep 2021; Act 8 of 2022 s 8, opn 8 June 2022]

45 Consideration, approval or rejection of application for registration or transfer

- (1) On receiving an application under Section 40 or 41, the Electoral Commission shall:
 - (a) if satisfied that the person is entitled to have his or her name entered in the Roll on which he or she has applied, enter it in that Roll; or
 - (b) if not satisfied that the person is entitled to have his or her name entered in the Roll on which he or she has applied, reject the application and issue a notice under Section 48.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) In relation to subsection (1), the Electoral Commission shall, in order to be satisfied that a person is entitled to have his or her name entered in the Roll on which he or she has applied to have it entered:
 - (a) if the application is based on entitlement under Section 42(1)(a), have received a statutory declaration in accordance with Section 43(1) and conducted its own enquiry on the basis of the application and its merit in accordance with Section 44; and
 - (b) if the application is based on entitlement under Section 42(1)(c), have verified in the Register of Births that the details of registration stated on the application form are correct.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (3) Where a person makes an application based on his or her entitlement of choice under Section 42(2), the Electoral Commission:
 - (a) may require him or her to provide evidence that he or she is entitled to be registered under Section 42(2); and

(b) shall make its own enquiry on the basis of the person's application and its merits in accordance with Section 44.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

(4) The Electoral Commission shall consider and determine an application for transfer made under Section 41 within 7 days of the receipt of the application.

[subs (4) insrt Act 18 of 2021 s 17, opn 14 Sep 2021]

(5) Where the Electoral Commission fails to determine the application for transfer made under Section 41 within 7 days, the applicant may seek an order from the Supreme Court directing the Electoral Commission to determine the application or consider and determine the application, as if it were an appeal under Section 49.

[subs (5) insrt Act 18 of 2021 s 17, opn 14 Sep 2021]

46 Gazettal of registration and transfer

Within 5 days after making an entry on a Roll under Section 45(1)(a), the Electoral Commission shall publish in the Gazette the details of the entry, specifying:

- (a) the name of the person entered in the Roll;
- (b) the name of the District in which the person is registered; and
- (c) the grounds of the person's entitlement to be registered in that District.

[s 46 am Act 18 of 2021 s 21, opn 14 Sep 2021]

47 Restriction on transfer of registration

- (1) A transfer of registration shall not be made:
- (a) within 4 years of the last transfer;
 - (b) after 5:00pm, 21 days before polling day; or
 - (c) for the purposes of a by-election as a result of a vacancy created during the term of the Parliament.

[subs (1) am Act 17 of 2024 s 5, opn 20 Aug 2024]

(2) A person who transfers is not eligible to vote in the transferring District for a by-election during the term of the Parliament for which he or she has already voted in the general election in another District.

(3) A person who has transferred Districts following a general election shall be eligible to vote in a by-election in the District he or she had voted in the general election for that term of the Parliament.

[s 47 subst Act X of 2018 s 4, opn 6 Mar 2018]

48 Notice of reasons for rejection of application

Where the Electoral Commission rejects an application under Section 45(1)(b), the Electoral Commissioner shall, as soon as practicable, give the applicant a notice as prescribed in Schedule 4.

[s 48 am Act 18 of 2021 s 21, opn 14 Sep 2021]

49 Appeal in relation to registration

- (1) This Section applies to a person:
- (a) whose name has been struck off the Roll for a District under Section 53(1); and

- (b) whose application to the Electoral Commission to have his or her name entered on the Roll for a District has been rejected under Section 45(1)(b).

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) Subject to subsection (7), the person shall, within 7 days after receiving notice under Section 48 or 53, apply to the Supreme Court for an order directing that his or her name be entered on that Roll.

- (3) The Electoral Commission is the respondent on the application.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (4) The Court shall hear and make an order on the application within 7 days of receiving the application and have a certified copy of the order forwarded to the applicant and the Electoral Commission.

[subs (4) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (5) Where an application made under subsection (1)(a) is successful, the Electoral Commission shall reinstate the name of the applicant.

[subs (5) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (6) Where an application made under subsection (1)(b) is successful, the Electoral Commission shall enter the applicant's name in the Roll for the relevant District.

[subs (6) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (7) No application for appeal may be made to the Supreme Court under this Section less than 10 days before polling day.

50 Electoral Commission to keep Roll

- (1) The Electoral Commission maintains the Roll for each District.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) Where a writ for an election in a constituency has been issued, the Roll for a District that comprises or is part of that constituency closes at 5:00 pm 21 days before polling day.

- (3) Where no petition is filed with the Court of Disputed Returns under Section 93, the Roll shall re-open 31 days after the official declaration and notification of results is made under Section 88.

- (4) Where a petition is filed with the Court of Disputed Returns under Section 93, the Roll for that particular District or Districts remains closed until every petition has been heard and a decision has been made by the Court.

[s 50 am Act 18 of 2021 s 21, opn 14 Sep 2021]

51 Publication of Roll

- (1) The Electoral Commission shall at least once a year, publish in the Gazette the Roll as maintained under this Act.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) Despite subsection (1), if a writ for election has been issued, the Electoral Commissioner shall publish the Roll in the Gazette at least 5 days after the issuing of the writ.

- (3) A person may obtain a copy of the Roll published in accordance with subsections (1) and (2) on payment of a fee to be prescribed by the Electoral Commission.

52 Registrar of Births, Deaths and Marriages to notify Electoral Commission of death of voter

The Registrar of Births, Deaths and Marriages shall as soon as practicable after the registration of the death of a person who is a voter or qualified to be a voter, notify the Electoral Commission to enable the Electoral Commission to amend the Roll.

[s 52 am Act 18 of 2021 s 21, opn 14 Sep 2021]

53 Revision of Roll

- (1) The Electoral Commission may revise the Roll of voters to:
 - (a) correct any mistake or omission in the particulars of the registration of a person;
 - (b) remove from the Roll the name of a person who:
 - (i) is dead; or
 - (ii) has ceased to be a citizen of Nauru;
 - (c) enter any name removed by mistake, clerical error or false information;
 - (d) remove the name of a person who is not entitled to have his or her name entered on the Roll; or
 - (e) on the application of a voter, record a change of the person's name or other particulars entered in the Roll.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) Where the Electoral Commission has struck the name of a person off a Roll, the Electoral Commission shall, unless the person is dead, within 48 hours give the person a notice as prescribed in Schedule 5.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (3) The Electoral Commission shall not alter a Roll while it is closed under Section 50(2), except:
 - (a) to correct an error or omission;
 - (b) to remove the name of a person under subsection (1); or
 - (c) under an order made by the Supreme Court on an application under Section 49.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

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PART 4 — VOTERS

54 Voters

- (1) Voting is compulsory.
- (2) A person is a voter for a constituency if the person's name appears on the Roll for a District that comprises or is part of the constituency.
- (3) A voter is entitled to vote at the election of a member or members for the constituency for which he or she is a registered voter.
- (4) A voter shall vote at each election of a member or members for the District for which he or she is registered unless he or she:
 - (a) is absent from the Republic on polling day;
 - (b) is unable to vote because he or she is seriously ill or infirm; or
 - (c) has another valid and sufficient reason for not voting.
- (5) The Electoral Commission shall, as soon as possible after polling day, prepare and certify a list of the names and descriptions of the voters who failed to vote at the election.
[subs (5) am Act 18 of 2021 s 21, opn 14 Sep 2021]
- (6) The certified list under subsection (5) is evidence of the fact that a voter whose name appears in it did not vote at the election.
- (7) A voter, who does not vote and is not exempted under subsection (4) commits an offence under Section 110.

55 Notice to voters who fail to vote

- (1) Within 1 month after polling day at an election, a notice as prescribed in Schedule 6, will be sent to each voter whose name appears on the certified list of voters referred to in Section 54(5).
- (2) A voter to whom a notice has been sent under subsection (1) shall, within the time specified in the notice, which shall not be less than 14 days from the date on which the notice is sent, complete, sign in the presence of a witness who under this Act is a registered voter and return to the Electoral Commission a reply in accordance with the Form in Schedule 7.
- (3) Where the voter to whom a notice under this Section is addressed is unable, by reason of absence from his or her place of living or physical incapacity, to complete, sign and return the reply as required by this Section, any other voter having personal knowledge of the facts may complete, sign in the presence of a witness who under this Act is a registered voter, and return the form on behalf of the absent or incapacitated voter and the voter to whom the notice has been sent is deemed to have complied with subsection (2).
- (4) A person who does not comply with this Section commits an offence under Section 111.

[The next page is 391,401]

PART 5 — THE WRIT AND NOMINATIONS

56 Writ for elections

- (1) Where Parliament has been dissolved or a member has died or vacated his or her seat in accordance with Article 32 of the *Constitution*, the Speaker shall, subject in the case of a general election to compliance with Article 39, within 14 days of such dissolution, death or vacation cause a writ for the holding of an election in accordance with Form A or Form B of Schedule 8, as the case requires, to be issued to the Electoral Commission not later than 4 weeks before the polling day fixed by the Speaker in the writ.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The Electoral Commission shall publish in the Gazette the particulars of the writ, and the dates of the nomination day and the day when the Rolls will be closed for the election.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (3) The Speaker shall issue a writ of election for the purposes of this Act and where required by the *Constitution*.

[subs (3) insrt Act 6 of 2019 s 7, opn 10 May 2019]

57 Nomination of candidate

- (1) A person may be nominated as a candidate for election as a member for a constituency:
 - (a) if the Roll for the constituency for which he or she is being nominated has been closed in accordance with Section 50(2); and
 - (b) his or her name is entered in the Roll for the District which comprises, or is included in, that constituency.
- (2) A nomination of a candidate qualified to be elected as a Member of Parliament shall be delivered to the Electoral Commission at any time during official working hours from 9:00am on the day after the closing of the Roll and not later than 5:00pm 14 days before polling day.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (3) A written nomination of a person as a candidate shall be:
 - (a) made in the form prescribed in Schedule 9;
 - (b) signed by a minimum of 2 voters for the constituency for which the candidate is nominated;
 - (c) signed by the candidate; and
 - (d) accompanied by a signed code of conduct and a fee of \$500.

[subs (3) am Act 30 of 2016 s 4, opn 9 June 2016; Act 8 of 2022 s 9, opn 8 June 2022]

- (4) The fee specified in subsection (3)(d) is not refundable despite the candidate withdrawing his or her nomination in accordance with Section 58.

58 Withdrawal of candidature from election

- (1) A person who has been nominated as a candidate for election as a member

may, by notice in writing given to the Electoral Commission within 72 hours after the close of nominations, withdraw his or her candidature for that election.

[subs (1) am Act 6 of 2019 s 8, opn 10 May 2019; Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) A candidate for election as a member may have his or her nomination withdrawn if it is determined by the Electoral Commission that the candidate is not qualified to be a Member of Parliament under Articles 30 and 31 of the *Constitution*.

[subs (2) insrt Act 6 of 2019 s 8, opn 10 May 2019; am Act 18 of 2021 s 21, opn 14 Sep 2021]
[s 58 am Act 23 of 2016 s 8, opn 12 May 2016]

59 Prescription under Article 31(e) of the Constitution

- (1) In accordance with Article 31(e) of the *Constitution*, the holder of an office in any of the offices established or created under the Acts specified in Schedule 10 or in any instrumentality of the Republic, is hereby prescribed as an officer who holds an ‘**office of profit in the service of Nauru**’ for the purpose of the *Constitution* and this Act.

[subs (1) am Act 8 of 2022 s 10, opn 8 June 2022]

- (2) Despite subsection (1), for the purpose of this Section, an ‘**office of profit in the service of Nauru**’ does not include the office of the President, the office of the Speaker and Deputy Speaker of Parliament and the office of a Minister or an appointment held by a Minister by virtue of him or her being a Minister, Deputy Minister and Member of Parliament.

[subs (2) am Act 8 of 2022 s 10, opn 8 June 2022]

- (2A) A holder of an office of profit in the service of Nauru as prescribed under subsection (1), shall resign from his or her office 12 months before the dissolution of the full term of Parliament under Article 41(7) of the *Constitution*.

[subs (2A) insrt Act 8 of 2022 s 10, opn 8 June 2022; am Act 17 of 2024 s 6, opn 20 Aug 2024]

- (3) The holder of an office of profit in the service of Nauru as prescribed under subsection (1), shall:
- (a) in the case of a by-election;
 - (b) in the case of a supplementary election; or
 - (c) where Parliament is dissolved less than 3 years from the date of its first sitting under Article 41(7) of the *Constitution* and elections are held following that dissolution, resign within 5 days from the date the writ of election is published under Section 56.

[subs (3) subst Act 6 of 2019 s 9, opn 10 May 2019]

- (4) Where there is a conflict between this Act and any other written law, the provisions of this Act shall take precedence.

60 Failure of election

- (1) For the purposes of this Section, an election for a constituency fails if:
- (a) the required number of candidates for the constituency is not nominated or is not returned as elected; or
 - (b) after the day on which the names of candidates are published in accordance with Section 62 and within 72 hours after the close of nominations, a candidate dies.

- (2) Where an election for 1 or more of the constituencies fails, a new writ shall be issued immediately by the Speaker to the Electoral Commission in accordance with Form C of Schedule 8 for a supplementary election for the respective constituency or constituencies.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (3) Where an election for a constituency fails in consequence of the death of a candidate, the supplementary election shall be held on the Roll prepared for the purpose of the failed election.
- (4) For the purposes of issuing a new writ under subsection (2), the Speaker continues to hold the authority to issue the new writ until such time a new Speaker is elected.
- (5) For the avoidance of any doubt, where a new Speaker is elected, he or she shall issue the new writ for the purposes of subsection (2).
- (6) In the absence of the Speaker or where the Speaker is unable to perform the function under subsection (4), the Deputy Speaker shall perform such function.

[s 60 subst Act 6 of 2019 s 10, opn 10 May 2019]

61 Candidates who are unopposed to be declared elected

Where the number of candidates for a constituency is not greater than the number of members to be elected for that constituency, the Electoral Commissioner shall declare the candidate or candidates duly elected.

62 Publicising candidates, dates and polling stations

The Electoral Commission shall, after the close of the withdrawal period under Section 58 or as soon as possible after that day, by notice exhibited in a conspicuous place at or near the Government Offices, Yaren, and at designated places in the constituencies and by notice in the Gazette, publish:

- (a) the names of the candidates and the names of the first 2 voters by whom they have been nominated; and
- (b) if the number of candidates for a constituency is greater than the number of members to be elected, the date fixed by the Speaker in the writ as the date on which the poll is to be taken and the places determined by the Electoral Commissioner as the places at which the poll is to be taken in each District.

[s 62 am Act 6 of 2019 s 11, opn 10 May 2019; Act 18 of 2021 s 21, opn 14 Sep 2021]

63 Provision of mobile polling stations

- (1) The Electoral Commission may establish, where practicable, mobile polling stations in hospitals, care facilities, detention centres, and correctional facilities or anywhere in the Republic deemed appropriate for the effective conduct of elections for the purpose of Section 79.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) All mobile polling stations shall on nomination day or as soon as possible after that day, be published:
- (a) by notice exhibited in a conspicuous place at or near the Government Offices, Yaren;
- (b) at designated places in the constituencies; and
- (c) by notice in the Gazette.
- (3) Despite subsection (2), in exceptional circumstances, and on good cause

being shown, additional polling stations may be designated by the Electoral Commission for the purpose of affording an opportunity to vote to every voter who are for the time being resident in their own homes or other places and not in any of the institutions specified in Section 79(3)(a), and who, are of sound mind and have expressed a willingness to vote, but by reason of illness or infirmity, or, in the case of a woman by reason of approaching maternity, is unable to attend to a polling station to record their vote.

[subs (3) insrt Act 30 of 2016 s 5, opn 9 June 2016]

64 Determining order of candidates on ballot paper

- (1) Twenty four hours after the close of the period for withdrawal of nominations under Section 58, the Electoral Commission shall for each constituency for which an election is to be held:
 - (a) invite all candidates, who may be represented by their agent or nominee, to attend the determination of the order of candidates on the ballot paper at a specified place and time; and
 - (b) at the specified place and time:
 - (i) place in an opaque container, the same number of pieces of paper as there are candidates for the constituency, each piece of paper bearing a consecutive number, starting with the number '1' and being folded in such a manner that it is not possible to see the number;
 - (ii) invite each candidate or his or her agent or nominee, in turn to draw a piece of paper from the container; and
 - (iii) after all candidates or their agent or nominee present have drawn a piece of paper, draw a piece of paper from the container on behalf of each candidate who is not present.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The Electoral Commission shall record the name of the candidate and the respective number drawn in subsection (1).

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (3) The name of the candidate shall be listed on a ballot paper in the order that corresponds to the number drawn by or on behalf of each candidate under subsection (1).

65 Printing of names of candidates on ballot papers

- (1) The surname or family name of each candidate for election shall appear first and shall be followed by the candidate's other names on the ballot paper.
- (2) The surname or family name of each candidate is to be in a more conspicuous type than the other names on the ballot paper.
- (3) Where the Electoral Commission considers that a similarity in the names of 2 or more candidates is likely to cause confusion, a description or addition is to be included with each name to enable them to be distinguished from each other.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

[The next page is 391,601]

PART 6 — THE POLL

66 Polling times

(1) Subject to Section 61, every election shall be by secret ballot and the voting commences at 7:00am on polling day.

[subs (1) am Act 8 of 2022 s 11, opn 8 June 2022]

(2) Immediately after the last voter who was in the queue at 6:00pm has voted, the presiding officer shall announce the closure of the polls.

(3) The poll shall be taken at the place or places in each District notified by the Electoral Commission in accordance with Sections 62 and 63.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

(4) Despite subsection (2), a polling station notified under Sections 62 and 63 may be closed by the presiding officer, in consultation with the Electoral Commissioner, prior to 6:00pm if all voters registered at that polling station have voted.

67 Adjournment of polling

(1) The Electoral Commission may adjourn polling for the scheduled polling day or if polling has not commenced at a polling station:

- (a) in case of force majeure; or
- (b) for any other reason.

[subs (1) subst Act 6 of 2019 s 12, opn 10 May 2019; am Act 18 of 2021 s 21, opn 14 Sep 2021]

(2) Where a decision is made by the Electoral Commission under subsection (1) to adjourn polling, presiding officers shall post a public notice at the polling station to that effect, publish the notice immediately in the Gazette and broadcast the same on the radio and television.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

(3) Where the Electoral Commission adjourns the entire election, the Electoral Commissioner shall determine another date, no later than 7 days after the adjournment in subsection (1), and notify the public immediately by notice in the Gazette and broadcast the same on the radio and television.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

(4) For the avoidance of doubt, an adjourned election shall be held on the same Roll and candidates as if the adjournment was not made.

[subs (4) insrt Act 6 of 2019 s 12, opn 10 May 2019]

68 Polling station record book

(1) The Electoral Commission shall ensure that there is a record book provided for each polling station and under the control of the relevant presiding officer who shall record:

- (a) the names of all election officials and observers present during the polling;
- (b) the number of ballot papers received and a note of any missing election materials;
- (c) key events including the opening and closing times of the poll at the relevant polling station;

- (d) serial numbers of seal or seals used to secure ballot boxes;
- (e) names of assisted voters;
- (f) any disturbance or incidents that have taken place in or around the polling station and any requests made to the police; and
- (g) any complaints filed and decisions on complaints.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The record book may be accessed to assist in resolving a complaint made under this Part and for the purposes of Part 8.

69 Polling booths

- (1) At each polling station, there shall be one or more separate polling booths and the presiding officer shall ensure at all times the privacy and anonymity of the voter and secrecy of the vote cast.
- (2) The presiding officer shall ensure, at all times during voting hours, that each polling booth contains a pen, affixed to the polling booth, for use by voters.
- (3) The Electoral Commission shall display whatever information in a polling booth it deems to be useful in assisting all voters which may include pictures and names of all candidates in ballot paper order.

[subs (3) insrt Act 6 of 2019 s 13, opn 10 May 2019; am Act 18 of 2021 s 21, opn 14 Sep 2021]

70 Ballot papers, ballot boxes and electoral roll

- (1) A presiding officer shall be provided with a sufficient number of ballot papers in accordance with Schedule 11 and shall initial the back of those ballot papers before delivering them to voters who are about to vote at the polling station at which he or she presides.
- (2) The presiding officer shall also be provided with a translucent ballot box, on the top of which there should be an opening sufficiently large to permit a folded ballot paper to be placed in the ballot box.

[subs (2) am Act 6 of 2019 s 14, opn 10 May 2019]

- (3) The presiding officer shall lock the ballot box before the polling commences and the ballot box shall not be opened during the election except in accordance with Section 81.
- (4) In addition to subsections (1) and (2), the Electoral Commission shall issue to the presiding officer the electoral roll and voter list for the particular polling station that each presiding officer is presiding over and responsible for.

[subs (4) am Act 18 of 2021 s 21, opn 14 Sep 2021]

71 Identification of voter

- (1) Prior to receiving a ballot paper under Section 73, a voter shall:
 - (a) present a form of identification to the presiding officer; and
 - (b) satisfy the presiding officer that he or she is in fact a person registered to vote at that polling station.
- (2) Where a voter does not have any form of identification, the presiding officer shall take necessary measures to verify the identification of the voter, including asking the voter questions provided under Section 72 to verify his or her identity.

- (3) A mistake in the spelling of the voter's name does not warrant the rejection of a person to vote if in the opinion of the presiding officer, the voter is sufficiently identified in the Roll for that District.
- (4) Where a voter has since the compilation of the Roll, changed his or her name by marriage or deed poll, he or she is not disqualified from voting under the name appearing in the Roll, provided he or she can provide sufficient proof to the presiding officer that he or she is registered in the Roll for that District.

72 Presiding officer may ask certain questions

- (1) Where a voter appears on polling day to vote but does not carry any form of identification, the presiding officer may ask the voter questions in either English or Nauruan, or both as the case requires, as follows:
 - (a) 'Are you the person whose name appears as (the name of the voter) on the Roll of persons entitled to vote at an election of members for (the name of the constituency or the names of the Districts included in the constituency)?'
 - (b) 'Are you qualified to vote at this election of members for (the name of the constituency or the names of the Districts included in the Constituency)?'; and
 - (c) 'Have you already voted at this election?'
- (2) The presiding officer is not entitled to ask a voter any other questions in relation to his or her claim to vote at the election.
- (3) A person who refuses to answer any questions referred to in subsection (1), or who fails to answer questions (a) and (b) so referred to in the affirmative and question (c) so referred to in the negative, shall not be permitted to vote.
- (4) A person who makes a false statement to a question asked in accordance with subsection (1) commits an offence under Section 113.

73 Method of voting

- (1) Subject to this Act, a voter is not entitled to vote at a polling station other than a polling station in the District in which he or she is registered.
- (2) Once a presiding officer has verified that a voter present at a polling station is registered to vote at that polling station and is entitled to vote, the presiding officer or designated election official shall:
 - (a) prior to handing that person a ballot paper, cross off the name of the voter from the voter list;
 - (b) hand the voter one ballot paper initialled in accordance with Section 70(1); and
 - (c) immediately have the voter sign next to his or her name on the voter list to confirm that the person has received a ballot paper.
- (3) The voter shall:
 - (a) upon receipt of the ballot paper, retire to a polling booth;
 - (b) mark his or her vote on the ballot paper in the way prescribed in Section 74;
 - (c) fold the ballot paper so as to conceal his or her vote; and
 - (d) place the ballot paper in a ballot box in the presence of the presiding officer or an election official.

- (4) While at a polling station, a voter shall not reveal or announce the content of his or her ballot paper, and any voter who does so, will have his or her ballot paper confiscated and invalidated by the presiding officer, provided it has not yet been inserted into the ballot box.
- (5) A voter whose ballot paper has been invalidated under subsection (4) is not entitled to receive another ballot paper.

74 Casting of vote

A voter shall cast his or her vote by placing in the squares respectively opposite the names of the candidates so as to indicate the order of preference for them, the numbers:

- (a) 1 and 2 where there are 2 candidates;
- (b) 1, 2 and 3 where there are 3 candidates;
- (c) 1, 2, 3 and 4 where there are 4 candidates; and
- (d) so on, as the case requires.

75 Removal of unmarked ballot papers from polling station

- (1) During the polling process, it is an offence for a person, other than the presiding officer to remove any unmarked ballot paper from the polling station.
- (2) The presiding officer may only remove an unmarked ballot paper from a polling station under the following circumstances:
 - (a) if a voter, who has been assigned to that polling station is unable to appear and cast his or her vote due to any illness, physical disability or for any reason approved by the Electoral Commission; or
 - (b) if another polling station has run out of ballot papers and the Electoral Commission expressly authorises that ballot papers be transferred by the presiding officer to that other polling station.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (3) Where a presiding officer removes a ballot paper in subsection (2)(a), the presiding officer shall ensure that he or she is accompanied by 1 other election official and the procedures for assisted voting under Section 77 are strictly adhered to.
- (4) A person who contravenes this Section commits an offence under Section 115.

76 Spoiled ballot papers

- (1) A voter who has inadvertently dealt with a ballot paper in such a way that it cannot be conveniently or validly used as a ballot paper may, on giving it to the presiding officer, receive another ballot paper to replace it.
- (2) The spoiled ballot paper shall, in the presence of the voter, be cancelled by the presiding officer by writing or stamping the word “cancelled” across its face, marking his or her initials on it and placing it in an enveloped marked “spoiled ballot paper” and sealing it.
- (3) A voter may receive only 1 replacement ballot paper under subsection (1).

77 Assisted voting

- (1) Where any voter at a polling station is illiterate or is incapacitated by

blindness or other physical reason and is unable to vote in the manner described in Section 73, the voter may vote in accordance with the provisions of this Section.

- (2) Any voter referred to in subsection (1) may nominate a person, or if no person is so nominated, the presiding officer, may accompany the voter into a polling booth, and the ballot paper may there be marked by the voter with the assistance of the person nominated or, as the case may be, of the presiding officer, or may be marked by the person nominated or, as the case may be, by an election official in accordance with the instructions of the voter.
- (3) A voter to whom subsection (1) applies, whether or not he or she nominates a person for the purpose of subsection (2), may nominate a person, as the case may require, to inspect the ballot paper before it is deposited in the ballot box.
- (4) The presiding officer shall ensure that after the voter referred to in subsection (1) has voted, that voter's ballot paper is placed in the ballot box.
- (5) The name and number of every assisted voter shall be entered in the record book and the voter's name crossed off the voter list for the polling station.
- (6) Except for cases of assisted voting under this Section, it is prohibited for more than 1 person to be present in the polling booth at the same time and a person found to be in a booth without authorisation commits an offence under Section 116.

78 Authorisation for proxy voting

- (1) A voter who is unable to be in the Republic to vote on polling day may vote by proxy by applying to the Electoral Commission for proxy voting authorisation.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) A proxy shall cast his or her vote as a proxy of a voter at the same time as he or she casts his or her own vote as a voter.
- (3) Where a proxy casts his or her vote as a voter, he or she shall do so in accordance with the requirements specified in Sections 71, 72, 73, and 74.
- (4) A proxy shall cast his or her vote as a proxy of a voter in accordance with the Regulations relating to proxy voting made by the Cabinet as required under this Section.

[subs (4) am Act 8 of 2022 s 15, opn 8 June 2022]

- (5) An application made under subsection (1) shall be made in accordance with the Regulations to be made by the Cabinet.

[subs (5) am Act 8 of 2022 s 15, opn 8 June 2022]

- (6) The Electoral Commission shall, unless the application under subsection (1) is withdrawn, consider the application and make a decision either to approve or deny the application.

[subs (6) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (7) The Electoral Commission shall not grant to a voter more than 4 proxy voting authorisations.

[subs (7) am Act 6 of 2019 s 15, opn 10 May 2019; Act 21 of 2019 s 4, opn 12 July 2019; Act 18 of 2021 s 21, opn 14 Sep 2021]

- (8) The Cabinet may make regulations for the effective conduct of proxy voting including the:
- (a) manner and form of application under subsection (1);
 - (b) withdrawal of the application;
 - (c) duties and obligations in relation to proxy voting;
 - (d) manner a proxy is to exercise his or her proxy vote;
 - (e) polling day; and
 - (f) related matters.

[subs (8) am Act 8 of 2022 s 15, opn 8 June 2022]

78A Authorisation for early voting

- (1) A voter may vote before polling day by applying to the Electoral Commission, if he or she cannot attend the polling station during the hours of polling, due to:
- (a) absence from the Republic;
 - (b) his or her religious beliefs preventing him or her from voting on polling day; or
 - (c) any other basis as regulated by the Cabinet.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021; Act 8 of 2022 s 15, opn 8 June 2022]

- (2) Early voting may take place:
- (a) outside the constituency, in a secure location designated by the Electoral Commission; or
 - (b) in a mobile polling station designated by the Electoral Commission under Section 63.

[subs (2) subst Act 8 of 2022 s 12, opn 8 June 2022]

- (3) Where a voter casts his or her vote early, he or she shall do so in accordance with the requirements specified in Sections 71, 72, 73 and 74.
- (4) An application made under subsection (1) shall be made in accordance with the Regulations to be made by the Cabinet under Section 136(f).

[subs (4) am Act 18 of 2021 s 21, opn 14 Sep 2021; Act 8 of 2022 s 15, opn 8 June 2022]

- (5) The Electoral Commission or its delegate, shall consider the application and make a decision either to approve or deny the application.

[subs (5) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (6) The Electoral Commission shall advise and provide public notice in the Gazette the locations, the dates and the hours that early voting will take place.

[subs (6) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (7) The Cabinet may make regulations for the effective conduct of early voting, pursuant to the authority granted under Section 136(f), including:
- (a) the manner and form of application under subsection (1);
 - (b) the duties and obligations of the Electoral Commission and voters in relation to early voting; and
 - (c) any other related matters.

[subs (7) am Act 18 of 2021 s 21, opn 14 Sep 2021; Act 8 of 2022 s 15, opn 8 June 2022]

[s 78A insrt Act 6 of 2019 s 16, opn 10 May 2019]

79 Method of voting for mobile polling stations

- (1) Where a mobile polling station has been published in accordance with

Section 63, the Electoral Commission shall provide a sufficient number of polling booths for each polling station.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) Where a polling booth is provided, such booth may also be used as a mobile polling booth.
- (3) A mobile polling station is used for the purposes of affording an opportunity to every voter, to vote, who:
 - (a) is for the time being resident in the hospital, care facility, detention centre or correctional centre in which the booth is situated; and
 - (b) by reason of illness or infirmity, or, in the case of a woman, by reason of approaching maternity, is unable to attend a polling station to record her vote.
- (4) A voter who seeks to vote in a mobile polling station:
 - (a) on polling day, shall, apply in writing to the Electoral Commission at least 48 hours before 7:00am on polling day, and state the reasons for the application and provide any information including documents that the Electoral Commission may require; or
 - (b) before polling day as provided for under Section 78A shall, apply in the prescribed manner.

[subs (4) subst Act 8 of 2022 s 13, opn 8 June 2022]

- (5) The Electoral Commission has the discretion either to agree to or deny any application received after the 48 hours specified in subsection (4).

[subs (5) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (6) Subject to subsection (5), where any application has been received by the Electoral Commission, it shall direct the presiding officer in charge of the mobile polling station to afford the voter an opportunity to record the voter's vote by visiting the voter before the close of poll.

[subs (6) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (7) When a visit is conducted in accordance with subsection (6), the presiding officer shall take with him or her, the ballot box provided for the station and he or she shall be accompanied by another election official appointed by the Electoral Commission.

[subs (7) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (8) On any visit conducted in accordance with subsection (6), the voter's vote shall so far as is reasonably practicable be taken in all respects as if the vote were recorded in a polling station under usual circumstances.
- (9) No visit may be made under this Section, if such visit is prohibited, on medical grounds by a health practitioner registered under the *Health Practitioners Act 1999* or if the application made under subsection (4) was denied in accordance with subsection (5), as the visit would disrupt the voting at the polling station.

80 Persons authorised to remain in polling stations

Only the following persons who are not actually engaged in voting may remain in a polling station during the voting process:

- (a) an Electoral Commissioner;
- (b) the Registrar;
- (c) the presiding officer for the polling station;
- (d) the deputy or assistant presiding officer, if appointed;

- (e) other appointed election officials;
- (f) police officers on duty, if requested by the presiding officer or his or her representative for the sole purpose of restoring peace and order and only for the time necessary to do so;
- (g) observers, not exceeding 5 in number or such other limit as the Electoral Commission may permit and who shall remain in an area designated by the Electoral Commission; and
- (h) any other person authorised by the Electoral Commission.

[s 80 am Act 18 of 2021 s 21, opn 14 Sep 2021]

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PART 7 — THE COUNT

81 Scrutiny of ballot papers

- (1) As soon as practicable after the close of the poll, the presiding officer at each polling station shall bring the locked ballot box from that polling station to the Electoral Commission, which shall, in the presence of the presiding officer:
 - (a) open the ballot box;
 - (b) identify and reject all invalid ballot papers;
 - (c) record the number of invalid ballot papers and valid ballot papers respectively; and
 - (d) place in a separate parcel all ballot papers that have been rejected as invalid.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The Electoral Commission may appoint a presiding officer or other election officials the Electoral Commission deems suitable to assist in the conduct of the scrutiny.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

82 Invalid ballot papers

- (1) Subject to subsection (2), a ballot paper is invalid if:
 - (a) it is not authenticated by the initials of the presiding officer in accordance with Section 70(1);
 - (b) it has no vote indicated on it or it does not indicate the voter's first preference for one candidate and his or her contingent votes for all the remaining candidates; or
 - (c) it has on it any mark or writing, not authorised by this Act to be put on it, by which, in the opinion of the Electoral Commission, the voter can be identified.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) Where there are 2 names specified on a ballot paper and a voter has indicated his or her vote on the ballot paper by placing the number '1' in the square opposite to the name of 1 candidate and has left the other square blank, the ballot paper is not invalid by reason only of subsection (1)(b).
- (3) A voter is taken to have indicated that the voter's preference for a candidate, that is, the **'remaining candidate'**, is the voter's last preference if:
 - (a) there are more than 2 names specified on a ballot paper;
 - (b) the voter has indicated on the ballot paper his or her first preference for one candidate and his or her contingent votes for each other candidate except the remaining candidate; and
 - (c) the square opposite the remaining candidate has been left blank.
- (4) Despite subsection (1)(c), a ballot paper is not invalid by reason only of the fact that a mark or writing has been placed on it by an Electoral Commissioner.

- (5) A ballot paper is not invalid for any reason other than the reasons specified in this Section, but is to be given effect according to the voter's intention so far as that intention is clear.

83 Persons authorised to be present at scrutiny and count

- (1) Only the following persons are authorised to be present at the opening of the ballot boxes and during the counting process:
- (a) the Electoral Commission;
 - (b) the presiding officer or other election official for the polling station;
 - (c) the persons appointed under Section 81(2) to assist in the conduct of the scrutiny of votes;
 - (d) police officers who have been requested by the Electoral Commission or its representative for the sole purpose of restoring peace and order and only for the time necessary;
 - (e) observers, not exceeding 5 in number or such other limit as the Electoral Commission may permit and who shall remain in an area designated by the Electoral Commission; and
 - (f) any other person authorised by the Electoral Commission.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The Electoral Commission may, if it considers necessary, remove a person from the place of the scrutiny and count.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

84 Counting of votes in election

- (1) This Section and Section 85 apply to the counting of votes marked on valid ballot papers in any election.

[subs (1) am Act 9 of 2017 s 4, opn 5 May 2017]

- (2) For each constituency, the Electoral Commission shall:
- (a) ascertain the total number of first preference votes, second preference votes and third preference votes, and so on, cast for each candidate and make a list of the total number of such preference votes;
 - (b) give the value of a unit to each first preference vote, one half to each second preference vote, and so on, the value of each preference vote being the reciprocal of the number of the preference indicated by the voter; and
 - (c) add the value of the votes for each candidate and make out and sign a statement specifying the total value of the preference votes for the candidate.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

85 Determination of result of election

- (1) In a constituency returning 2 members, the 2 candidates receiving the highest total value of votes calculated under Section 84 are elected.
- (2) In a constituency returning 3 members, the 3 candidates receiving the highest total value of votes calculated in accordance with Section 84 are elected.
- (3) In a constituency returning 4 members, the 4 candidates receiving the highest total value of votes calculated in accordance with Section 84 are elected.

(4) Where 2 or more candidates receive an equal value of votes and one or more of the candidates shall be excluded, the Electoral Commission shall determine under Section 85A the candidate or candidates to be excluded.

[subs (4) am Act 21 of 2019 s 5, opn 12 July 2019; Act 18 of 2021 s 21, opn 14 Sep 2021]

(5) An automatic manual recount of votes shall occur if it is indicated that a candidate for any office was defeated or excluded by one-quarter of 1 percent or less of the valid votes cast for such office.

[subs (5) insrt Act 6 of 2019 s 17, opn 10 May 2019]

85A Determination of exclusion of candidate

(1) In this Section, '*relevant candidate*' means a candidate who may be excluded as a result of the Electoral Commission's determination.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

(2) Where the Electoral Commission is required, under Section 85(4), to determine a candidate or candidates to be excluded, the Electoral Commission shall:

- (a) in relation to each relevant candidate, deduct from the total value of the votes received by the candidate the value that was derived from last preference votes;
- (b) identify which of the relevant candidates has the highest remaining value of votes after making the deduction; and
- (c) exclude each other relevant candidate.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

(3) Where, after making the deduction, the remaining value of votes for each of the relevant candidates remains equal, the Electoral Commission shall repeat the procedure of deduction in respect of second-last preference votes, third-last preference votes, and so on, until it is possible to identify one candidate with the highest remaining value of votes and to exclude the other relevant candidate or candidates.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

(4) Where it is not possible to exclude any candidate under subsection (2) or (3) because the preference votes received by each of the relevant candidates are equal in every respect, the Electoral Commission shall determine by lot a candidate or candidates to be excluded, using a random method of selection such as:

- (a) tossing a coin; or
- (b) drawing the names out of a container in such manner that an Electoral Commissioner cannot see which names he or she is drawing.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

(5) A determination by lot under subsection (4) shall be made in the presence of each of the relevant candidates and a police officer.

[s 85A insrt Act X of 2018 s 5, opn 6 Mar 2018]

86 Counting of votes and determination of result of by-election

[s 86 rep Act 9 of 2017 s 5, opn 5 May 2017]

87 Determination of exclusion of candidate

[s 87 rep Act 9 of 2017 s 6, opn 5 May 2017]

88 Declaration of results

The Electoral Commission shall, as soon as the results of an election are ascertained:

- (a) publicly declare those candidates elected as members of Parliament; and
- (b) publish by notice exhibited in a conspicuous place at or near the Government Offices, Yaren, and by notice in the Gazette:
 - (i) the results of the election;
 - (ii) the names of the candidates elected for each constituency;
 - (iii) the number of valid votes cast; and
 - (iv) the number of invalid votes.

[s 88 am Act 18 of 2021 s 21, opn 14 Sep 2021]

89 Declaration to be made as soon as practicable after close of poll

The declaration of results and the names of the candidates elected as members of Parliament shall be made as soon as practicable after the counting process in Section 84 and determination of results in Section 85.

90 Request for recount of results

- (1) A candidate may submit a request in writing to the Electoral Commission to conduct a recount, with reasons for the request, within 24 hours of the declaration of results made under Section 88(a).

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The Electoral Commission shall immediately respond to the request of recount under subsection (1).

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (3) Where the Electoral Commission decides there is sufficient reason to conduct a recount of the ballot papers, including due to any discrepancies in the scrutiny, a recount is to be immediately conducted by the Electoral Commission or a designated election official.

[subs (3) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (4) Any recount under subsection (3) is to be conducted on an uninterrupted basis, in the presence of an Electoral Commissioner.

- (5) Based on the results of any recount under subsection (3), the Electoral Commissioner shall:

- (a) decide the correct figures and results if errors were made in the initial results; and
- (b) confirm if the initial results are the correct results; or
- (c) cancel the incorrect results and enter the new results.

- (6) Where the Electoral Commission makes a decision under subsection (5)(b), the Electoral Commission shall make a declaration and post the new results in the same manner as provided in Section 88.

[subs (6) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (7) Subject to any review on a petition under this Act, the decision of the Electoral Commission on a request for recount is final.

[subs (7) am Act 18 of 2021 s 21, opn 14 Sep 2021]

91 Election material

- (1) After an election, the Electoral Commission shall keep all relevant election

material, including unused ballot papers, used ballot papers (valid, invalid, spoiled), signed voter lists, copies of complaints and appeals, any official stamp, results, and any record books in safe custody and shall not allow a person to have access unless ordered to by a court.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) Despite subsection (1), if a petition has been presented questioning the validity of any election or return or a criminal prosecution has arisen out of any election, the Electoral Commission shall, if so ordered by a court, deliver to the proper officer of the court the papers relating to the election involved.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

92 Power to destroy records

The Electoral Commission may destroy or cause to be destroyed records in relation to an election 1 year from the date of the publication of the results made under Section 88(b), unless a court directs otherwise.

[s 92 am Act 18 of 2021 s 21, opn 14 Sep 2021]

[The next page is 392,001]

PART 8 — COURT OF DISPUTED RETURNS

93 Election petitions

- (1) No results of an election published under Section 88 may be challenged except by election petition by:
 - (a) a candidate; or
 - (b) a person who was qualified to vote in the election the subject of the petition.
- (2) A petition shall be presented in accordance with the provisions of this Part.

94 Status of persons elected

Where the validity of an election or the declaration of an election is disputed, and pending a declaration by the Court of Disputed Returns in accordance with Section 100(f), (g) and (h), the person or persons named in the Electoral Commission's notice published under Section 88 as the candidate or candidates elected are for all purposes deemed to be a member or members of Parliament as the case may be, duly elected.

95 The Court of Disputed Returns

The Supreme Court is the Court of Disputed Returns and will, subject to this Part, hear and determine a petition.

96 Contents of petition

A petition disputing an election or the declaration of an election shall:

- (a) set out the facts relied on to invalidate the election or the declaration of the election;
- (b) contain a prayer asking for relief to which the petitioner claims to be entitled;
- (c) be signed by a candidate at the election or by a person who was qualified to vote at the election;
- (d) be verified by an affidavit; and
- (e) be presented in the registry of the Supreme Court within 21 days after the publication in the Gazette of the notice in relation to the election in accordance with Section 88.

[s 96 am Act 6 of 2019 s 18, opn 10 May 2019]

97 Deposit as security for costs

At the time of presentation of the petition, the petitioner shall deposit with the Registrar of Courts \$500 as security for costs.

[s 97 am Act 6 of 2019 s 19, opn 10 May 2019]

98 Proceedings may be stayed unless requirements complied with

- (1) The Court of Disputed Returns may, on the application of a respondent to a petition, order a stay of proceedings where the petitioner has failed to comply with Section 96.

- (2) The Court of Disputed Returns shall not accept a petition which is presented:
- (a) after the expiry of 21 days from the publication in the Gazette of the results of the election;
 - (b) without evidence of payment of the security for costs; or
 - (c) where the security for costs was paid after the expiry of the time for the presentation of the petition.

[s 98 subst Act 6 of 2019 s 20, opn 10 May 2019]

99 Electoral Commission party to petition

- (1) The Electoral Commission shall be joined as a respondent or interested party in every election petition.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The Electoral Commission shall be served with the election petition as may be provided for in the Rules.

[subs (2) am Act 18 of 2021 s 21, opn 14 Sep 2021]

[s 99 subst Act 6 of 2019 s 21, opn 10 May 2019; am Act 18 of 2021 s 21, opn 14 Sep 2021]

100 Power of the Court

- (1) The Court of Disputed Returns sits as an open Court and its powers include the following:
- (a) to adjourn;
 - (b) to compel the attendance of witnesses and the production of documents;
 - (c) to grant to a party to a petition, leave to inspect, in the presence of the Registrar of Courts and the Electoral Commission, the Roll and other documents used at or in connection with an election and to take, in the presence of the Electoral Commission, extracts from those Rolls and other documents;
 - (d) to examine witnesses on oath;
 - (e) order the Electoral Commission to recount the ballot papers of one or more constituencies;
 - (f) to declare that a candidate who has been declared to be elected under Section 88 was not duly elected;
 - (g) to declare that a candidate who has not been declared to be elected under Section 88, duly elected;
 - (h) to declare an election for a constituency absolutely void;
 - (i) to dismiss or uphold a petition in whole or in part; and
 - (j) to award costs.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) The Court of Disputed Returns may exercise all or any of its powers under this Section on such grounds as the Court in its discretion thinks just and sufficient.

101 Real justice to be observed

The Court of Disputed Returns shall be guided by good conscience and the substantial merits of each case without regard to legal form and technicalities and is not bound by any rules of evidence.

102 Decisions to be final

- (1) The Court of Disputed Returns shall hear and determine any petition presented under this Part by no later than 90 days from the presentation of the petition.
- (2) The decision of the Court of Disputed Returns is final and conclusive and is not reviewable or appealable.

[s 102 subst Act 6 of 2019 s 22, opn 10 May 2019]

103 Costs

The Court of Disputed Returns may award costs against an unsuccessful party to a petition.

104 Deposit applicable for costs

Where costs are awarded to a party against a petition, the deposit made by a petitioner under Section 97 may be applied in payment of the sum ordered, but otherwise the deposit is repayable to the petitioner.

105 Other costs

All other costs awarded by the Court of Disputed Returns, including the balance above the deposit made by a petitioner, are recoverable as if the order of the Court of Disputed Returns were a judgment of the Supreme Court.

106 Effect of decision of Court

- (1) Where the Court of Disputed Returns declares that a person who has been declared to be elected under Section 88 was not duly elected, he or she shall be deemed not to have been elected.
- (2) Where the Court of Disputed Returns declares a candidate duly elected who has not been declared to be elected under Section 88, he or she shall be deemed to have been elected.
- (3) Where the Court of Disputed Returns declares an election for a constituency void, the election for that constituency shall be deemed to have failed.

107 Court Rules

The Chief Justice may make Rules of the Court to give effect to this Part of the Act and in particular for regulating the practice and procedure of the Court and forms to be used.

[The next page is 392,201]

**PART 9 — SPECIAL PROVISIONS APPLYING TO REFERENDUM, SURVEY
OR POLL**

[Pt 9 heading am Act 18 of 2021 s 18, opn 14 Sep 2021]

**108 Qualification to vote at a referendum under Article 84 of the
Constitution**

- (1) In the event that a referendum is held for the purpose of Article 84 of the *Constitution*, in parallel with a general election, a person is qualified to vote at the referendum, and no other person is so entitled, if at the time the referendum is held that person is qualified to vote at an election of members of Parliament.
- (2) In the event that a referendum is held for the purpose of Article 84 of the *Constitution* and not held together with a general election, a person is qualified to vote at the referendum, and no other person is so entitled if the person's name appears on a Roll at midnight, 6 working days immediately before the date of the referendum.

108A Electoral Commission may carry out survey or poll

- (1) Subject to subsection (2), where there is a matter of national interest or significance that requires the opinions of the voters, the Electoral Commission shall carry out a survey or poll on such matter.
- (2) For the purposes of subsection (1), the Electoral Commission shall carry out a survey or poll where:
 - (a) the Cabinet, by a decision, authorises or directs such a survey or poll to be carried out; or
 - (b) the Parliament, by a resolution, requires such a survey or poll to be carried out.
- (3) Subject to any requirements contained in any other written law, a person who is qualified to vote under Section 108 shall vote in a survey or poll under this Section.
- (4) The Cabinet may make regulations for the manner in which a survey or poll shall be carried out, including:
 - (a) the required number of registered voters who should participate in the process;
 - (b) the minimum percentage of actual persons required to take part in the survey or poll; and
 - (c) the period of time for which the survey or poll shall be carried out before the outcome is considered or determined.

[s 108A insrt Act 18 of 2021 s 19, opn 14 Sep 2021]

[The next page is 392,401]

PART 10 — CORRUPT PRACTICES AND ELECTORAL OFFENCES

109 **Accomplices**

For the purposes of this Part, a person who aids, abets, counsels, procures, or by any act or omission, or is directly or indirectly concerned in, or a party to, the contravention of a provision of this Act, is deemed to have contravened that provision.

110 **Failure to vote at election**

A voter who does not vote and is not covered by the exceptions in Section 54(4), commits an offence and is liable to a penalty not exceeding \$100.

111 **Failure to respond to notice**

A voter who does not comply with Section 55(2), (3) and (4), commits an offence and is liable upon conviction to a fine not exceeding \$200.

112 **Reasons for failure to vote considered insufficient**

Where a reply under Section 55 states a reason for the failure of a voter to vote, which, in the opinion of the Electoral Commission, is not a valid and sufficient reason for that failure, the Electoral Commission may fine the person a sum not exceeding \$200.

[s 112 am Act 18 of 2021 s 21, opn 14 Sep 2021]

113 **Offence to provide false or misleading information**

A person commits an offence and is liable upon conviction to a penalty not exceeding \$5,000 or to imprisonment for a period not exceeding 1 year, or both, if:

- (a) the person makes an application or provides information;
- (b) the information is false or misleading; and
- (c) the person:
 - (i) knows the information is false or misleading; or
 - (ii) is reckless about whether the information is false or misleading.

114 **Entering polling booth and marking ballot paper**

A person, who is not a registered voter and enters a polling booth to mark a ballot paper, commits an offence and is liable upon conviction to a fine not exceeding \$1,000.

115 **Offence to remove unmarked ballot papers from polling station**

A person who removes unmarked ballot papers from any polling station and is not covered by any exception under Section 75(1), commits an offence and is liable upon conviction to a fine not exceeding \$5,000 or imprisonment for a period not exceeding 2 years or both.

116 Offence to have more than one person in polling booth

- (1) Subject to the exceptions in Section 77, it is an offence under this Act for more than 1 person to be present in the polling booth at the same time.
- (2) A person, who is found to be present in a polling booth and not covered by any exception under Section 77, commits an offence and is liable to a fine not exceeding \$100.

117 Unauthorised persons

A person present, at any polling station and not actually engaged in voting or at the scrutiny and count without authorisation under Section 83, commits an offence and is liable to a penalty not exceeding \$100.

118 Offence in relation to electoral information

- (1) A person, other than an Electoral Commissioner or a person authorised by the Electoral Commission, who possesses, manipulates or changes by electronic, mechanical or other means, any information contained in the Roll or voter list, commits an offence and is liable upon conviction to a fine not exceeding \$5,000 or a term of imprisonment for a term not exceeding 1 year or to both.

[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]

- (2) A person, who uses any information contained in the Roll or voters list for a commercial purpose or other purpose related or unrelated to an election, commits an offence and upon conviction is liable to a term of imprisonment not exceeding 2 years.

119 Destruction of campaign material

A candidate or person supporting a candidate, who wilfully or recklessly destroys any campaign material of another candidate, commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or to both.

120 Campaigning material at polling stations

A person, who on polling day displays campaign material at any polling station or within 200 meters of any polling station, commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or to both.

121 Prohibition on employees of the public service or instrumentality of the Republic to campaign or use Government resources for campaigning

- (1) It is unlawful for any employee of the public service or instrumentality of the Republic to campaign in support of a candidate for an election.
- (2) It is unlawful for any employee of the public service or instrumentality of the Republic to post or distribute any campaign material inside a public office in support of a candidate for an election.
- (3) It is unlawful for any employee of the public service or instrumentality of the Republic to use any Government resources to support a candidate for an election.

- (4) It is unlawful for a person to coerce, pressure or intimidate an employee of the public service or instrumentality of the Republic to carry out any of the acts prohibited in subsections (1), (2) and (3) above.
- (5) A person who is in breach of any of the above subsections commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or to both.

122 Campaigning on polling day

A person commits an offence and is liable to a fine not exceeding \$5,000 or to imprisonment for a period not exceeding 1 year or to both if the person on polling day holds or takes part in any meeting, demonstration or procession at a polling station or within 200 meters of a polling station with the intention of:

- (a) canvassing votes;
- (b) soliciting the vote of a voter;
- (c) inducing a voter not to vote for a particular candidate;
- (d) inducing a voter not to vote at the election; or
- (e) ascertaining who a voter intends to vote for or has voted for.

123 Police officers influencing voters

A police officer, who seeks to influence in any manner any voter in giving his or her vote for any candidate or candidates, commits an offence and upon conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

124 Bribery

- (1) It is an offence for a person to offer their vote or support to a candidate for an election in exchange for any property or benefit.
- (2) A person who commits an offence under subsection (1), is liable upon conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

125 Personation

A person commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or both, if the person:

- (a) applies for a ballot paper in the name of:
 - (i) another person, whether the name is that of a person living or dead; or
 - (ii) a fictitious person; or
- (b) knowingly and wilfully impersonates an election official.

126 Double voting

A person who has voted and attempts to vote more than once at any election commits an offence and liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or both.

127 Intimidation

A person commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or to both, if the person:

- (a) by himself or herself, or with the assistance of another, uses or threatens to use of any force, violence, or restraint or inflicts or threatens any injury, damage, harm, loss; or
- (b) in any other manner intimidates a person in order to induce or compel that person to vote or refrain from voting at any election.

128 Undue influence

A person, who hinders or interferes with the free exercise or performance by any other person or any political right or duty that is relevant to an election, commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or to both.

129 Electoral treating

- (1) A person commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or to both, if with the intent to corruptly influence a voter at an election, that person:
 - (a) offers cash or promises or supplies food, drink or entertainment;
 - (b) offers or promises to give cash or to pay for food, drink or entertainment;
 - (c) offers or provides transport to or from polling stations; or
 - (d) offers, promises or gives a gift, donation or prize, including cash, to or for a person, club or association.
- (2) For the purposes of subsection (1), it is immaterial:
 - (a) whether or not the offer was accepted before, on or after polling day; and
 - (b) whether or not a promise is fulfilled before, on or after polling day.
- (3) It is on the person making the offer or promise to prove that the offer or promise was made under a customary obligation.

130 Offence of stuffing ballot boxes

A person, who knowingly places or is privy to the placing, in a ballot box any ballot paper which has not been lawfully issued to a voter, and has been marked or filled up as required under this Act and any voter who places in the ballot box any paper other than the ballot paper issued to him or her for that purpose, commits an offence and liable upon conviction to a fine of \$5,000 or to imprisonment for a term not exceeding 1 year or to both.

131 Offence to use camera, phone or other electronic device in a polling booth

A person, who uses a camera, phone or other electronic device while in a polling booth, commits an offence and upon conviction is liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or to both.

132 Obstruction or prevention of a voter from voting

A person, who does or omits to do any action that prevents a voter from casting his or her vote at an election, commits an offence and upon conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

133 Interference at elections

- (1) A person commits an offence, and is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both, if the person:
 - (a) intrudes into a polling booth and is not lawfully entitled to be in it; or
 - (b) wilfully interrupts, obstructs or disturbs any proceedings at an election.
- (2) A person found to be in contravention of subsection (1) may be arrested without warrant by a police officer or in the absence of one, by a presiding officer or other election official.

134 Disobeying lawful directions

- (1) A person, who during the hours fixed for the poll at any polling station fails to obey the lawful directions of the Electoral Commission, an Electoral Commissioner, presiding officer or other election official may be removed from the polling station by the presiding officer or by any police officer on duty or by a person authorised to do so by the presiding officer.
[subs (1) am Act 18 of 2021 s 21, opn 14 Sep 2021]
- (2) A person who has been removed under subsection (1) is liable upon conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 1 year or to both.

135 Holders of an office of profit and employees of an instrumentality of the Republic

Where a person who is the holder of an office of profit or an employee of an instrumentality of the Republic is required to resign under the applicable Act in Schedule 10 or any other written law does not comply with the provisions of that law and continues to hold their office or employment prior to and after submitting their nomination under this Act, that person commits an offence and is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 2 years or to both.

135A Declaration of intention to contest a general election

- (1) A person who intends to contest in a general election, shall make a declaration of such intent in the prescribed form, by no later than 12 months, before the dissolution of the full term of Parliament under Article 41(7) of the *Constitution*.
[subs (1) am Act 17 of 2024 s 7, opn 20 Aug 2024]
- (2) The written declaration of intent shall be delivered to the Electoral Commission.
- (3) The Electoral Commission shall publish in the Gazette a notice for the delivery of the written declaration of intent at least 13 months before the dissolution of the full term of Parliament under Article 41(7) of the *Constitution*.
[subs (3) am Act 17 of 2024 s 7, opn 20 Aug 2024]
- (4) The Electoral Commission shall publish in the Gazette a list of persons who have delivered a written declaration of intent under subsection (3) within 14 days after the close of the date of the delivery of the written declaration.
- (5) A person who fails to make a declaration of intent under subsection (1) and

is nominated as a candidate under this Act, commits an offence and is liable upon conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years or to both.

- (6) For avoidance of doubt, this provision does not apply to a by-election, supplementary election or a general election which is held earlier than the dissolution of the full term of Parliament under Article 41(7) of the *Constitution*.

[s 135A insrt Act 18 of 2021 s 20, opn 14 Sep 2021]

[The next page is 392,601]

PART 11 — REGULATIONS, REPEAL AND TRANSITIONAL PROVISIONS

136 Regulations

The Cabinet may make regulations to give effect to provisions of this Act, including but not limited to the following:

- (a) registration of voters;
- (b) registration of political parties;
- (c) nomination of candidates;
- (d) conduct of polling, counting and tabulation of results;
- (e) proxy voting;
- (f) voting by people who are unable to attend a polling station including early voting provisions;
- (g) filing and adjudication of complaints and appeals;
- (h) the fees for applications or services provided under this Act; or
- (i) for the amendment of the Schedules; or
- (j) any matter necessary or convenient for giving effect to this Act.

[s 136 am Act 6 of 2019 s 23, opn 10 May 2019; Act 8 of 2022 s 14, opn 8 June 2022]

137 Repeal

- (1) The *Electoral Act 1965* is repealed by this Act.
- (2) The *Electoral Regulations 2013* are repealed by this Act.

138 Effect of repeal on existing registration

- (1) A person whose name was entered in a Roll prior to the commencement of this Act will continue to have his or her name entered in that Roll.
- (2) Upon the commencement of this Act, any application for registration or transfer of registration shall be made under this Act.

139 Transitional and savings provisions

- (1) Despite Section 137:
 - (a) any appointments made under the repealed Act before the commencement of this Act continues until the appointment or delegation is revoked under this Act;
 - (b) any proceedings instituted or action begun in any court under the repealed Act before the commencement of this Act and which has not been determined before the commencement of this Act continues until determined under the repealed Act;
 - (c) any fee paid under the repealed Act is taken to have been made or authorised under this Act;
 - (d) any authorisation granted under the repealed Act is taken to have been granted under a corresponding provision in this Act; or
 - (e) any application made under the repealed Act is taken to have been made under a corresponding provision under this Act.
- (2) Subject to Section 16, a Deputy Electoral Commissioner who was a member of the Electoral Commission under the substituted provisions, is appointed and continues as an Electoral Commissioner under and for the

purposes of this Act for a term expiring on the day on which the appointment of the Deputy Electoral Commissioner would have expired under the substituted provisions.

- (3) Subject to Section 16, the Electoral Commissioner who immediately before the coming into effect of the substituted provisions, was the Electoral Commissioner continues to be an Electoral Commissioner under and for the purposes of this Act for a term expiring on the day on which his or her appointment would have expired under the substituted provisions.
- (4) All decisions made and actions taken by the Electoral Commission, Electoral Commissioner and Deputy Electoral Commissioners prior to the commencement of the substituted provisions, continue to have effect as if they were undertaken by the Commission under the substituted provisions.

[Act 18 of 2021 s 22, opn 14 Sep 2021]

[The next page is 392,801]

SCHEDULE 1

[Sections 4(3), 15(3), 25(3) and 28(4)]

OATH OF OFFICE

I,, swear by Almighty God that I will well and truly serve as *an Electoral Commissioner/as presiding officer/as an election official of the Republic of Nauru and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will. So help me God!

*State only relevant title/position

[The next page is 393,001]

SCHEDULE 2

FORMS

FORM 1



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Section 40]

APPLICATION FOR REGISTRATION

NAME (in full):

DATE OF BIRTH:

ANY NAME PREVIOUSLY USED:

TO THE ELECTORAL COMMISSION:

1. I am a Nauruan citizen.
2. My place of birth was registered as the District of.....
3. My name is at present not entered on any roll.

Note – If you are unsure of whether your name is entered on a roll, an enquiry may be made to the office of the Electoral Commission. This form may not be used if you are already registered in a District, Form 2 shall be used for that purpose.

4. I apply to have my name entered on the roll for the District of:

Tick only one box

- | | | | |
|----------------------------------|-------------------------------------|---------------------------------|---------------------------------|
| <input type="checkbox"/> Aiwo | <input type="checkbox"/> Denigomodu | <input type="checkbox"/> Anabar | <input type="checkbox"/> Ewa |
| <input type="checkbox"/> Anibare | <input type="checkbox"/> Ijuw | <input type="checkbox"/> Anetan | <input type="checkbox"/> Meneng |
| <input type="checkbox"/> Baitsi | <input type="checkbox"/> Nibok | <input type="checkbox"/> Boe | <input type="checkbox"/> Uaboe |
| <input type="checkbox"/> Buada | <input type="checkbox"/> Yaren | | |

5. I am entitled to be registered in the above District I have selected because:

Tick one only of the following boxes:

- The District is registered as my place of birth in the Register of Births.
- I am living in the District now and have been living in the District for more than 1 month.
- I am living outside of Nauru and immediately before I ceased to live in Nauru I had been living the District for more than 1 month.

- My birth is not registered in the Register of Births and I have never lived in Nauru. *
- My birth is not registered in the Register of Births and I have never lived in 1 District for more than 1 month. *
- I have connection to that District through:
 - Nauru custom, customary links and affiliation;
 - My father/mother was born in that District;
 - My father/mother is registered to vote in that District;
 - It is the District of birth or registration of my spouse.

* *If you tick one of these boxes, the Electoral Commission may require you to provide evidence supporting your application. Evidence may include but are not limited to the statutory declaration of another person.*

Before
me*:

.....

* Under Section 43(3)(a), (b) and (c) a declaration shall only be witnessed by a Barrister, Solicitor, Pleader or Commissioner for Oaths or other persons nominated by the Electoral Commission.

DECLARED at Yaren District, Nauru

This Day of, 20 ... before me and I certify that the declaration was read over in the English or Nauruan language to the applicant/declarant who appeared fully to understand the meaning thereof

} Signed: _____
Date: _____

Before
me*:

.....

* Under Section 43(3)(a), (b) and (c) a declaration shall only be witnessed by a Barrister, Solicitor, Pleader or Commissioner for Oaths or other persons nominated by the Electoral Commissioner.

[Form 1 am Act 8 of 2022 s 16, opn 8 June 2022]

FORM 2



REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Section 41(3)(a)]

APPLICATION FOR TRANSFER OF REGISTRATION

NAME (in full):

DATE AND YEAR OF BIRTH:

ANY NAME PREVIOUSLY USED:

TO THE ELECTORAL COMMISSION:

1. I am a Nauruan citizen.
2. My place of birth was registered as the District of.....
3. Which Roll is your name entered on at present?

Tick only one box

My name is at present not entered on any roll.

My name is registered on the Roll for:

Tick only one box

- | | | | |
|----------------------------------|-------------------------------------|---------------------------------|---------------------------------|
| <input type="checkbox"/> Aiwo | <input type="checkbox"/> Denigomodu | <input type="checkbox"/> Anabar | <input type="checkbox"/> Ewa |
| <input type="checkbox"/> Anibare | <input type="checkbox"/> Ijuw | <input type="checkbox"/> Anetan | <input type="checkbox"/> Meneng |
| <input type="checkbox"/> Baitsi | <input type="checkbox"/> Nibok | <input type="checkbox"/> Boe | <input type="checkbox"/> Uaboe |
| <input type="checkbox"/> Buada | <input type="checkbox"/> Yaren | | |

Note – If you are unsure of whether your name is entered on a roll, an enquiry may be made to the office of the Electoral Commission.

4. I apply to have my name entered on the roll for the District of:

Tick only one box

- | | | | |
|----------------------------------|-------------------------------------|---------------------------------|---------------------------------|
| <input type="checkbox"/> Aiwo | <input type="checkbox"/> Denigomodu | <input type="checkbox"/> Anabar | <input type="checkbox"/> Ewa |
| <input type="checkbox"/> Anibare | <input type="checkbox"/> Ijuw | <input type="checkbox"/> Anetan | <input type="checkbox"/> Meneng |
| <input type="checkbox"/> Baitsi | <input type="checkbox"/> Nibok | <input type="checkbox"/> Boe | <input type="checkbox"/> Uaboe |
| <input type="checkbox"/> Buada | <input type="checkbox"/> Yaren | | |

5. I am entitled to be registered in the above District I have selected because:

Tick one only of the following boxes:

- The District is registered as my place of birth in the Register of Births.
- I am living in the District now and have been living in the District for more than 1 month.
- I am living outside of Nauru and immediately before I ceased to live in Nauru I had been living the District for more than 1 month.
- I have connection to that District through:
 - Nauru custom, customary links and affiliation;
 - My father/mother was born in that District;
 - My father/mother is registered to vote in that District;
 - It is the District of birth or registration of my spouse.

* *If you tick one of these boxes, the Electoral Commission may require you to provide evidence supporting your application. Evidence may include but are not limited to the statutory declaration of another person.*

Before
me*:

.....

* Under Section 43(3)(a), (b) and (c) a declaration shall only be witnessed by a Barrister, Solicitor, Pleader or Commissioner for Oaths or other persons nominated by the Electoral Commission.

DECLARED at Yaren District, Nauru

This ... Day of, 20 ... before me and I certify that the declaration was read over in the Nauruan or English language to the applicant/declarant who appeared fully to understand the meaning thereof

} Signed: _____
Date: _____

Before
me*:

.....

* Under Section 43(3)(a), (b) and (c) a declaration shall only be witnessed by a Barrister, Solicitor, Pleader or Commissioner for Oaths or other persons nominated by the Electoral Commission.

[Form 2 am Act 8 of 2022 s 16, opn 8 June 2022]

FORM 3



REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Section 43(2)]

DECLARATION IN SUPPORT OF APPLICATION FOR REGISTRATION OR
TRANSFER OF REGISTRATION

I (name)..... of
(address).....,
(occupation)..... do solemnly and sincerely declare that:

- 1. I have been asked by (name of applicant for registration or transfer of
registration)..... to make this declaration in support of
his/her application for registration or transfer of registration under Section 40 or
41 of the Electoral Act 2016;
2. I have known the applicant for (time).....

I can attest from my own personal knowledge that the applicant:
(tick only one box)

- *lives in..... District, and that the applicant has lived there
for at least 1 month /immediately before the applicant ceased to live in Nauru, he
or she had been living in..... District for at least 1 month]; or
has connection to that District through:
Nauru custom, customary links and affiliation;
His or her father/mother was born in that District;
His or her father/mother is registered to vote in that District;
It is the District of birth or registration of his or her spouse.

Signed:
Declared at..... this day of.....,....
Before me: (Signature and Date)
(Title)

* Delete whichever is not applicable

Note: a person making a false statement in a statutory declaration is guilty of an offence
and is liable to imprisonment for 5 years.

[Form 3 am Act 8 of 2022 s 16, opn 8 June 2022]

[The next page is 393,201]

SCHEDULE 3



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Section 42(1)(e)]

CERTIFICATE OF ELECTORAL COMMISSION

[Sch 3 am Act 8 of 2022 s 16, opn 8 June 2022]

In accordance with Section 42(1)(e) of the *Electoral Act 2016*, We certify that.[insert name] is entitled to have his or her name entered in the Roll of the District. [insert District] on the grounds that he or she has demonstrated in the enquiry held in accordance with Section 44 that he or she has substantial connection to the above District by virtue of:

- Nauru custom, customary links and affiliation;
- His or her father/mother was born in that District or registered for the purposes of this Act in that District;
- His or her father/mother is registered to vote in that District or registered for the purposes of this Act in that District;
- It is the District of birth or registration of his or her spouse.

Signed:

Electoral Commissioner
(Date)

Electoral Commissioner

Electoral Commissioner

[The next page is 393,401]

SCHEDULE 4



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Section 48]

NOTICE OF REASONS FOR REJECTION OF APPLICATION

TO: (name of applicant)

We are writing to notify you that your application under Section 40/Section 41 of the *Electoral Act 2016* to have your name entered on the roll for (District) has been rejected.

The reasons for the rejection of your application are: (state reasons)

.....
.....
.....
.....
.....
.....
.....
.....

You are entitled to appeal to the Supreme Court against this decision. If you wish to appeal you shall do so within seven (7) days after receiving this notice. Note that no appeal may be made to the Supreme Court within 10 days from polling day.

Signed:

Electoral Commissioner
(Date)

Electoral Commissioner

Electoral Commissioner

[The next page is 393,601]

SCHEDULE 5



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Section 53(2)]

NOTICE OF REASONS FOR REMOVAL FROM ELECTORAL ROLL

TO: (name of person struck off roll)

We are writing to notify you that your name has been removed from the roll for (District).....

The reasons for the removal of your name are: (state reasons)

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

You are entitled to appeal to the District Court against this decision. If you wish to appeal you shall do so within seven (7) days after receiving this notice.

Signed:

Electoral Commissioner
(Date)

Electoral Commissioner

Electoral Commissioner

[The next page is 393,801]

SCHEDULE 6



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Section 55(1)]

NOTICE TO A VOTER WHO FAILED TO VOTE

District of.....

Number on Roll.....

TO: (Name).....

(Address).....

You are notified that you have failed to vote at the election held under the *Electoral Act 2016* on (date) and you are called upon to give reasons for your failure to vote.

You are required to:

- (a) state, in the form attached, the reason why you failed to vote;
- (b) complete and personally sign the form, and have it witnessed by a person registered as a voter; and
- (c) return the form to reach me on or before (date)

NOTE:

1. A voter who:
 - (a) fails to vote at an election without a valid and sufficient reason for that failure; or
 - (b) on receipt of this notice, fails to complete, sign and return within the time specified in the notice, the form (duly witnessed) attached to it; or
 - (c) states in that form a false reason for not having voted or, in the case of a voter completing the form on behalf of any other voter, states in that form a false reason why that other voter did not vote,is guilty of an offence and is, on conviction, liable to a penalty not exceeding \$100.
2. If the voter to whom this notice is addressed is unable, by reason of absence from his or her place of living or physical incapacity, to complete, sign and return the attached form within the time specified in this notice, any other voter who has personal knowledge of the facts may complete, sign and return the form duly witnessed, and the completing, signing and returning of the form will be treated as compliance by the first-mentioned voter with the requirements of this notice.

Signed:

Electoral Commissioner
(Date)

Electoral Commissioner

Electoral Commissioner

[The next page is 394,001]

SCHEDULE 7



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Section 55(2)]

**FORM OF DECLARATION TO BE COMPLETED AND RETURNED TO THE
ELECTORAL COMMISSION**

District of.....

I..... declare I*..... failed
to vote at the election held under the *Electoral Act 2016*, on (date)..... for the
following reasons: (state reasons)

.....
.....
.....
.....
.....
.....
.....
.....
.....

.....
(signature of Voter)

I, the undersigned, being a voter or a person registered to be a voter certify that I have seen the
abovementioned voter sign the above declaration.

(Signature of Witness).....

(Occupation).....

(Address).....

Date.....

* Where this form is filled in on behalf of an absent or physically incapacitated voter the word "I"
shall be struck out, and the name of the absent or incapacitated voter inserted.

[The next page is 394,201]

SCHEDULE 8
FORM A



REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Section 56(1)]

**WRIT FOR A GENERAL ELECTION OF MEMBERS OF PARLIAMENT FOR THE
REPUBLIC OF NAURU**

To the Electoral Commission

This is to command you to cause elections to be held according to law of members to serve in Parliament for the Republic of Nauru, and I appoint (date).....to be the date when the poll (if any) for the purposes of the elections will be taken.

Given under my hand at Nauru, this (date)

Speaker of Parliament

FORM B



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Section 56(1)]

**WRIT FOR AN ELECTION OF A MEMBER OF PARLIAMENT FOR THE REPUBLIC
OF NAURU TO FILL A VACANCY**

To the Electoral Commission

This is to command you to cause an election to be held according to law of member(s) of Parliament for the Republic of Nauru to fill the vacant office of member(s) for the Constituency/ies, and I appoint (date)to be the date when the poll (if any) for the purposes of the election will be taken.

GIVEN under my hand at Nauru, this (date)

Speaker of Parliament

FORM C



REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Section 60(2)]

**WRIT FOR A SUPPLEMENTARY ELECTION OF A MEMBER OF PARLIAMENT FOR
THE REPUBLIC OF NAURU**

To the Electoral Commission

This is to command you to cause a supplementary election to be held according to law of member(s) of Parliament for the Republic of Nauru for the Constituency/ies, and I appoint (date)to be the date when the poll (if any) for the purposes of the supplementary election will be taken.

GIVEN under my hand at Nauru, this (date)

Speaker of Parliament

[The next page is 394,401]

SCHEDULE 9



REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Section 57(3)(a)]

NOMINATION OF CANDIDATE FOR ELECTION AS A MEMBER OF
PARLIAMENT

[Sch 9 subst Act 8 of 2022 s 17, opn 8 June 2022]

We nominate[insert full name of person being nominated]
of[insert name of District in which candidate is registered]
to be a candidate for election as a Member of Parliament for the Constituency of
.....[insert name of Constituency]

Dated:...../...../20.....

.....
[insert full name of Voter] [signature of voter]

.....
[insert full name of Voter] [signature of voter]

I, [insert full name] of[insert District in which
person is registered], solemnly and sincerely declare that:

- (a) I consent to the above nomination.
- (b) I have submitted a declaration of intention to contest a general election pursuant to
Section 135A of the Act, on/.../20.....
- (c) I meet all legal requirements for candidacy.

I make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations
Act 1976* conscientiously believing in the statements contained therein to be true in every particular.

Dated:/...../20.....

.....
[signature of Candidate]

NOTE: Any person making a false statement is guilty of an offence and liable to imprisonment for
5 years

[The next page is 394,601]

SCHEDULE 10



REPUBLIC OF NAURU ELECTORAL ACT 2016

[Section 59(1)]

OFFICES OF PROFIT IN THE SERVICE OF NAURU

[Sch 10 subst Act 8 of 2022 s 18, opn 8 June 2022]

1. An officer who holds an office under the *Public Service Act 2016*.
2. An officer who holds an office under the *Nauru Police Force Act 1972*.
3. An officer who holds an office under the *Nauru Air Corporation Act 1995*.
4. An officer who holds an office under the *Nauru Rehabilitation Corporation Act 1997*.
5. An officer who holds an office under the *Nauru Fisheries and Marine Resources Authority Act 1997*.
6. An officer who holds an office under the *RONPHOS Act 2005*.
7. An officer who holds an office under the *Nauru Utilities Corporation Act 2011*.
8. An officer who holds an office under the *Nauru Fibre Cable Corporation Act 2017*.
9. An officer who holds an office under the *Nauru (RPC) Corporation Act 2017*.
10. An officer who holds an office under the *Cenpac Corporation Act 2018*.
11. An officer who holds an office under the *Naoero Postal Services Corporation Act 2018*.
12. An officer who holds an office under the *Ports and Navigation Act 2019*.
13. An officer who holds an office under the *Nauru Tourism Corporation Act 2019*.
14. Any officer who holds an office in an instrumentality of the Republic registered under the *Corporations Act 1972* and any other corporation established by a written law.
15. Any officer appointed to an office pursuant to the *Public Enterprise Act 2019*.
16. Any officer appointed to an office pursuant to the *Parliamentary Services Act 2020*.
17. Any officer appointed to a public office or instrumentality established under a written law.

[The next page is 394,801]

SCHEDULE 11



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Section 70(1)]

BALLOT-PAPER

Constituency of

Election of [a Member/2 Members/3 Members/4 Members]* of Parliament for Nauru.

CANDIDATES

-
-
-
-
-

DIRECTIONS TO VOTERS

Mark your vote on this ballot-paper by placing the numbers (*here insert "1 and 2" where there are two candidates, "1, 2 and 3" where there three candidates, "1, 2, 3 and 4" where there four candidates and so on as the cases require*) in the squares respectively opposite to the names of the candidates so as to indicate the order of your preference for them.

[The next page is 395,801]

Electoral (Voters' Verification) Regulations 2016

TABLE OF PROVISIONS

Regulation

Title

PART 1 — PRELIMINARY MATTERS

- 1 Citation
- 2 Commencement
- 3 Interpretation

PART 2 — VOTERS' VERIFICATION

- 4 Presiding officer and election official to inspect voter's forefinger before ballot paper is given
- 5 Voter not provided with ballot paper or allowed to vote
- 6 Voter's left forefinger to be marked
- 7 Meaning of "left forefinger"

PART 3 — OFFENCE

- 8 Refusal to allow inspection or marking of left forefinger an offence

[The next page is 396,001]

Electoral (Voters' Verification) Regulations 2016

TABLE OF AMENDMENTS

The Electoral (Voters' Verification) Regulations 2016 SL 8 were notified and commenced on 2 June 2016 (GN No 409/2016; Gaz 93/2016).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

[The next page is 396,201]

The Electoral Commission makes the following Regulations in accordance with Sections 78 and 136(e) of the *Electoral Act 2016*:

PART 1 — PRELIMINARY MATTERS

1 Citation

These Regulations may be cited as the *Electoral (Voters' Verification) Regulations 2016*.

2 Commencement

These Regulations commence on the day on which they are published in the Gazette.

3 Interpretation

In these Regulations, the *Electoral Act 2016* is referred to as “the Act”.

[The next page is 396,401]

PART 2 — VOTERS' VERIFICATION

4 Presiding officer and election official to inspect voter's forefinger before ballot paper is given

Once a presiding officer has verified that a voter present at a polling station is registered to vote at a polling station and is entitled to vote, the presiding officer shall:

- (a) inspect the voter's left forefinger;
- (b) after confirming that there is no indelible ink, mark the voter's left forefinger with an indelible ink; and
- (c) hand the voter a ballot paper in accordance with Section 73(2)(b) of the Act.

5 Voter not provided with ballot paper or allowed to vote

A voter will not be supplied with any ballot paper or allowed to vote, if the voter:

- (a) refuses to allow his or her forefinger to be inspected under Regulation 4;
- (b) has an ink mark on his or her left forefinger; or
- (c) does any act with a view to removing the ink mark.

6 Voter's left forefinger to be marked

The voter shall, upon receiving the ballot paper, but before retiring to the polling booth in line with Section 73(3)(a) of the Act, allow his or her left forefinger to be marked with an indelible ink.

7 Meaning of "left forefinger"

Any reference in these Regulations to the left forefinger of a voter shall:

- (a) in the case where the voter has his or her left forefinger missing, be construed as a reference to any other finger of his or her left hand;
- (b) in the case where all the fingers of his or her left hand are missing, be construed as a reference to the forefinger or any other finger of his or her right hand; and
- (c) in the case where all the fingers of both hands are missing be construed as a reference to such extremity of his or her left or right arm as he or she possesses.

[The next page is 396,601]

PART 3 — OFFENCE

8 Refusal to allow inspection or marking of left forefinger an offence

- (1) A voter commits an offence if that voter refuses to allow his or her left forefinger to be inspected or marked by the presiding officer or an election official in accordance with Regulations 4, 5 and 6.
- (2) A voter in breach of subregulation (1) is liable to a fine not exceeding \$5,000 or imprisonment for 1 year or to both such fine and imprisonment.

[The next page is 397,601]

Electoral (Proxy Voting) Regulations 2016

TABLE OF PROVISIONS

Regulation

Title

PART 1 — PRELIMINARY MATTERS

- 1 Citation
- 2 Commencement
- 3 Interpretation

PART 2 — APPLICATION FOR PROXY VOTING AUTHORISATION AND DETERMINATION OF APPLICATION

- 4 Application for proxy voting authorisation
- 4A Written confirmation for application by person in mandatory isolation
- 5 Determination of application for proxy voting authorisation

PART 3 — EFFECT OF PROXY VOTING AUTHORISATION

- 6 Voter may not vote in person while proxy voting authorisation in force

PART 4 — WITHDRAWAL OF PROXY VOTING AUTHORISATION

- 7 Withdrawal of proxy voting authorisation — application of voter
- 8 Withdrawal of proxy voting authorisation — death or ineligibility to vote
- 9 Withdrawal of proxy voting authorisations — more than 4 proxy voting authorisation granted to proxy

PART 5 — OBLIGATIONS ATTACHED TO PROXY VOTING AUTHORISATION

- 10 Returning Officer's obligations — informing voter of withdrawal of proxy voting authorisation
- 11 Returning Officer's obligations — list of proxies for use on polling day
- 12 Obligation of proxy to return proxy voting authorisation
- 13 Obligations of presiding officer at polling place
- 14 Obligation of the proxy in casting vote on behalf of voter

PART 6 — APPLICATION OF ELECTORAL ACT 2016

- 15 Application of Electoral Act 2016 to proxy voting

PART 7 — PROXY VOTING OFFENCES

- 16 Inducement of voter to vote by proxy

<i>Regulation</i>	<i>Title</i>
17	False or misleading information in application
18	False or misleading information by proxy
	SCHEDULE 1 — FORMS
	FORM 1 — APPLICATION FOR PROXY VOTING AUTHORISATION
	FORM 2 — PROXY VOTING AUTHORISATION
	FORM 3 — NOTICE OF REFUSAL TO GRANT PROXY VOTING AUTHORISATION
	FORM 4 — WITHDRAWAL OF NOMINATION OF PROXY

[The next page is 397,801]

Electoral (Proxy Voting) Regulations 2016

TABLE OF AMENDMENTS

The Electoral (Proxy Voting) Regulations 2016 SL 9 were notified on 2 June 2016 and commenced on 3 June 2016 (reg 2 and GN No 410/2016; Gaz 94/2016).

Amending Legislation	Notified	Date of Commencement
Electoral (Proxy Voting)(Amendment) Regulations 2019	24 July 2019	24 July 2019
Electoral (Proxy Voting)(Amendment) Regulations 2020 SL 36	30 November 2020	30 November 2020
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Electoral (Proxy Voting) (Amendment) Regulations 2022 SL 28	30 August 2022	30 August 2022

[The next page is 398,001]

The Electoral Commission makes the following Regulations in accordance with Sections 78 and 136(e) of the *Electoral Act 2016*:

PART 1 — PRELIMINARY MATTERS

1 Citation

These Regulations may be cited as the *Electoral (Proxy Voting) Regulations 2016*.

2 Commencement

These Regulations commence on the day after the day on which they are published in the Gazette.

3 Interpretation

In these Regulations:

‘polling place’ means a polling station notified under Section 62 or location for polling notified under Section 78A(6) of the Act; and

‘Returning Officer’ means an Electoral Commissioner serving as the Returning Officer under Section 19(3) of the Act.

[reg 3 am SL 28 of 2022 reg 4, opn 30 Aug 2022]

[The next page is 398,201]

**PART 2 — APPLICATION FOR PROXY VOTING AUTHORISATION AND
DETERMINATION OF APPLICATION**

4 Application for proxy voting authorisation

- (1) A voter who is entitled to vote at a particular election but who will not be in the Republic on the polling day for the election may in accordance with Section 78(1) and (5) of the Act make an application to the Returning Officer for a proxy voting authorisation after the closing of the Roll under Section 56(2) of the Act.
- (2) The proxy nominated by the voter in the application shall:
 - (a) be entitled to vote;
 - (b) be enrolled on the same Roll as the voter;
 - (c) not be under a sentence, or subject to be sentenced, for an offence punishable by imprisonment for 3 years or more; and
 - (d) not be proxy for more than 4 voters.
- (3) The application shall be received by the Returning Officer:
 - (a) at least 24 hours before the early voting commences where the proxy is to vote on the first day of the early voting;
 - (b) at least 24 hours before the proxy casts his or her vote during the early voting polling period; or
 - (c) at least 24 hours before the polling day.
- (4) The application shall be in Form 1 in Schedule 1 and shall comply with the following:
 - (a) Part A shall be signed by the applicant, whose signature shall be witnessed by a person referred to under subregulation (5); and
 - (b) Part B shall be signed by the nominated proxy.
- (5) The witness shall be one of the following:
 - (a) Returning Officer;
 - (b) Commissioner for Oaths;
 - (c) Nauru Permanent Representative to the United Nations (New York);
 - (d) Nauru Ambassador to Republic of China (Taiwan — Taipei);
 - (e) Nauru High Commissioner to Fiji (Suva);
 - (f) Nauru Consul General to Australia (Brisbane);
 - (g) Nauru Consul General to Thailand (Bangkok);
 - (h) Nauru Honorary Consul to India (New Delhi);
 - (i) Nauru Honorary Consul to the United Kingdom (London);
 - (j) Nauru Honorary Consul to Belgium (Brussels);
 - (k) Nauru Honorary Consul to Israel (Jerusalem);
 - (l) a person in a country other than the Republic who is a legal practitioner, notary public, commissioner of oaths or justice of the peace under the law of the country; or
 - (m) any other person appointed by the Returning Officer to be a witness.
- (6) Where the applicant is not in the Republic when the application is signed:
 - (a) a paper copy of the application may be signed by the applicant and attested by the witness and then scanned and emailed to the email address provided by the Returning Officer;

- (b) the nominated proxy may either sign the paper copy before it is scanned and emailed or add his or her signature to a paper copy of the emailed application; and
 - (c) the application will be taken to have been delivered to the Returning Officer when a copy is received by the Returning Officer bearing the signature or a scanned copy of the signature of the applicant, witness and nominated proxy as set out above.
- (7) For the purposes of subregulation (1), a voter is deemed as not being in the Republic on polling day where the voter:
- (a) has tested positive for Coronavirus (COVID-19); and
 - (b) is subject to an order made under a written law to be in mandatory isolation.

[reg 4 subst SL 28 of 2022 reg 5, opn 30 Aug 2022]

4A Written confirmation for application by person in mandatory isolation

- (1) For the purposes of Regulation 4(7), a voter making an application under Regulation 4(1), shall submit a:
- (a) form required under Regulation 4(4);
 - (b) written confirmation by a registered health practitioner that the voter has tested positive for Coronavirus (COVID-19); and
 - (c) written confirmation from a registered health practitioner that the voter is required to or is under a mandatory isolation order.
- (2) Notwithstanding Regulation 4(3), an application made for the purposes of Regulation 4(7) shall be received by the Returning Officer before 1.00pm on polling day.
- (3) For the purposes of allowing a person to vote through proxy voting under this Regulation, the witnessing of his or her application shall be conducted in accordance with Regulation 7 of the *Electoral (Remote Witnessing) Regulations 2019*.

[reg 4A insrt SL 28 of 2022 reg 6, opn 30 Aug 2022]

5 Determination of application for proxy voting authorisation

- (1) Subject to subregulations (2) and (3), the Returning Officer shall, on application, grant a proxy voting authorisation if:
- (a) the application complies with regulation 4; and
 - (b) the Returning Officer is satisfied that:
 - (i) the applicant is entitled to vote at the election;
 - (ii) the nominated proxy is eligible to act as proxy for the applicant, that is, the person has satisfied the requirements set out in Regulation 4(2)(a) to (b); and
 - (iii) the application by a voter submitted for the purposes of Regulation 4(7) is accompanied by a written confirmation required under Regulation 4A.

[subreg (1) am SL 28 of 2022 reg 7, opn 30 Aug 2022]

- (2) The Returning Officer may refuse to grant a proxy voting authorisation if the Returning Officer is not satisfied of any of the following:
- (a) the applicant has exercised free will in deciding to make the application for the authorisation;

- (b) the applicant will be outside the Republic on polling day;
 - (c) the nominated proxy has exercised free will in consenting to be proxy;
 - (d) the nominated proxy understands the responsibilities of a proxy; or
 - (e) the nominated proxy will vote in accordance with the instructions of the applicant.
- (3) The Returning Officer may refuse to grant a proxy voting authorisation if the Returning Officer has reasonable grounds to believe that the applicant has been induced by another, whether by threats or promises or otherwise, to vote by proxy.
- (4) Where the Returning Officer grants a proxy voting authorisation, the Returning Officer shall make the authorisation in Form 2 of Schedule 1 available for collection by the proxy:
- (a) from the Electoral Commission's office; or
 - (b) at a polling station.
- [subreg (4) subst SL 28 of 2022 reg 7, opn 30 Aug 2022]
- (5) If the Returning Officer refuses to grant a proxy voting authorisation, the Returning Officer shall give the applicant a notice of refusal in the form of Form 3 set out in Schedule 1 by delivering it according to the contact details provided in the application or, if no contact details are provided, by making it available for collection by the applicant.

[The next page is 398,401]

PART 3 — EFFECT OF PROXY VOTING AUTHORISATION

6 Voter may not vote in person while proxy voting authorisation in force

- (1) Except as specified in subregulation (2), a voter for whom a proxy voting authorisation for an election has been granted cannot vote personally.
- (2) A voter for whom a proxy voting authorisation has been granted who is in the Republic on polling day may, if the proxy voting authorisation is withdrawn in line with these Regulations, vote in person at the election.

[The next page is 398,601]

PART 4 — WITHDRAWAL OF PROXY VOTING AUTHORISATION

7 Withdrawal of proxy voting authorisation — application of voter

- (1) Subject to subregulation (6), a voter may apply to the Returning Officer for a proxy voting authorisation granted to a proxy of the voter to be withdrawn.

[subreg (1) am SL 28 of 2022 reg 8, opn 30 Aug 2022]

- (2) Subject to subregulation (7), the application shall be received by the Returning Officer at least 24 hours before polling commences.

[subreg (2) am SL 28 of 2022 reg 8, opn 30 Aug 2022]

- (3) The application shall:
 - (a) be in the form of Form 4 set out in Schedule 1; and
 - (b) be signed by the voter and attested by a witness designated under Regulation 4(5).
- (4) Where the applicant is not in the Republic when the application is signed, a paper copy of the application may be signed by the voter and attested by the witness and then scanned and emailed to the email address provided by the Returning Officer.
- (5) Where an application is received by the Returning Officer in compliance with this Regulation, the Returning Officer shall withdraw the proxy voting authorisation to which it relates.
- (6) A voter who seeks to vote through a proxy, shall not be permitted to withdraw or change his or her proxy, after a duly appointed proxy has cast his or her vote.

[subreg (6) insrt SL 28 of 2022 reg 8, opn 30 Aug 2022]

- (7) An application to withdraw or change a proxy:
 - (a) shall not be accepted for processing by the Returning Officer where the earlier nominated proxy has already cast the vote; and
 - (b) the Returning Officer shall inform the voter of the reason for not accepting any subsequent application or withdrawal or change of a proxy.

[subreg (7) insrt SL 28 of 2022 reg 8, opn 30 Aug 2022]

8 Withdrawal of proxy voting authorisation — death or ineligibility to vote

Where a proxy voting authorisation has been granted and the voter or proxy dies or ceases to be eligible to vote at the election, the proxy voting authorisation is withdrawn.

9 Withdrawal of proxy voting authorisations – more than 4 proxy voting authorisation granted to proxy

- (1) Where more than 4 proxy voting authorisations are purportedly granted in the name of the same proxy for an election, the 4 authorisations granted earliest in time are valid and the remaining authorisations are invalid and deemed to be withdrawn.

- (2) Where any purported authorisation granted under subsection (1) becomes invalid, the Electoral Commission shall inform the proxy immediately.
- (3) The voter may nominate a substitute proxy by no later than 6.00pm on the day on which proxy voting closes.

[reg 9 subst SL 16 of 2019 reg 4, opn 24 July 2019]

[The next page is 398,801]

**PART 5 — OBLIGATIONS ATTACHED TO PROXY VOTING
AUTHORISATION**

10 Returning Officer’s obligations — informing voter of withdrawal of proxy voting authorisation

The Returning Officer shall endeavour to inform a voter if a proxy voting authorisation is withdrawn other than by reason of the death of the voter or is invalid under Regulation 9.

11 Returning Officer’s obligations — list of proxies for use on polling day

- (1) The Returning Officer shall make a list of the names of all proxies and related voters for which proxy voting authorisations have been granted for an election.
- (2) No entry is to be deleted from the list, but if a proxy voting authorisation for the election is withdrawn before the proxy has cast the vote, the Returning Officer shall strike through the relevant entry on the list and add to the entry a note of the reason for the withdrawal.

[subreg (2) am SL 28 of 2022 reg 9, opn 30 Aug 2022]

- (3) The Returning Officer shall give a copy of the list to the presiding officer at each relevant polling place on polling day before the commencement of polling.

12 Obligation of proxy to return proxy voting authorisation

- (1) Where a proxy voting authorisation has been collected from the Returning Officer and the authorisation is subsequently withdrawn before the proxy has cast the vote, the former proxy shall, at the request of the Returning Officer or a presiding officer, return the authorisation to the Returning Officer or presiding officer.

Maximum penalty: \$1,000 and imprisonment for 3 months.

[subreg (1) am SL 28 of 2022 reg 10, opn 30 Aug 2022]

- (2) It is a defence to a charge of an offence against subregulation (1), if the defendant proves that the authorisation has been lost or destroyed.

13 Obligations of presiding officer at polling place

- (1) A presiding officer shall not deliver a ballot-paper to a person claiming to vote on behalf of a voter as a proxy unless:
 - (a) the person hands in the relevant proxy voting authorisation;
 - (b) the person is listed as a proxy of the voter on the list of proxies prepared by the Returning Officer and the relevant entry has not been struck through; and
 - (c) the presiding officer asks the person each of the following questions:
 - (i) “Are you the person whose name appears on the proxy voting authorisation as the (the name of the proxy)?”

- (ii) “Are you qualified to vote as a proxy on behalf of (the name of the voter) at this election of members for (the name of the constituency or the names of the Districts included in the constituency)?”
 - (iii) “Have you already voted as a proxy of (the name of the voter)?”; and
 - (iv) the person answers questions (i) and (ii) in the affirmative and (iii) in the negative.
- (2) The presiding officer is not entitled to ask the person any other questions in relation to the person’s claim to vote at the election as a proxy.
 - (3) The presiding officer shall note the fact that ballot-papers have been delivered to a proxy against the relevant entry in the list of proxies prepared by the Returning Officer.
 - (4) Once a presiding officer has verified that a voter present at a polling station is an authorised proxy voter and is entitled to a proxy vote, the presiding officer or the designated election official shall:
 - (a) prior to handing that person a ballot-paper, cross off the name of the authorised proxy voter(s) from the voter list;
 - (b) hand the voter one ballot-paper for each proxy vote initialled in accordance with Section 70(1) of the Act; and
 - (c) immediately have the voter sign next to the name of the authorised proxy voter’s name on the voters list to confirm that they have received a ballot-paper for that person.

14 Obligation of the proxy in casting vote on behalf of voter

- (1) A proxy shall cast his or her vote as proxy for a voter at the same time as he or she casts his or her vote as a voter.
- (2) The proxy shall hand to the presiding officer at the polling place the relevant proxy voting authorisation.
- (3) The proxy is required to vote as instructed by the voter but failure to do so is not good ground for an electoral dispute.

[The next page is 399,001]

PART 6 — APPLICATION OF ELECTORAL ACT 2016

15 Application of Electoral Act 2016 to proxy voting

- (1) Sections 74, 75 and 76 of the Act apply to a proxy or ballot-paper delivered to a proxy as if the proxy were the voter casting a vote at the election.
- (2) A proxy may attend at a polling place to vote at an election only once and shall be dealt with under the Act and these Regulations as both a voter and proxy on that occasion.
- (3) Part 10 of the Act relating to “Corrupt Practices And Electoral Offences”, to the extent that the offences relate to proxy voting, also apply to these Regulations.

[The next page is 399,201]

PART 7 — PROXY VOTING OFFENCES

16 Inducement of voter to vote by proxy

A person shall not induce, whether by threats or promises or otherwise, a voter to vote by proxy at an election.

Maximum penalty: \$10,000 and imprisonment for 6 months.

[reg 16 am SL 36 of 2020 reg 4, opn 30 Nov 2020]

17 False or misleading information in application

A person commits an offence if:

- (a) the person signs an application for proxy authorisation as the applicant, a witness and a nominated proxy;
- (b) the application contains false or misleading information; and
- (c) the person:
 - (i) knows the information is false or misleading; or
 - (ii) is reckless about whether the information is false or misleading.

Maximum penalty: \$5,000 and imprisonment for 6 months.

[reg 17 am SL 36 of 2020 reg 5, opn 30 Nov 2020]

18 False or misleading information by proxy

A person commits an offence if:

- (a) the person provides information that is false or misleading in response to a question put to the person by a presiding officer under these regulations; and
- (b) the person:
 - (i) knows that the information is false or misleading; or
 - (ii) is reckless about whether the information is false or misleading.

Maximum penalty: \$5,000 and imprisonment for 6 months.

[reg 17 am SL 36 of 2020 reg 6, opn 30 Nov 2020]

[The next page is 399,401]

SCHEDULE 1

FORMS

FORM 1



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Section 78; Regulation 4(4)]

APPLICATION FOR PROXY VOTING AUTHORISATION

Part A — Application by voter

Electoral (Proxy Voting) Regulations 2016, Regulation 4(4) — to be completed by voter.

To the Returning Officer

I,

[insert full name]

of

[insert current address or District of residence]

being on the roll to vote in the constituency of

[insert name of constituency]

apply for a proxy voting authorisation for the:

[tick one box only]

general election

by-election

to be held on

[insert date of polling day]

I declare that I am unable to vote in person at the election because I will not be in Nauru on polling day.

I nominate

[insert full name]

of

[insert current address or District of residence]

being a person on the roll to vote in the same constituency, to be my proxy for the election.

I acknowledge that my proxy shall vote on my behalf according to my instructions on how to vote but that there are no controls to ensure that my instructions will be followed and the failure of the proxy to do so is not grounds for an electoral dispute.

My contact details are as follows:

[Insert details for preferred form of notification if proxy voting authorisation is refused.]

email address:

fax:

phone:

postal address:

I understand that I will be committing an offence if I know, or am reckless about whether, a statement in this application (including in Part B) is false or misleading and that the maximum penalty is \$5,000 and imprisonment for 1 year.

Signature of applicant:

Date:

Signature of witness:

Full name of witness:

Title of witness:

The witness shall be one of the following: Returning Officer; Commissioner for Oaths; Nauru Permanent Representative to the United Nations (New York); Nauru Ambassador to Republic of China (Taiwan — Taipei); Nauru High Commissioner to Fiji (Suva); Nauru Consul General to Australia (Brisbane); Nauru Consul General to Thailand (Bangkok); Nauru Honorary Consul to India (New Delhi); Nauru Honorary Consul to the United Kingdom (London); Nauru Honorary Consul to Belgium (Brussels); Nauru Honorary Consul to Israel (Jerusalem); a person in a country other than Nauru who is a legal practitioner, notary public, commissioner of oaths or justice of the peace under the law of the country; or any other person appointed by the Returning Officer to be a witness.

The witness commits an offence if the witness knows, or is reckless about whether, a statement in the application (including in Part B) is false or misleading.

Part B — Consent of proxy

Electoral (Proxy Voting) Regulations 2016, Regulation 4(4) — to be completed by nominated proxy

I declare that I have not consented to be proxy for more than 4 voters

[insert full name]

of

[insert current address or District of residence]

being on the roll to vote in the constituency of

[insert name of constituency]

consent to vote as proxy of.....

[insert name of voter]

at the *[tick one box only]*:

general election

by-election

to be held on

[insert date of polling day]

I acknowledge that I shall vote on behalf of the voter in accordance with the voter’s instructions on how to vote.

I declare that I have not consented to be proxy for more than 4 voters.

I declare that I am not under a sentence, or subject to be sentenced, for an offence punishable by imprisonment for 3 years or more.

I understand that I will be committing an offence if I know, or am reckless about whether, a statement in this application (including in Part A) is false or misleading and that the maximum penalty is \$5,000 and imprisonment for 1 year.

Signature of proxy:

Date:

[Form 1 am SL 16 of 2019 reg 5, opn 24 July 2019]

FORM 2



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Section 78; Regulation 4(4)]

PROXY VOTING AUTHORISATION

Electoral (Proxy Voting) Regulations 2016, Regulation 5(4) — to be completed by Returning Officer.

.....

[insert full name of proxy]

of

[insert current address or District of residence of proxy]

is authorised to vote on behalf of:

.....

[insert full name of voter]

of

[insert current address or District of residence of voter]

at the *[tick one box only]*:

general election

by-election

to be held on

[insert date of polling day]

This authorisation will be withdrawn if the voter withdraws the nomination of the proxy in accordance with the regulations or the voter or proxy dies or ceases to be entitled to vote at the election.

Signature of Returning Officer

Date:

Time:

You shall vote in your capacity as a voter and in your capacity as proxy at the same time. It is an offence not to vote in line with the voter's instructions.

This form shall be given to the presiding officer at the polling place where you attend to vote on polling day. If you do not take this form with you, you will not be able to vote as proxy on behalf of the voter.

FORM 3



REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Section 78; Regulation 5(5)]

NOTICE OF REFUSAL TO GRANT PROXY VOTING AUTHORISATION

Electoral (Proxy Voting) Regulations 2016, Regulation 5(5) — to be completed by Returning Officer.

To the voter:

[insert full name]

of

[insert current address or District of residence]

Your application for a proxy voting authorisation for the: [tick one box only]

general election

by-election

to be held on

[insert date of polling day]

dated

[insert date on application]

is refused because: [tick 1 or more boxes]

- I am not satisfied that the applicant is enrolled to vote in a constituency for which the election is to be held.
- I am not satisfied that the application has been properly completed and signed by the applicant.
- I am not satisfied that the signature of the applicant has been properly attested by a witness of the relevant class.
- I am not satisfied that the application has been properly completed and signed by the nominated proxy.
- The application was not received by the Returning Officer at least 24 hours before polling commences.
- I am not satisfied that the nominated proxy is eligible to be a proxy for the voter because:
 - the person is not entitled to vote at the election.
 - the person is not enrolled in the same District as the applicant.
 - the person is under a sentence, or subject to be sentenced, for an offence punishable by imprisonment for 3 years or more.
 - the person is authorised to act as proxy for 4 electors.

- I am not satisfied that the applicant has exercised free will in deciding to apply to vote by proxy.
- I am not satisfied that the applicant will be outside Nauru on polling day.
- I am not satisfied that the nominated proxy has exercised free will in consenting to be proxy.
- I am not satisfied that the nominated proxy understands the responsibilities of a proxy.
- I am not satisfied that the nominated proxy will vote in accordance with the instructions of the applicant.
- I have reasonable grounds to believe that the applicant has been induced by another to vote by proxy.

Signature of Returning Officer.

Date:

[Form 3 am SL 16 of 2019 reg 5, opn 24 July 2019]

FORM 4



REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Section 78; Regulation 7(3)]

WITHDRAWAL OF NOMINATION OF PROXY

Electoral (Proxy Voting) Regulations 2016, Regulation 7(3) — to be completed by voter.

To the Returning Officer

I,

[insert full name]

of

[insert current address or District of residence]

being on the roll to vote in the constituency of

[insert name of constituency]

revoke the nomination of:

.....

[insert full name of former proxy]

of

[insert current address or District of residence of former proxy]

to vote as my proxy at the: *[tick one box only]*

general election

by-election

to be held on

[insert date of polling day]

Signature of applicant:

Date:

Signature of witness:

Full name of witness:

Title of witness:

The witness shall be 1 of the following: Returning Office; Commissioner for Oaths; Nauru Permanent Representative to the United Nations (New York); Nauru Ambassador to Republic of China (Taiwan — Taipei); Nauru High Commissioner to Fiji (Suva); Nauru Consul General to Australia (Brisbane); Nauru Consul General to Thailand (Bangkok); Nauru Honorary Consul to

India (New Delhi); Nauru Honorary Consul to the United Kingdom (London); Nauru Honorary Consul to Belgium (Brussels); Nauru Honorary Consul to Israel (Jerusalem); a person in a country other than Nauru who is a legal practitioner, notary public, commissioner of oaths or justice of the peace under the law of the country; or a person appointed by the Returning Officer to be a witness.

[The next page is 400,401]

Electoral (Mobile Polling Station) Regulations 2016

TABLE OF PROVISIONS

Regulation

Title

PART 1 — PRELIMINARY

- 1 Citation
- 2 Commencement
- 3 Interpretation

PART 2 — PURPOSE AND APPLICATION OF REGULATIONS

- 4 Purpose of Regulations
- 5 Application of Regulations

PART 3 — PROCEDURE FOR APPLYING AND DETERMINATION OF APPLICATION

- 6 Voter to apply
- 7 Decision to be at Electoral Commission's discretion

PART 4 — DUTY OF ELECTORAL COMMISSION AND PRESIDING OFFICER

- 8 Electoral Commission to direct presiding officer
- 9 Presiding officer to visit voter
- 10 Voter's vote recorded as if taken in a polling station under usual circumstances
- 11 Visit may be prohibited

[The next page is 400,601]

Electoral (Mobile Polling Station) Regulations 2016

The Electoral (Mobile Polling Station) Regulations 2016 SL 14 were notified and commenced on 10 June 2016 (GN No 431/2016; Gaz 102/2016).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Electoral (Mobile Polling Station) (Amendment) Regulations 2022 SL 27	30 August 2022	30 August 2022

[The next page is 400,801]

The Electoral Commission makes the following Regulations in accordance with Section 136(d) and (f) of the *Electoral Act 2016*:

PART 1 — PRELIMINARY

1 Citation

These Regulations may be cited as the *Electoral (Mobile Polling Station) Regulations 2016*.

2 Commencement

These Regulations commence on the day they are notified in the Gazette.

3 Interpretation

In these Regulations, the *Electoral Act 2016* is referred to as ‘the Act’.

[The next page is 401,001]

PART 2 — PURPOSE AND APPLICATION OF REGULATIONS

4 Purpose of Regulations

- (1) The purpose of these Regulations is to provide for the implementation and administration of Section 63 (3) of the Act for the effective conduct of elections.
- (2) These Regulations affords an opportunity to vote to every voter, who:
 - (a) for the time being, is in his or her home or anywhere in Nauru, except for the voter who resides in an institution specified in Section 63 (1) and Section 79(3)(a) of the Act; and
 - (b) is of sound mind, but by reason of illness or infirmity, or, in the case of women, by reason of approaching maternity, is unable to attend a polling station established under Section 62 of the Act, or a mobile polling station established under Section 63(1), to vote.

5 Application of Regulations

These Regulations apply to a voter who:

- (a) falls under exceptional circumstances, as set out in Regulation 4;
- (b) has made an application to the Electoral Commission; and
- (c) has provided the required evidential reports to his or her condition.

[The next page is 401,201]

PART 3 — PROCEDURE FOR APPLYING AND DETERMINATION OF APPLICATION

6 Voter to apply

- (1) A voter intending to cast his or her vote through a mobile polling station shall submit a written application to the Electoral Commission:
 - (a) at least 48 hours before early voting commences;
 - (b) at least 48 hours before the voter casts his or her vote during the early voting polling period; or
 - (c) at least 48 hours before polling day.
- (2) An application made under subregulation (1) shall contain:
 - (a) the reason for the application;
 - (b) a medical report from a health practitioner registered under the *Health Practitioners Act 1999* to support the application where the reason provided for the application is a medical condition; and
 - (c) any other document the Electoral Commission requires.

[reg 6 subst SL 27 of 2022 reg 4, opn 30 Aug 2022]

7 Decision to be at Electoral Commission's discretion

- (1) The Electoral Commission has the discretion to approve or to deny any application received, including any application received after the 48 hours specified in Regulation 6.
- (2) The decision of the Electoral Commission shall be communicated to the voter who is denied his or her application, at the earliest possible time.
- (3) When an application is approved, the Electoral Commission shall:
 - (a) record the approval;
 - (b) designate a polling station for the purpose of these Regulations; and
 - (c) inform the voter of its decision.
- (4) The Electoral Commission shall keep a record of the details of all the applications received and the decisions made in respect of each application.

[The next page is 401,401]

PART 4 — DUTY OF ELECTORAL COMMISSION AND PRESIDING OFFICER

8 Electoral Commission to direct presiding officer

Where any application is approved by the Electoral Commission, it shall direct the presiding officer in charge of the mobile polling station to provide the voter an opportunity to record the voter's vote by visiting the voter at the voter's residence or a place requested by the voter:

- (a) within the hours of polling notified under Regulation 4 of the *Electoral (Early Voting) Regulations 2019*, before the close of poll; or
- (b) within the specified hours of polling day before the close of the poll.

[reg 8 subst SL 27 of 2022 reg 5, opn 30 Aug 2022]

9 Presiding officer to visit voter

When visiting the voter, the presiding officer shall take with him or her, the ballot box provided for the relevant station and he or she shall be accompanied by another election official appointed by the Electoral Commission, and a police officer.

10 Voter's vote recorded as if taken in a polling station under usual circumstances

On a visit conducted in accordance with this Part, the voter's vote shall so far as is reasonably practicable, be taken in all respects as if the vote was recorded in a polling station or mobile polling station under usual circumstances.

11 Visit may be prohibited

No visit may be made under this Part, if such visit is prohibited on medical grounds by a health practitioner under the *Health Practitioners Act 1999*, or, if the application was denied for the reason that the visit will disrupt the voting at the polling station or mobile polling station.

[The next page is 402,601]

Electoral (Early Voting) Regulations 2019

TABLE OF PROVISIONS

Regulation

Title

PART 1 — PRELIMINARY

- 1 Citation
- 2 Commencement

PART 2 — APPLICATION OF REGULATIONS

- 3 Application of Regulations

PART 3 — PREPARATIONS FOR EARLY VOTING

- 4 Gazetting and advertising early voting locations and times
- 5 Staff
- 6 Request names from churches [*Repealed*]
- 7 Polling equipment and record book

PART 4 — PROCEDURE FOR APPLYING FOR AND EARLY VOTE AN DETERMINATION OF APPLICATION

- 8 Voter to apply in person
- 9 Decision to be at Electoral Commission's discretion
- 10 Reason for rejection of an application

PART 5 — DUTY OF ELECTORAL COMMISSION AND PRESIDING OFFICER

- 11 Electoral Commission to direct Presiding Officer
- 12 Voter's vote recorded as if taken in a polling station under usual circumstances

PART 6 — EFFECT OF EARLY VOTING AUTHORISATION

- 13 Voter may not vote in person on polling day if voter has cast an early vote

PART 7 — HANDLING AND STORAGE OF BALLOT BOXES

- 14 Sealing ballot boxes at the close of each day of polling

Title

SCHEDULE — FORMS

FORM 1 — APPLICATION FOR EARLY VOTING

FORM 2 — REJECTION OF EARLY VOTE APPLICATION

[The next page is 402,801]

Electoral (Early Voting) Regulations 2019

TABLE OF AMENDMENTS

The Electoral (Early Voting) Regulations 2019 SL 15 were notified and commenced on 24 July 2019 (GN No 524/2019; Gaz 120/2019).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Electoral (Early Voting) (Amendment) Regulations 2022 SL 26	30 August 2022	30 August 2022

[The next page is 403,001]

The Electoral Commission makes these Regulations under Sections 136(d) and (f) of the *Electoral Act 2016*:

PART 1 — PRELIMINARY

1 Citation

These Regulations may be cited as the *Electoral (Early Voting) Regulations 2019*.

2 Commencement

These Regulations came into effect on 24 July 2019.

[The next page is 403,201]

PART 2 — APPLICATION OF REGULATIONS

3 Application of Regulations

For the purposes of Section 78A, these regulations apply to a voter who chooses to cast his or her vote during the early voting period determined by the Electoral Commission.

[reg 3 subst SL 26 of 2022 reg 4, opn 30 Aug 2022]

[The next page is 403,401]

PART 3 — PREPARATIONS FOR EARLY VOTING

4 **Gazetting and advertising early voting locations and times**

(1) The Electoral Commission shall determine and publish in the Gazette a location of an Early Voting Polling Place and the hours of polling.

[subreg (1) am SL 26 of 2022 reg 5, opn 30 Aug 2022]

(2) The ballot papers for early voting shall be issued for all constituencies notwithstanding the location of an Early Voting Polling Place.

[subreg (2) am SL 26 of 2022 reg 5, opn 30 Aug 2022]

(3) A location determined and published in the Gazette under subregulation (1) may include a mobile polling station.

[subreg (3) insrt SL 26 of 2022 reg 5, opn 30 Aug 2022]

5 **Staff**

The Electoral Commission shall appoint a Presiding Officer and polling officials for an Early Voting Polling Place and gazette their names under Section 82(2) of the Act.

6 **Request names from churches**

[reg 6 rep SL 26 of 2022 reg 6, opn 30 Aug 2022]

7 **Polling equipment and record book**

The Early Voting polling place will be equipped with the necessary voting screens, ballot boxes, electoral rolls, ballot papers, record book and stationery.

[The next page is 403,601]

**PART 4 — PROCEDURE FOR APPLYING FOR AND EARLY VOTE AN
DETERMINATION OF APPLICATION**

8 Voter to apply in person

A voter who intends to cast his or her vote under these Regulations as an early vote shall apply in Form 1 in the Schedule.

[reg 8 subst SL 26 of 2022 reg 7, opn 30 Aug 2022]

9 Decision to be at Electoral Commission's discretion

- (1) The Electoral Commission may approve or deny any early voting application received by the Electoral Commission.
- (2) Where the Electoral Commission approves an application under subregulation (1), it shall:
 - (a) inform the applicant of its decision; and
 - (b) inform the applicant of the polling place for early voting.
- (3) Where the Electoral Commission denies an application, it shall inform the applicant in Form 2 of the Schedule before the early voting polling closes.
- (4) The Electoral Commission shall keep a record of the details of all the applications received and the decisions made in respect of each application.
- (5) The Electoral Commission may delegate his or her power to approve or deny any application received to its delegate.

10 Reason for rejection of an application

The Electoral Commission shall reject an application for the reason that the person is not registered on the electoral roll.

[reg 10 subst SL 26 of 2022 reg 8, opn 30 Aug 2022]

[The next page is 403,801]

PART 5 — DUTY OF ELECTORAL COMMISSION AND PRESIDING OFFICER

11 Electoral Commission to direct Presiding Officer

Where any application is approved by the Electoral Commission or its delegate, the ballot paper shall be issued to the voter.

12 Voter's vote recorded as if taken in a polling station under usual circumstances

The voter, when casting their vote, shall so far as is reasonably practicable, be taken in all respects as if the vote was recorded in a polling station or mobile polling station under usual circumstances.

[The next page is 404,001]

PART 6 — EFFECT OF EARLY VOTING AUTHORISATION

13 Voter may not vote in person on polling day if voter has cast an early vote

A voter who has cast an early vote for an election shall not vote in person on polling day.

[reg 13 subst SL 26 of 2022 reg 9, opn 30 Aug 2022]

[The next page is 404,201]

PART 7 — HANDLING AND STORAGE OF BALLOT BOXES

14 Sealing ballot boxes at the close of each day of polling

- (1) At the commencement of the first day of early voting, the Presiding Officer shall lock the ballot box, leaving open the slot to insert ballot papers and record the seal numbers in the record book.
- (2) At the conclusion of early voting each day:
 - (a) the ballot boxes shall be sealed with numbered seals;
 - (b) the number printed on each seal shall be recorded in the Presiding Officer's Record Book and witnessed; and
 - (c) the ballot boxes shall be stored securely until the next day of polling.
- (3) At the commencement of each day of early voting:
 - (a) the seal numbers on the ballot boxes shall be compared to the seal numbers recorded in the Presiding Officer's Record Book to ensure they match; and
 - (b) where a match has occurred, sufficient seals shall be removed so that ballot papers can be inserted into the ballot box during voting; or
 - (c) where a match does not occur, the Electoral Commission shall be notified immediately.

Service 1

404,202

**SCHEDULE
FORMS
FORM 1**



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Section 78A; Regulation 8]

_____ Roll Id

APPLICATION FOR EARLY VOTING

Last Name	
First Names	
Other name(s)	
Date of Birth / /	
Phone Number	
Email address (if any)	
Tick the box:	
<input type="checkbox"/> I prefer to cast my vote during the early voting period.	
..... Signature of Voter	Dated. / /20
Office Use only	
Voter on Roll? <input type="checkbox"/>	Date received in office / . . . / 20
Voter not on roll <input type="checkbox"/>	
Voter advised <input type="checkbox"/>	Registered District.

[Form 1 subst SL 26 of 2022 reg 10, opn 30 Aug 2022]

FORM 2

REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Section 78A; Regulation 9(3)]

REJECTION OF EARLY VOTE APPLICATION

Last Name
First Names
Other Name(s)
Date of Birth / /
Phone Number
Email address (if any)
<p>Your application to vote early has been rejected for the reason that your name does not appear on the electoral roll.</p> <p>Date / / 20 Electoral Commissioner Electoral Commissioner Electoral Commissioner</p>

[Form 2 subst SL 26 of 2022 reg 10, opn 30 Aug 2022]

[The next page is 405,401]

Electoral (Remote Witness) Regulations 2019

TABLE OF PROVISIONS

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 - 5 Conditions required for remote witnessing
 - 6 Restrictions on use
 - 7 Video link
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 - 9 Process for witnessing signature
- SCHEDULE — TRACKING RECORD FOR REMOTE WITNESSES
APPLICATIONS

[The next page is 405,601]

Electoral (Remote Witness) Regulations 2019

TABLE OF AMENDMENTS

The Electoral (Remote Witness) Regulations 2019 SL 21 were notified and commenced on 4 August 2019 (GN No 551/2019; Gaz 131/2019).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

[The next page is 405,801]

The Electoral Commission makes the following Regulations under Sections 78 and 136(a), (e), (f) and (i) of the *Electoral Act 2016*:

PART 1 — PRELIMINARY

1 Citation

These Regulations may be cited as the *Electoral (Remote Witness) Regulations 2019*.

2 Commencement

These Regulations came into effect on 4 August 2019.

[The next page is 406,001]

PART 2 — REMOTE WITNESSING

3 Remote witnessing

- (1) For the purposes of Sections 136(a), (e), (f) and (i) of the Act, these Regulations apply to voters in locations that do not have access to an approved witness.
- (2) A voter under subregulation (1) may use the remote witnessing system to apply for registration, transfer or proxy voting authorisations.

4 Approved witnesses

- (1) The following persons may witness applications for registration and transfer of voters under Section 43(3) of the Act:
 - (a) a Barrister;
 - (b) a Solicitor;
 - (c) a Pleader;
 - (d) a Commissioner for Oaths;
 - (e) a Notary Public; or
 - (f) other persons nominated by the Electoral Commission.
- (2) The following person may witness applications for proxy votes:
 - (a) Returning Officer;
 - (b) Commissioner for Oaths;
 - (c) Nauru Permanent Representative to the United Nations (New York);
 - (d) Nauru Ambassador to Republic of China (Taiwan— Taipei);
 - (e) Nauru High Commissioner to Fiji (Suva);
 - (f) Nauru Consul General to Australia (Brisbane);
 - (g) Nauru Consul General to Thailand (Bangkok);
 - (h) Nauru Honorary Consul to India (New Delhi);
 - (i) Nauru Honorary Consul to the United Kingdom (London);
 - (j) Nauru Honorary Consul to Belgium (Brussels);
 - (k) Nauru Honorary Consul to Israel (Jerusalem);
 - (l) a legal practitioner, notary public, commissioner of oaths or justice of the peace duly appointed under the law of the respective country where the application is being witnessed; or
 - (m) any other person appointed by the Returning Officer to be a witness.

5 Conditions required for remote witnessing

- (1) An approved witness may witness a signature of a voter or a prospective voter where:
 - (a) the witness receives a request for support by email from the prospective applicant;
 - (b) the applicant informs the Electoral Commission of the unavailability of witnesses identified under Regulation 4 prior to requesting under paragraph (a); and
 - (c) the witness is capable of:
 - (i) identifying that the applicant is the person in the application;
 - (ii) ascertaining that the applicant is a registered voter unless the application is for registration; and

- (iii) ascertaining that the information contained in the application is accurate in all material particulars.
- (2) In confirming that the prospective applicant is the person to be listed in the application to be processed, the Electoral Commission or its delegate shall make reasonable inquiry into the applicant's identity and may make his or her own investigation in respect of the claim of lack of approved witnesses in that location.
 - (3) The Electoral Commission shall revoke a remotely witnessed application which is not issued under the requirements of these Regulations.
 - (4) The Electoral Commission may revoke an application which is remotely witnessed, where a scanned copy of the application is not received by it within 3 working days.
 - (5) The Electoral Commission shall give notice of the decision of revocation to the applicant as soon as practicable.
 - (6) The requirements of this Regulation shall not be waived or disclaimed by the witness, an applicant or both.

6 Restrictions on use

Remote witnessing by video connection shall only be used for the purposes of witnessing signatures on the following forms:

- (a) application for Proxy Voting Authorisation - Proxy Form 1;
- (b) application for Registration - Registration Form 1; and
- (c) overseas Application for Transfer of Registration - Registration Form 2.

7 Video link

Where the Electoral Commission determines the remote location and the unavailability of witnesses:

- (a) a video link shall be established directly with the appointed witness in the Republic;
- (b) the application form shall be completed on video, before sending an electronic image; and
- (c) the conduct of the two-way remote video communication shall be under the conditions provided in Regulations 8 and 9.

8 Knowledge-based authentication

- (1) The witness shall establish the identification of a person accessing the video link or remote witnessing services as he or she deems fit.
- (2) The Electoral Commission may provide written guidance for the purposes of identifying the applicant.

9 Process for witnessing signature

- (1) The witness shall require the applicant to sign the form in a way that is visible to the witness.
- (2) On signing the form the applicant shall hold up the form to the camera with the face of the applicant and a screen shot be taken and saved in electronic form.

- (3) A record of the witnessing event will be kept on a form set out in the Schedule.

[The next page is 406,201]

SCHEDULE

[Regulation 9(3)]

**TRACKING RECORD FOR REMOTE WITNESSES APPLICATIONS
REQUEST TO USE A REMOTE WITNESS**

Name of Applicant:	
Remote Location:	
Voter Roll ID:	
Email:	
Telephone number:	

The applicant in this action made a request for a remote video witness procedure. The request was approved. The remote witness was held on _____ at _____

I confirm that:

<input type="checkbox"/>	An email request was received by the Electoral Commission
<input type="checkbox"/>	A check was made that no witnesses were in the location
<input type="checkbox"/>	A knowledge based assessment was conducted to confirm the applicant's identity
<input type="checkbox"/>	A screenshot of the applicant and the signed form was captured and stored
<input type="checkbox"/>	The applicant was instructed that the scanned application must be received within three business days from the time of the witnessing.

NEC appointed Witness

Name	Position	Signature	Date

I approve the above as correct and valid:

Returning Officer

Name	Position	Signature	Date

[The next page is 407,301]

Election Petition Rules 2019

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[The next page is 407,501]

Election Petition Rules 2019

TABLE OF AMENDMENTS

The Election Petition Rules 2019 SL 18 were notified and commenced on 1 August 2019 (GN No 546/2019; Gaz 127/2019).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

[The next page is 407,701]

IN EXERCISE of the powers conferred by Section 107 of the *Electoral Act 2016*, the Chief Justice makes the following Rules:

PART 1 — PRELIMINARY

1 Citation

These Rules may be cited as the *Election Petition Rules 2019*.

2 Commencement

These Rules come into effect on the day they are notified in the Gazette and came into effect on 1 August 2019.

3 Interpretation

(1) In these Rules:

‘Act’ means the *Electoral Act 2016*;

‘agent’ may include a legal practitioner in proceedings under these Rules;

‘Court’ means the Supreme Court sitting as the Court of Disputed Returns established under Part 8 of the Act;

‘date of presentation’ in relation to presentation of petition shall be the date and time endorsed by the seal of the Court on a petition;

‘election’ means a:

- (a) general election;
- (b) by-election; or
- (c) supplementary election;

‘Electoral Commissioner’ means a person appointed under Section 14 of the Act;

‘Judge’ means any Judge of the Court and includes the Chief Justice;

‘legal practitioner’ means a barrister and solicitor or pleader duly admitted to practice law and has a current practicing certificate;

‘petition’ means an election petition challenging the result of a return of election of a member of Parliament presented to the Court under the Act and these Rules;

‘petitioner’ means a person who presents a petition to the Court under the Act and these Rules;

‘Registrar’ means the Registrar of Courts who shall also be the Registrar of the Court of Disputed Returns;

‘Registry’ means the registry of the Supreme Court sitting as the Court of Disputed Returns;

‘respondent’ means a person against whom a petition is presented to the Court; and

‘Rules’ means these *Election Petition Rules 2019*.

- (2) All documents to be presented, lodged or filed under these Rules shall be intituled as set out in Form 1 of the Schedule.
- (3) The presentation of a petition shall be by filing of the petition at the Registry of the Supreme Court.

[The next page is 407,901]

PART 2 — CONTENTS AND FORM OF PETITION

4 Contents and form of petition

- (1) A petition shall be as set out in Form 2 of the Schedule.
- (2) A petition under subrule (1) shall:
 - (a) state whether the petitioner is a candidate or voter as required under Section 93(1) of the Act;
 - (b) state the date and result of the election;
 - (c) state the name, address and occupation of each of the successful candidates as separate respondents;
 - (d) state the names, addresses and occupations of any other persons joined as respondents;
 - (e) state the names, addresses and occupations of the unsuccessful candidates, whether they are joined as a respondent or not;
 - (f) state the capacity in which each party is joined;
 - (g) state the grounds for the prayer for relief;
 - (h) provide a prayer for relief including where applicable, a declaration seeking:
 - (i) a candidate be duly returned or elected;
 - (ii) the election be void; or
 - (iii) a writ of election be returned;
 - (i) be signed by the petitioner or each of the petitioners where there is more than one petitioner; and
 - (j) be divided into paragraphs numbered consecutively and each allegation shall as far as convenient be contained in separate paragraphs.

5 Parties to the petition

The parties to a petition shall be:

- (a) the petitioner;
- (b) the successful candidate or candidates as respondent or respondents;
- (c) the Electoral Commission as a respondent; and
- (d) any other party as a respondent or interested party against whom a relief is sought or whose inclusion is necessary for the purpose of a just and fair hearing of the petition.

6 Affidavit verifying the petition

A signed copy of the petition shall be verified by an affidavit in Form 3 of the Schedule at the time of the presentation of the petition.

7 Evidence not to be pleaded or exhibited

- (1) The petition shall contain a summary of material facts on which the petitioner seeks relief, but not the evidence by which those facts are to be proven, which shall be filed under Part 7.
- (2) Where an allegation is made against a person for the alleged or actual commission of an offence prescribed under the Act, the following particulars of such offence shall be stated in the petition:
 - (a) nature of the offence;
 - (b) the name, address and occupation of the person who is alleged to have or has committed the offence;
 - (c) the name, address and occupation of the person against whom the offence is alleged to have been or was committed;
 - (d) when and where such offence is alleged to have been or was committed;
 - (e) whether a complaint of the alleged offence was made to the Electoral Commission, Nauru Police Force or any other person of authority; and
 - (f) the outcome of any complaint made under paragraph (e).
- (3) The Court may, on an application of a party, order such particulars for the purposes of subrule (2) to be provided as may be necessary to ensure a fair hearing or trial of the petition.
- (4) Where the Court orders under subrule (3) that particulars of any allegation made in a petition be served on a party, it shall be filed and served to all the parties in accordance with the order of the Court.
- (5) Where a party fails to comply with an order under subrule (4), the Court may:
 - (a) dismiss or summarily strike out the relevant parts of the petition or any reply to the petition relating to such particulars;
 - (b) summarily dismiss the petition or any reply to the petition where substantial injustice will be caused to the other party or parties; or
 - (c) exclude the admission of such particulars or evidence at the hearing or trial of the petition where the Court deems appropriate.

8 Petitioner to provide address for service

A petitioner shall provide an address for service in the petition:

- (a) in case where he or she engages a legal practitioner, the address of such legal practitioner; or
- (b) in any other case, the residential address of the petitioner.

[The next page is 408,001]

PART 3 — PRESENTATION OF PETITION

9 Presentation of petition

- (1) A petition shall be presented within 21 days of the publication in the Gazette of the results of the election.
- (2) The petition shall be presented with such number of copies as required for service on each of the respondents.
- (3) The Registrar shall endorse the date and time of the presentation of the petition and the deposit of the security for costs.
- (4) The Registrar shall not accept or process a petition for presentation:
 - (a) on the expiry of 21 days from the publication in the Gazette of the results of the election; and
 - (b) without the deposit of the security for costs at the time of the presentation of the petition or where the security for costs was deposited after the expiry of the time for the presentation of the petition.

10 Security for costs

- (1) The deposit of \$500 for security for costs shall be made with the Registrar at the time of the presentation of the petition.
- (2) Where the security for costs is not deposited as required by the Act and these Rules, the petition is deemed not to be presented.
- (3) The Registrar shall on the receipt of the deposit of security for costs under subrule (1), issue a Notice of Payment of Security for Costs in Form 4 of the Schedule.

11 Publication of petition in Gazette

The Registrar shall cause a Notice of Presentation of Petition in Form 5 of the Schedule to be published in the Gazette after the endorsement and issuance of the petition.

[The next page is 408,201]

PART 4 — SERVICE OF PETITION

12 Service of petition

- (1) The petition and the Notice of Payment of Security for Costs shall be served personally on each of the named respondents in the petition within 5 days from the endorsement and issuance of the petition.
- (2) Before the expiry of the time for service under subrule (1), the Court may, on an application of the petitioner, extend the time for service of the petition and Notice of Payment of Security for Costs on one or more of the respondents for a further period not exceeding 5 days where:
 - (a) personal service was not effected despite all reasonable efforts;
 - (b) the respondent at all material times is outside the jurisdiction; or
 - (c) the respondent evades personal service.
- (3) In considering an application for extension of time for the service of the petition and Notice of Payment of Security for Costs under subrule (2), the Court may order substituted service of the petition and Notice of Payment of Security for Costs:
 - (a) by leaving a copy of the documents at the respective respondent's residence;
 - (b) by serving a copy of the documents to a named adult member of the family residing with the respective respondent; or
 - (c) in any other manner by which the respective respondent is capable of being notified of the petition to the satisfaction of the Court.
- (4) The application under subrule (3) shall be made to the Registrar:
 - (a) by an *ex-parte* Notice of Motion in Form 6 of the Schedule; and
 - (b) accompanied by an affidavit in Form 7 of the Schedule of the person engaged to serve the petition and Notice of Payment of Security for Costs deposing the efforts made and reasons for not being able to effect personal service.
- (5) The Registrar shall prepare and issue a sealed copy of an order for substituted service in Form 8 of the Schedule.
- (6) The petition and Notice of Payment of Security for Costs shall be served on the respondents by any other person other than the petitioner personally.
- (7) Where a petition and Notice of Payment of Security for Costs is served by the petitioner personally, the petition shall be deemed as not served on the respective respondent.

13 Affidavit of service

- (1) The petitioner shall cause the person serving the petition and Notice of Payment of Security for Costs to make an affidavit of service in Form 9 of the Schedule and file such affidavit in the Court before the petition is listed for a directions hearing.
- (2) The affidavit in subrule (1) shall provide:
 - (a) the name of the person serving the documents;
 - (b) the name of the person to whom the documents were served;
 - (c) the address for the service of the documents;

- (d) the full particulars of the manner in which service has been effected;
and
- (e) in the case of substituted service, the details and manner in which the order for substituted service was effected in Form 10 of the Schedule.

[The next page is 408,401]

PART 5 — RESPONDENTS TO ENTER AN APPEARANCE

14 Notice to Appear

- (1) The respondent shall within 5 days of the service of the petition and Notice of Payment of Security for Costs file a Notice to Appear in person or by a legal practitioner in Form 11 of the Schedule and serve a copy at the address of the petitioner contained in the petition and on every other party to the petition.
- (2) Where a respondent fails to file a Notice to Appear in accordance with subrule (1), he or she shall only be permitted to enter an appearance or participate at the hearing or trial of the petition with the leave of the Court.

15 Respondent not intending to oppose

- (1) A respondent who does not intend to oppose or appear for the hearing or trial of the petition:
 - (a) shall file and serve a notice to that effect in Form 12 of the Schedule on the petitioner and every other party to the petition; and
 - (b) is not required to appear in court for the hearing or trial of the petition.
- (2) The filing of the notice under subrule (1) does not prohibit the Court from granting orders other than costs against that respective respondent.

16 Objection to regularity, competency or service of petition

- (1) A respondent who objects to the regularity, competency or service of the petition shall within 7 days after the service of the petition file and serve on the petitioner and other parties the grounds of such objection in Form 13 of the Schedule.
- (2) Where the petitioner fails to rectify any legitimate objection raised under subrule (1), the respondent may by a summons supported by an affidavit seek appropriate orders including setting aside or the dismissal of the petition.

17 Court to hear the petition on merits where no Notice to Appear

The Court shall hear and determine a petition or interlocutory application on the merits, whether or not, one or more of the respondents:

- (a) files a Notice to Appear;
- (b) opposes or admits the relief sought in the petition or interlocutory application; or
- (c) attends to the hearing of the petition or interlocutory application.

18 Answer to the Petition

- (1) Where a respondent wishes to oppose the petition on substantive merits, he or she shall file and serve an Answer to the Petition in Form 14 of the Schedule within 7 days of the service of the petition.
- (2) The respondent shall:
 - (a) admit or deny each allegation contained in the petition and where necessary supported by material particulars;
 - (b) state any other material facts which may be relevant for the hearing and determination of the petition;
 - (c) provide a prayer for relief; and
 - (d) divide his or her Answer to the Petition into paragraphs numbered consecutively and as far as convenient, corresponding with the paragraphs in the petition.
- (3) The respondent or his or her legal representative shall sign the Answer to the Petition.
- (4) The Answer to the Petition shall contain a summary of material facts on which the respondent seeks relief, but not the evidence by which those facts are to be proven.

[The next page is 408,601]

PART 6 — REPLY TO THE ANSWER TO THE PETITION

19 Reply to Answer to the Petition

- (1) The petitioner shall file and serve any Reply in Form 15 of the Schedule to the Answer to the Petition within 5 days of the service of the Answer to the Petition by:
 - (a) joining the issues in the Answer to the Petition;
 - (b) admitting the allegations in the Answer to the Petition; or
 - (c) denying the specific allegations in the Answer to the Petition.
- (2) Where no Reply to the Answer to the Petition is filed by the petitioner, save for any admissions made to the allegations in the Answer to the Petition, the respondent is deemed to have joined the issues on such contentious issues or facts.

[The next page is 408,801]

PART 7 — FILING OF OTHER DOCUMENTS

20 Affidavits

- (1) The petitioner shall file and serve within 14 days from the date of the presentation of the petition:
 - (a) an affidavit of the petitioner exhibiting all such evidence that he or she intends to adduce or rely on at the hearing or trial of the petition;
 - (b) affidavits of any other persons who he or she intends to rely upon for the hearing or trial of the petition whether or not, such persons may be summoned to appear as witnesses for the hearing or trial of the petition; and
 - (c) a list of witnesses in Form 16 of the Schedule that he or she intends to summon for the hearing or trial of the petition.
- (2) The respondent shall file and serve within 14 days of the filing of the Answer to the Petition:
 - (a) one or more affidavits in reply to the petition or the affidavits filed for or on behalf of the petitioner;
 - (b) affidavits of any other persons he or she intends to call as witnesses or rely upon for the hearing or trial of the petition; and
 - (c) a list of witnesses in Form 17 of the Schedule that he or she intends to summon for the hearing or trial of the petition.

21 Witnesses

- (1) With the leave of the Court, a person having deposed an affidavit under Rule 20 may be cross-examined by the opposing party and re-examined by the party on whose behalf the affidavit is filed.
- (2) The Court may, of its own motion, examine any witness or call and examine or recall any witness where it deems that the evidence of the witness is relevant to the determination of one or more issues of the petition.
- (3) A person summoned as a witness by the Court under subrule (2) may be cross examined by the parties to the petition.
- (4) Any party who seeks to call a witness to testify in Court, may issue a summons to witness, addressed to such person requiring his or her presence for the hearing or trial of the petition.
- (5) The provisions relating to the summons to witness under the *Civil Procedure Rules 1972* apply.
- (6) A person called as a witness for the purposes of the hearing or trial of a petition shall not be excused from answering any question relating to the commission of any alleged offence or on the ground of privilege, relating to the election.
- (7) A person who testifies as a witness in respect of any matters in subrule (6):
 - (a) shall be immune from any criminal prosecution; and
 - (b) the evidence given by the person shall not be admissible as evidence against that person in any civil or criminal cause or matter.

22 List of votes objected to by unsuccessful candidate as a petitioner

- (1) Where an unsuccessful candidate, who is a party to a petition, alleges that he or she had a majority of lawful votes by objecting to the votes of another candidate, he or she shall file and serve a list of such objections in Form 18 of the Schedule, which shall be exhibited to an affidavit under Rule 20 containing:
 - (a) a list of the votes counted intended to be objected to; and
 - (b) the objections to each such vote.
- (2) The party opposing the allegation in subrule (1) shall file and serve a list of responses to the objections in Form 19 of the Schedule, which shall be exhibited to an affidavit containing:
 - (a) a response admitting or denying the votes objected to; and
 - (b) where the objection is denied, provide the reason for such denial.
- (3) Where a person fails to comply with subrule (1), he or she shall not object to the validity of any votes during any stage of the proceedings without the prior leave of the Court being granted to the person to comply with the requirements of this Rule.

23 List of objections in recriminatory case

- (1) Where the respondent intends to give evidence to prove that that person was not duly elected as a result of:
 - (a) undue election; or
 - (b) election of another person,he or she shall file and serve under Rule 20 a list of his or her objections to the election of that person on which he or she intends to rely.
- (2) No evidence may be given by a respondent of any objection to the election not specified in the list except with the leave of the Court.

24 Petition seeking return

Where in a petition it is alleged that no return is made, the Court may make an order compelling a return to be made by the Electoral Commission.

[The next page is 409,001]

PART 8 — INTERLOCUTORY APPLICATIONS AND HEARINGS

25 Directions hearing

- (1) The Registrar shall list the petition for a directions hearing within 28 days of the presentation of the petition.
- (2) The Court at the directions hearing may:
 - (a) deal with any application as to the competency of the petition;
 - (b) order that a person be joined as a party;
 - (c) adjourn to another date for a directions hearing and to fix a date for hearing or trial of the petition; or
 - (d) make orders for:
 - (i) filing and serving of documents by the parties and their witnesses;
 - (ii) disclosure of information and documents;
 - (iii) filing and serving written submissions and list of statutes, regulations or case authorities;
 - (iv) giving notice to witnesses to attend the hearing; and
 - (v) any other matter necessary to assist in the expeditious hearing or trial of the petition.
- (3) Where the petitioner is challenging the result of the election on the ground that the petitioner had a majority of lawful votes, the Court at the directions hearing may order that in the presence of the Registrar:
 - (a) an examination of the counted and void votes; and
 - (b) an examination of the recounting of votes.

26 Interlocutory applications

- (1) All interlocutory questions and matters may be heard and disposed of, where appropriate by a Judge, in the course of the proceedings.
- (2) All interlocutory questions and matters vested to the jurisdiction of the Registrar may be heard and disposed of by the Registrar, who shall have the same jurisdiction over the proceedings as a Judge in the Court.
- (3) An interlocutory application shall be made by a summons in Form 20 of the Schedule and where necessary, supported by an affidavit.

27 Amendment of petition or Answer to Petition

- (1) A petition or Answer to Petition may, with the leave of the Court, be amended at any stage of the proceedings before 7 days of the date fixed for the hearing or trial of the petition.
- (2) An application for leave to amend a petition or Answer to Petition shall be by a summons and be supported by an affidavit.
- (3) The Court:
 - (a) may dismiss the application; or
 - (b) where it grants leave shall give such directions as necessary for filing of any response and the timely determination of the petition.

28 Intervener application

- (1) A person, not joined as a party to a petition or, is eligible but unable to be joined as a party under these Rules, may with the leave of the Court, apply to be joined as an intervening party to the petition.
- (2) An application under subrule (1) shall be made by no later than 28 days from the day the petition is notified in the Gazette by the Registrar.
- (3) An application under this Rule shall be:
 - (a) by a summons;
 - (b) supported by an affidavit stating the:
 - (i) grounds and reasons for such intervention; and
 - (ii) effect of such application on the relief sought by the petitioner; and
 - (c) served to all parties within 3 days of the filing of the intervener application.
- (4) The Court:
 - (a) may dismiss the application; or
 - (b) where it grants leave, shall give such directions as necessary for the timely determination of the petition.

29 Substitution of a petitioner

- (1) A person, who was eligible to be a petitioner in respect of a petition where the petitioner has given a Notice of Application to Withdraw the Petition, may apply to the Court within 7 days of the publication of such Notice for leave to be substituted as the petitioner.
- (2) An application for leave to be substituted as a petitioner under this Rule shall be made by a summons and be supported by an affidavit.
- (3) On the hearing of the application for leave to withdraw, the Court may concurrently hear an application under subrule (1) for substitution as a petitioner and the Court may if it deems fit substitute such person accordingly.
- (4) Where the proposed withdrawal is induced by any ulterior or illegitimate purpose, the Court may, by order, direct that the security deposited on behalf of the original petitioner:
 - (a) remain as security for the substituted petitioner; and
 - (b) the original petitioner be liable to pay the costs of the substituted petitioner.
- (5) Subject to subrule (4), the substituted petitioner shall within 3 days of the order for substitution deposit the security for costs of \$500 before he or she proceeds with his or her petition.
- (6) A substituted petitioner shall be in the same position and subject to the same liabilities as the original petitioner.
- (7) No application for substitution as a petitioner may be granted, after the expiry of the 21 days, within which a petition is to be filed under Section 96 of the Act.

30 Substitution of a respondent

- (1) Where at any stage before the hearing or trial of a petition, a respondent other than the Electoral Commission files a notice not to oppose the

petition or dies, a person who may have been a respondent in respect of the election, may with the leave of the Court be substituted as a respondent to the petition.

- (2) For the purposes of subrule (1), the maximum number of persons who may be granted leave to be substituted as a respondent to the petition shall not exceed 2.

[The next page is 409,201]

PART 9 — LISTING AND HEARING OF PETITION

31 Elections Petition List

- (1) The Registrar shall prepare an Elections Petition List in Form 21 of the Schedule containing:
 - (a) the names of the petitioners, legal representatives or agents and address for service; and
 - (b) the names of the respondents, legal representatives or agents and address for service.
- (2) A current Elections Petition List shall be posted on the Notice Board of the Court accessible to the public.
- (3) The Registrar shall maintain a record of all addresses of the parties to a petition given under this Rule which shall be available for inspection during business hours.

32 Hearing or trial of more than one petition in a constituency

Where more than one petition is presented in relation to the same election in a constituency, all petitions shall be heard or tried together in the manner and terms the Court may deem fit.

33 Hearing or trial to be in open court

The hearing or trial of a petition shall be in open court.

34 Date and time of hearing or trial of petition

- (1) The date and time of the hearing or trial of each petition shall be fixed by the Court.
- (2) The Registrar shall notify the public of the hearing or trial date of the petition by:
 - (a) posting a notice on the Notice Board of the Court; and
 - (b) gazetting the hearing or trial date.
- (3) The notice of the hearing or trial shall be in Form 22 of the Schedule.

35 Order of hearing or trial

- (1) All parties shall adduce evidence-in-chief of witnesses by affidavit as required under Rule 20, unless the Court orders otherwise.
- (2) Subject to the directions of the Court, the hearing or trial of the petition shall proceed as follows:
 - (a) the petitioner makes an opening address of his or her case;
 - (b) where witnesses are to testify in addition to the affidavits filed under Rule 20, the petitioner shall adduce all such evidence in support of his or her case;
 - (c) the respondent cross-examines the petitioner's witnesses;
 - (d) the petitioner re-examines his or her witnesses;
 - (e) the respondent makes an opening address of his or her case;

- (f) where witnesses are to testify in addition to the affidavits filed under Rule 20, the respondent shall adduce all such evidence in support of his or her case;
- (g) the petitioner cross-examines the respondent's witnesses;
- (h) the respondent re-examines his or her witnesses;
- (i) the petitioner makes a closing address;
- (j) the respondent makes a closing address; and
- (k) the petitioner makes submissions in reply to the respondent's closing address.

36 Adjourment of hearing or trial

- (1) A Judge may adjourn a hearing or trial of a petition on its own motion or by an application of a party to the petition.
- (2) A Judge shall in hearing and determining the petition, comply with the requirements of Section 102(1) of the Act.

37 Attendance of Registrar

The Registrar shall attend at the hearing or trial of a petition and perform such functions and duties under the Act or these Rules or as may be directed by the Judge.

38 Amicus curiae

Where the Secretary for Justice or a person appointed by him or her is not representing the Electoral Commission, he or she, where required by the Court may act as *amicus curiae*.

[The next page is 409,401]

PART 10 — WITHDRAWAL OF PETITION

39 Withdrawal of petition

- (1) A petition shall not be withdrawn without the leave of the Court.
- (2) Where a petition is withdrawn, the petitioner may be liable to pay the costs of the respondents and forfeit all or part of his or her security for costs.
- (3) Where there is more than one petitioner, an application for withdrawal of a petition shall only be made with the consent of all the petitioners.
- (4) Subject to subrule (5), before leave for withdrawal of a petition is granted, all parties to the petition shall produce affidavits.
- (5) The affidavit under subrule (4) shall state that:
 - (a) no agreement or terms of any kind whatsoever has been entered into in the withdrawal of the petition; or
 - (b) a lawful agreement has been made with respect to the withdrawal of the petition in writing and a copy of such agreement shall be annexed as an exhibit in the affidavit.

40 Application for leave to withdraw petition

- (1) An application for leave to withdraw a petition shall be by a summons and filed and served on all the parties to the petition.
- (2) The application shall be supplemented by an affidavit of the applicant deposing the grounds for withdrawal.

41 Date and time of hearing of application

The date and time of hearing of the application to withdraw a petition shall be published on the notice board of the Court.

[The next page is 410,001]

PART 11 — ABATEMENT BY DEATH

42 Abatement of petition by death

- (1) A petition shall abate on the death of a sole petitioner or the survivor of several petitioners.
- (2) Where a petition abates under subrule (1), the Registrar shall:
 - (a) serve a notice of the abatement on each respondent; and
 - (b) publish the notice of the abatement in the Gazette.
- (3) The notice of the abatement shall be in Form 23 of the Schedule.
- (4) The abatement of a petition shall not affect the liability of the petitioner or of any other person for the payment of costs incurred to the date of the abatement.
- (5) A person may, within 7 days of the publication of the notice under subrule (2), apply to be substituted for the deceased petitioner provided the application for substitution is made within the time required for presentation of the petition under the Act.
- (6) Where the Court allows an application for substitution, the petitioner shall:
 - (a) deposit the security for costs under Rule 10; and
 - (b) comply with such other conditions which the Court may grant.

43 Death or vacation of seat by the respondent

- (1) Where before the hearing or trial of a petition, the successful candidate dies or vacates his or her seat in Parliament, the petition against such person is deemed to have abated.
- (2) Where before the hearing or trial of a petition, the successful candidate gives notice in writing to the Registrar that he or she does not intend to oppose the petition, the petition is not abated but shall continue, whether or not a person applies to be substituted as a respondent.
- (3) Where the respondent vacates his or her seat in Parliament or gives a Notice of Intention not to oppose the petition, he or she shall file a notice in Form 24 of the Schedule at least 3 clear days before the hearing or trial of the petition.

[The next page is 410,201]

PART 12 — COMPUTATION OF TIME

44 Computation of time

- (1) This Rule applies to computation of:
 - (a) a period of time mentioned in these Rules; and
 - (b) things required or allowed to be done on a particular day or within a particular period of time under the rules.
- (2) A period of time described as beginning at, on or with a stated day, act or event includes the stated day or the day of the stated act or event.
- (3) A period of time described as beginning from or after a stated day, act or event does not include the stated day or the day of the stated act or event.
- (4) A period of time described as ending at, by, on or with, or as continuing to or until, a stated day, act or event includes the stated day or the day of the stated act or event.
- (5) A period of time described as ending before a stated day, act or event does not include the stated day or the day of the stated act or event.
- (6) A reference to a number of days within 2 events does not include the days when the events occur.
- (7) Where something shall or may be done on a particular day or within a particular period of time and the day or the last day of the period, is not a working day, the thing shall or may be done on the next day that is a working day.
- (8) Where something shall or may be done and no time is provided under these Rules, the Court may at its own discretion or on application of a party to the petition fix such a time as it may deem fit within which the act shall be done with such conditions as may be necessary.
- (9) Subrule (8) shall not apply in relation to the period within which a petition is required to be filed, heard or determined.

[The next page is 410,401]

PART 13 — COSTS, FEES AND OTHER PROVISIONS

45 Costs

- (1) Except where specifically provided for in these Rules, all costs, charges and expenses of and incidental to the presentation of a petition or of any consequent proceedings shall be at the discretion of the Court and shall be defrayed by the parties in a manner and in proportions as the Court may determine.
- (2) The Court may disallow any costs, charges or expenses which may, in its opinion, have been caused by:
 - (a) vexatious conduct;
 - (b) unfounded allegations; or
 - (c) unfounded objections,on the part of either the petitioner or the respondent and shall have regard to the discouragement of any needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether or not the parties are on the whole successful.
- (3) The rules and regulations of the Court with respect to costs to be allowed in actions, causes and matters in the Court shall, in principle and so far as practicable, apply to the costs of petitions and connected proceedings and the amount of the costs may be fixed by the Judge.
- (4) Where the petitioner is ordered to pay any costs and he or she fails to pay the costs or as ordered by the Court, the Registrar shall pay the costs out of any money deposited with the Court as security under these Rules and execution may be issued against the petitioner and the sureties jointly and severally for any balance not covered by the deposit.
- (5) Where a respondent who is ordered to pay any costs to the petitioner, fails to do so within 14 days from the date of the order directing the payment, the petitioner may enforce the order for the costs in the usual manner.
- (6) Execution shall be levied in accordance with the law governing execution in civil proceedings in the Court.
- (7) All costs of and incidental to the filing of a petition and to the consequent proceedings are borne by the parties to the petition in the manner and proportion as the Court may determine.
- (8) Any costs which in the opinion of the Court have been caused by vexatious conduct or unfounded allegations on the part of either party and any needless expense incurred or caused on the part of either party, may be ordered to be carried by the party by whom it has been incurred or caused, whether or not they are on the whole successful.
- (9) Costs may be taxed in the same manner as they are taxed in the Supreme Court and may be recovered in the same manner as costs in civil proceedings.
- (10) The Court may direct that the whole or any part of security for costs be applied in the payment of taxed costs.

46 Fees

The Chief Justice shall prescribe the fees payable for the purposes of the Act or these Rules.

47 Forms

The forms in these Rules shall be used as far as practicable and used with the necessary modifications where no forms are prescribed.

48 Court may enlarge time

The Court may where appropriate enlarge any period of time provided under these Rules unless such time is mandatory.

49 Civil Procedure Rules apply

- (1) Where these Rules do not make provision for a matter relating to a petition, the *Civil Procedure Rules 1972* apply.
- (2) Where there is an inconsistency between the *Civil Procedure Rules 1972* and these Rules, these Rules shall prevail to the extent of the inconsistency.

50 Repeal of Rules

The *Election Petition Rules 2016* are repealed.

[The next page is 410,601]

SCHEDULE

FORM 1



REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Rule 3(2)]

INTITULE

IN THE COURT OF DISPUTED RETURNS
AT YAREN DISTRICT

Election Petition No:...../20.....

IN THE MATTER of Section 93 and
Part 8 of the *Electoral Act 2016*;

AND IN THE MATTER of a [*nature of
election*¹] election in the constituency of
[*Name of constituency*] held on [*date of
election*]

AND IN THE MATTER of a petition
by [*name of petitioner*]

BETWEEN: Name of Petitioner, address, occupation

Petitioner(s)

AND: [*Name of Winning candidate No 1*], address, occupation

1st Respondent

AND: [*Winning candidate No 2*], address, occupation

2nd Respondent²

AND: ELECTORAL COMMISSION³ a statutory body established under the *Electoral Act 2016*
and joined as a party under Section 99 of the *Electoral Act 2016*

3rd Respondent

¹ State whether it is general, by or supplementary election

² If there are more than 1 winning candidate, list the winning candidates as separate respondents before the Electoral Commission as respondent.

³ The Electoral Commission is to be joined as a party under Section 99 of the Act.

AND⁴: [Other respondent], address, occupation

4th Respondent or 1st Interested Party

⁴ Any other party to be joined as a respondent or interested party under Rule 5(d).

FORM 2



REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Rule 4]

ELECTION PETITION

Your petitioner is [name] of the [constituency] who was a voter/candidate in the [general/by/supplementary] election who states:

Type of election:	The election subject to this petition was a [General election/by-election/supplementary election] delete the ones which are inapplicable
Constituency:	The constituency in which the election was held [State the constituency in which the election was held]
Date of election:	The election was held on [Insert the date in which election was held]
Date election results were published:	The Electoral Commission declared all the results and it was published on the . . . day of 20 [Insert the date the results were published and the Gazette No and the date of publication of the Gazette. For example: Gazette No XX/20 . . . and Gazette Notice No GN XX/20 . . .]
Petitioner:	The petitioner was [a voter/candidate]
Successful candidates:	The Electoral Commission has returned the following candidates as duly elected: [List the names, addresses and occupation of the successful candidates. For example: (1) John Doe of Topside Constituency, retired schoolteacher (2) Maryann Tee of Topside Constituency, domestic duties]
Unsuccessful candidates:	The unsuccessful candidates are as follows: List the names, addresses and occupation of the unsuccessful candidates. For example: (1) Joe Loser of Topside Constituency, self employed
Other respondents	The other respondents joined as parties to this petition are: [List the names of all other respondents named in the petition and the capacity in which they are joined. For example: (1) Tom Richards of Topside Constituency, campaign manager for X [name the candidate]
Interested parties [if any]	The interested parties to this petition are: [List the interested parties joined in the petition and the capacity in which they are joined. For example:

	(1) <i>Tom Richards of Topside Constituency, campaign manager for X [name the candidate]</i>
Grounds for challenging the election result:	The grounds for contesting the results are as follows: <i>[List the grounds and material facts relied upon on each of them for relief. For example:</i> <p style="margin-left: 40px;">(1) <i>Placing of campaign material</i></p> <p style="margin-left: 80px;">- <i>The candidate named as the first respondent breached the campaign requirement rules by placing a digital campaign board within the 200m boundary permitted under Section 120 of the Electoral Act 2016.]</i></p>
Relief sought by the petitioner:	The petitioner prays for the following relief: <i>[State all the relief including if the relief is for a declaration seeking:</i> <p style="margin-left: 40px;">(a) <i>a candidate be duly returned or elected;</i></p> <p style="margin-left: 40px;">(b) <i>the election be void; or</i></p> <p style="margin-left: 40px;">(c) <i>a writ of election be returned.]</i></p>
Address for service of the petitioner:	The address for service for the purposes of this petition is <i>[residential address of the petitioner or of the legal practitioner]</i>
Signature of the petitioner:

FORM 3



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 6]

AFFIDAVIT VERIFYING THE PETITION

I, *[name of petitioner]* of *[address]*, *[occupation]* make oath and say as follows:

1. I am the petitioner in this electoral petition.
2. As the petitioner, I am aware of the facts contained in the petition signed by me on the *[date]*.
3. I verify the contents of the petition are true to the best of my knowledge, information and belief.

SWORN / AFFIRMED by *[name of the petitioner]* at
[place] on *[date]*. *Signature of petitioner*

Before me:

[Signature, name and qualification of witness administering oath or affirmation]

FORM 4



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 10(3)]

NOTICE OF DEPOSIT OF SECURITY FOR COSTS

TAKE NOTICE that the petitioner [*name of the petitioner*] deposited a sum of \$500.00 as security for costs with the Registrar on this day of 20.....

This notice is issued pursuant to Rule 10 (3) of the *Electoral Petition Rules 2019*.

DATED this day of 20.....

.....

Registrar

FORM 5



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 11]

NOTICE OF PRESENTATION OF PETITION

TAKE NOTICE that a petition by *[name of petitioner]* challenging the *[nature of election]* election results of *[name of constituency]* constituency was presented to the Court on this day of 20..... seeking the following relief:

[State all the relief as set out in the petition]

The petitioner deposited the security for costs of \$500.00 on the *[date]*.

This notice is published pursuant to Rule 11 of the *Electoral Petition Rules 2019*.

DATED this day of 20.....

.....

Registrar

Note: a copy of the petition can be obtained from the Registrar of Courts.

FORM 6

REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Rule 12(4)(a)]

EX PARTE NOTICE OF MOTION

TAKE NOTICE that the Court of Disputed Returns will be moved on the day of 20..... by */on behalf of the petitioner for an order that:

- (a) The time for service of the petition to the *[name, address and occupation of the respondent as named in the Intitule]* be extended for a further (xx) days¹.
- (b) The petition be served to *(name, address and occupation of the respondent as named in the Intitule)* by way of substituted service *[select the mode of service under Rule 12(3) of the Election Petition Rules 2019]*.

The petitioner intends to read and rely upon the affidavit of *[name the deponents of any affidavits relied upon]* in support of this application.

This application is made pursuant to Rule 12(2) of the *Election Petition Rules 2019* and the inherent jurisdiction of the Court.

DATED this day of 20.....

.....
[Signed] [the petitioner or legal representative]

¹ The extension cannot be more than 5 days from the date on which the last day of the service of the petition lapses.

FORM 7



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 12(4)(b)]

AFFIDAVIT IN SUPPORT OF APPLICATION FOR SUBSTITUTED SERVICE

(General form)¹

I, [name, address and occupation of deponent], make [oath / affirm] and say as follows:

1. I was engaged by [name of party/ legal practitioner] to serve the [person on whom the document(s) were to be served] with the true copy of each of the following documents²:
 - (a)
 - (b)
2. The copy of the documents given to me for service was/were duly sealed with the seal of the Court.
3. I attempted to serve the above documents to the [name of person] at his/her [residence/place of contact] but was unsuccessful due to [state reasons in detail with material particulars].
4. I have attempted to serve the documents to the [name of person] on [state number of times service was attempted] at residence/place of contact but was not able to serve due to [state reason].
5. I have made reasonable efforts and used all due means in my power to serve the above documents but I have not been able to and will not be able to serve the same to [name of person] within the 5 days requirement under the *Election Petition Rules 2019*.
6. The [name of person] can be served the documents by:
7. [if adult member of the family, state the name, address, occupation and relationship with the party and why the process server believes it would be served on him/her];
8. [if the recipient is overseas, state how the proposed service will enable the party to acquire information about the existence of these documents to which he/she may be required to respond].
9. I seek an order in terms of the *Ex parte Notice of Motion* filed in this Honourable Court.

SWORN / AFFIRMED by the deponent at
[place] on [date]. Signature of deponent

Before me:

¹ This affidavit of service is for general service of documents and not for substituted service.

² List the captions of the documents

.....
*[Signature, Name and qualification of witness
administering oath or affirmation]*

FORM 8



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 12(5)]

ORDER FOR SUBSTITUTED SERVICE

ON THIS . . . DAY OF . . . 20 . . . *[date order was made]* **BEFORE THE HONOURABLE**
[name of the Judge] **OR BEFORE THE REGISTRAR MR** *[name of Registrar]*

UPON READING the affidavit of *[name, address and occupation of deponent]* and **UPON HEARING** the petitioner/counsel for the petitioner, it is ordered that service of a copy of this order and a copy of *[relevant documents]* duly sealed by the Court by *[mode of substituted service]*.

DATED this day of 20.....

.....

Registrar

Seal of the Court

FORM 9



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 13(1)]

AFFIDAVIT OF SERVICE

(General form – personal service)¹

I, *[name of deponent]*, of *[address of deponent]*, *[occupation]* make *[oath / affirm]* and say as follows:

1. I personally served the *[person on whom the documents were served]* at *[address]* on the *[date]* at or about *[time]* with the true copy of each of the following documents²:
 - (a)
 - (b)
2. The copy of the aforementioned document(s) was/were duly sealed with the seal of the Court out of which it was issued on the *[date]*.

SWORN / AFFIRMED by the deponent at
[place] on *[date]*. Signature of deponent

Before me:
.....
[Signature, Name and qualification of witness administering oath or affirmation]

¹ This affidavit of service is for general service of documents and not for substituted service.

² List the captions of the documents

FORM 10



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 13(2)(e)]

AFFIDAVIT OF SUBSTITUTED SERVICE

(General form)¹

I, *[name of deponent]*, of *[address of deponent]*, *[occupation]* make *[oath / affirm]* and say as follows:

1. I did on *[day]* the *[date]* served the *[person on whom the documents were served]* with the true copy of each of the following documents²:
 - (a) a true copy of the order of *[date]* for substituted service granted by this Honourable Court;
 - (b) ³
2. The service of the documents was in accordance with the order of the Court as follows: *[details of the service]*⁴
3. The copy of the aforementioned document(s) was/were duly sealed with the seal of the Court out of which it was issued on the *[date]*.

SWORN / AFFIRMED by the deponent at
[place] on *[date]*. Signature of deponent

Before me:
.....
[Signature, Name and qualification of witness administering oath or affirmation]

¹ This affidavit of service is for substituted service.
² List the captions of the documents
³ List documents served in the order of the date of filing in Court.
⁴ This shall comply with the order of the Court.

FORM 11



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 14(1)]

NOTICE TO APPEAR OF THE [1ST, 2ND, 3RD.] RESPONDENT

(Contesting the petition)

TAKE NOTICE that the *[name of respondent]*:

- (a) acknowledges service of the *[list the documents]* served on the *[date of service]*;
- (b) intends to oppose the petition;
- (c) intends to appear in person or is represented by *[legal practitioner]*;
- (d) address for service is *[address of respondent if appearing in person or address of legal practitioner]*

DATED the day of 20.....

.....
[Respondent/legal representative]

FORM 12



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 15(1)(a)]

**NOTICE NOT TO OPPOSE THE PETITION OF THE [1ST, 2ND, 3RD.]
RESPONDENT**

TAKE NOTICE that the *[name of respondent]*:

- (a) acknowledges service of the *[list the documents]* served on the *[date of service]*;
- (b) intends not¹ to oppose the petition;
- (c) address for service is *[address of respondent if appearing in person or address of legal practitioner]*

DATED the day of 20.....

.....
[Respondent/legal representative]

¹ Where a respondent does not oppose the petition under Rule 15(2), the Court may grant orders which may affect the respondent but the Court cannot make orders for costs against the respondent.

FORM 13



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 16(1)]

**NOTICE TO OPPOSE THE PETITION OF THE [1ST, 2ND, 3RD.]
RESPONDENT**

(Irregularity, incompetency or defective service)¹

TAKE NOTICE that the [*name of respondent*]objects to the:

- (a) irregularity [*state the irregularity with material particulars*];
- (b) incompetency [*state the incompetency with material particulars*];
- (c) service of the petition [*state the issues of service contested with material particulars*].
- (d) **TAKE NOTICE** that if the [*any issues contained in paragraphs a to c*] is not rectified, the respondent may proceed under Rule 16(2) to summarily dismiss or set aside the petition.

DATED the day of 20.....

.....
[Respondent/legal representative]

¹ Delete whichever is inapplicable.

FORM 14



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 18(1)]

ANSWER TO PETITION OF THE [1ST, 2ND, 3RD.] RESPONDENT

1. The respondent admits/denies the allegations contained in paragraph 1 of the petition.
2.
3.
4.
[Reply to every paragraph of the petition, paragraph by paragraph]
5. *[Add any other grounds for opposing the petition with material particulars]*
6. The Respondent prays for the following relief:
 - (a) The petition be dismissed;
 - (b) ¹.....;
 - (c) Cost of and incidental to these proceedings; and
 - (d) Such further or other relief this Honourable Court may deem fit, just and expedient.

DATED the day of 20.....

Signature:

(*1st/2nd/3rd or other) **Respondent**

(To be signed by the respondent or the respondent's legal representative)

¹ Include any other relief which the respondent may seek.

FORM 15



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 19(1)]

REPLY TO THE ANSWER TO PETITION OF THE PETITIONER

1. Save for any admissions contained in this Reply to the Answer to the Petition, the petitioner joins issue with the Answer to the Petition.
2. *[Reply to every paragraph of the Answer to Petition paragraph by paragraph if necessary]*
3. The Petitioners prays for the following relief:
 - (a) The relief sought in the petition;
 - (b) The Answer to the Petition be dismissed;
 - (c) ¹
 - (d) Cost of and incidental to these proceedings; and
 - (e) Such further or other relief this Honourable Court may deem fit, just and expedient.

DATED the day of 20.....

.....

(To be signed by the petitioner or the legal representative)

¹ Include any other relief which the petitioner may seek.

FORM 16

**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 20(1)(c)]

PETITIONER'S LIST OF AFFIDAVITS AND WITNESSES

1. The petitioner has filed the affidavits of the following persons: *[List full name, address, occupation of witness]*

List	Name of deponent	Date affidavit sworn or affirmed	Date affidavit filed
1.			
2.			

2. The petitioner intends to summon the following witnesses:

List	Name of witness	Address	Occupation
1.			
2.			

DATED this day of 20.....

.....
(To be signed by the petitioner or the legal representative)

FORM 17



REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Rule 20(2)(c)]

[1ST, 2ND, 3RD.] RESPONDENT'S LIST OF AFFIDAVITS AND WITNESSES

1. The [1ST, 2ND, 3RD.]respondent has filed the affidavits of the following persons: [List full name, address, occupation of witness]

List	Name of deponent	Date affidavit sworn or affirmed	Date affidavit filed
1.			
2.			

2. The [1ST, 2ND, 3RD.]respondent intends to summon the following witnesses:

List	Name of witness	Address	Occupation
1.			
2.			

DATED this day of 20.....

.....

(To be signed by the 1st, 2nd, 3rd, respondent or the legal representative)

FORM 18



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 22(1)]

PETITIONER’S LIST OF OBJECTIONS TO VOTES

Category or group of votes¹	Reasons for objection	Number of votes	Orders sought in respect of those votes

¹ Where individual votes are challenged, list all the votes or ballot papers objected to.

FORM 19**REPUBLIC OF NAURU
ELECTORAL ACT 2016***[Rule 22(2)]***RESPONDENT'S RESPONSE TO OBJECTIONS TO VOTES**

Category or group of votes¹	Response to objection	Number of votes	Orders sought in respect of those votes

¹ The category or group of votes where possible, be categorised or grouped in the same way as it is contained in Form 18.

FORM 20



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 26(3)]

INTERLOCUTORY SUMMONS

(nature of application)

LET ALL PARTIES attend before the Court on [*day of the week – e.g Monday*] the [*date*] day of [*month*] 20..... on the hearing of an application on the part of the [*party*] in person or by his or her counsel for the following orders:

- (a)
- (b)
- (c)
- (d) Costs of this application to be paid by [*party*] or cost in cause.

The [*party*] intends to read and rely upon the affidavit of [*deponent*] in support of this application.

This application is made pursuant to Rule 26(3) and [*relevant Rule for the specific nature of the application*] of the *Election Petition Rules 2019*, Section xx of the *Electoral Act 2016* and the inherent jurisdiction of the Court.

ISSUED this day of 20.....

Seal of the Court

NOTE: This summons be used for all interlocutory applications including discovery, striking out, amendment, intervention applications, substitution of petitioner, substitution of a respondent, withdrawal of petition.

FORM 21

REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Rule 31]

ELECTION PETITIONS LIST

The Election Petition List is published pursuant to Rule 31 of the *Election Petition Rules 2019*.

1 Court of Disputed Returns Election Petition Number. . /20 . . .			
Name of Party	Capacity of the Party	Address for service	Legal representative
<i>eg John Doe</i>	<i>Petitioner</i>	<i>Meneng District</i>	<i>AB legal practitioners, Buada District</i>

FORM 22



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 34(3)]

NOTICE OF HEARING OF ELECTION PETITION

TAKE NOTICE that this petition will be heard at the Court house on the day of 20..... at o'clock and on such other days as may be necessary.

DATED the day of 20.....

.....

Registrar

FORM 23



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 42(3)]

NOTICE OF ABATEMENT OF PETITION BY DEATH

NOTICE is hereby given that by reason of the death of the petitioner [*name of petitioner*](*or the survivor of the petitioners*) the abovementioned petition has abated.

AND further that a person who might in the first instance have presented the petition may apply to the Court by notice given to the Registrar of the Courts at within 7 days from the date of publication of this notice to be substituted as a petitioner.

DATED the day of 20.....

.....

Registrar

FORM 24



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Rule 43]

**NOTICE OF DEATH OR VACATION OF SEAT OF RESPONDENT/ OPPOSITION/NON-
OPPOSITION TO PETITION**

TAKE NOTICE that(*name of Respondent*) being the Respondent to the abovementioned Petition:

- ²⁰died on the day of 20.....;
- vacated his/her seat in Parliament on the day of 20.....
- hereby gives notice that he/she does intend to oppose/not oppose the said Petition.

AND FURTHER TAKE NOTICE that under the *Election Petition Rules 2019* a person who might have been a petitioner in respect of the abovementioned election may, within 14 days after publication of this notice, apply to the Court to be admitted as a respondent to oppose the Petition.

DATED this day of 20.....

.....
(*Respondent or his/her legal representative*)

Issued this.....day of.....20.....

²⁰ Delete whichever is inapplicable.

FORM 25



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

GENERAL AFFIDAVIT

I, [*name, address and occupation of deponent*] make oath and say as follows:

- 1. I am the [*name of person*]
- 2.
- 3.
-

10. I seek order in terms of the application filed in this Honourable Court.

SWORN / AFFIRMED by [*name of the deponent*] at

.....

[*place*] on [*date*].

Before me:

.....

[*Signature, name and qualification of witness administering oath or affirmation*]

[The next page is 411,801]

Election Petition (Court Fees) Rules 2019

TABLE OF PROVISIONS

<i>Rule</i>	<i>Title</i>
1	Citation
2	Commencement
3	Fees
	SCHEDULE — COURT FEES

[The next page is 412,001]

Election Petition (Court Fees) Rules 2019

TABLE OF AMENDMENTS

The Election Petition (Court Fees) Rules 2019 SL 20 were notified on 2 August 2019 and commenced on 1 August 2019 (rule 2).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

[The next page is 412,201]

IN EXERCISE of the powers conferred by Section 107 of the *Electoral Act 2016* and Rule 46 of the *Election Petition Rules 2019*, the Chief Justice makes the following Rules:

1 Citation

These Rules may be cited as the *Election Petition (Court Fees) Rules 2019*.

2 Commencement

These Rules came into effect on 1 August 2019.

3 Fees

The fees payable to the Registrar for the filing of election petitions and related documents are set out in the Schedule.

[The next page is 412,401]

SCHEDULE

COURT FEES

No	Document	Rule	Fee (\$)
1.	Filing election petition	4	50.00
2.	Filing Answer to the Petition	18	35.00
3.	Filing Reply to Answer to the Petition	19	20.00
	Filing Notice to Appear	14(1)	0
4.	Filing Notice Not to Oppose Petition	15(1)(a)	0
5.	Filing Notice of Objection <i>(Irregularity, incompetency or defective service)</i>	16	10.00
6.	Filing Interlocutory Summons or Notice of Motion	26, 12	25.00
7.	Affidavits (excluding Affidavit of Service)	6, 16, 20, 21, 22, 26, 27, 28, 29, 35, 39, 40	10.00
8.	Summons to witness	21	5.00
9.	Any other document		10.00

[The next page is 414,001]

Electoral (Declaration of Intent) Regulations 2021

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Title</i>
1	Citation
2	Commencement
3	Declaration of intention to contest a general election
4	Notice for declaration of intent
5	List of persons who delivered declarations of intent
6	Lapsing of declaration of intent
	SCHEDULE
	FORM 1 — DECLARATION OF INTENT TO CONTEST GENERAL ELECTION
	FORM 2 — NOTICE OF DELIVERY OF WRITTEN DECLARATION OF INTENT TO CONTEST GENERAL ELECTION FOR 20. . . .
	FORM 3 — LIST OF PERSONS WHO HAVE DELIVERED DECLARATIONS OF INTENT TO CONTEST GENERAL ELECTION FOR 20. . . .
	FORM 4 — LIST OF PERSONS WHO HAVE WITHDRAWN THEIR DECLARATIONS OF INTENT TO CONTEST GENERAL ELECTION FOR 20. . . .

[The next page is 414,201]

Electoral (Declaration of Intent) Regulations 2021

TABLE OF AMENDMENTS

The Electoral (Declaration of Intent) Regulations 2021 SL 27 were notified and commenced on 7 October 2021.

Amending Legislation	Notified	Date of Commencement
Electoral (Declaration of Intent) (Amendment) Regulations 2021 SL 33	5 November 2021	5 November 2021

[The next page is 414,401]

The Electoral Commission makes the following Regulations under Section 136 of the *Electoral Act 2016*:

1 Citation

These Regulations may be cited as the *Electoral (Declaration of Intent) Regulations 2021*.

2 Commencement

These Regulations commence on the day they are notified in the Gazette.

3 Declaration of intention to contest a general election

(1) For the purposes of Section 135A(1) of the Act, a person who intends to contest in a general election shall make a declaration of intent in Form 1 in the Schedule.

(2) A person who makes a declaration of intent under subregulation (1), shall deliver such declaration to the Electoral Commission accompanied by:

- (a) a copy of his or her birth certificate; and
- (b) photographic identification as approved by the Electoral Commission, which may include passport biodata or driver's licence.

[subreg (2) am SL 33 of 2021 reg 4, opn 5 Nov 2021]

(3) For the purposes of Section 135A(1) of the Act and subregulation (2), a declaration of intent may be delivered to and received by the Electoral Commission:

- (a) in person;
- (b) by electronic mail;
- (c) by courier; or
- (d) by a proxy.

[subreg (3) insrt SL 33 of 2021 reg 4, opn 5 Nov 2021]

4 Notice for declaration of intent

For the purposes of Section 135A(3) of the Act, the Electoral Commission shall publish a notice in the Gazette in Form 2 in the Schedule for the delivery of written declarations of intent.

5 List of persons who delivered declarations of intent

For the purposes of Section 135A(4) of the Act, the Electoral Commission shall publish by notice in the Gazette in Form 3 in the Schedule, a list of persons who have delivered their written declarations of intent.

6 Lapsing of declaration of intent

(1) A declaration of intent:

- (a) may be withdrawn in writing by the declarant and delivered to the Electoral Commission at any time prior to nomination; or
- (b) lapses if the declarant fails to be nominated as a candidate.

- (2) Where a declaration of intent is withdrawn in accordance with subregulation (1)(a), the Electoral Commission shall publish a notice in the Gazette in Form 4 in the Schedule of such withdrawal.

[The next page is 414,601]

SCHEDULE

FORM 1



REPUBLIC OF NAURU

Electoral Act 2016

[Section 135A(1); Regulation 3]

DECLARATION OF INTENT TO CONTEST GENERAL ELECTION

PART 1: DETAILS OF PERSON WHO INTENDS TO BE A CANDIDATE	
(a) Full name	[insert full name as it appears on the Roll of Voters]
(b) Date of birth	
(c) Residential address	[insert name of District where residing]
(d) Telephone number	
(e) Email address	
(f) Constituency for which the declarant intends to be nominated from	[insert constituency]
PART 2: DECLARATION BY PERSON WHO INTENDS TO BE A CANDIDATE	
<p>I, [insert full name as it appears in Roll of Voters] of, [insert name of constituency where residing], hereby declare my intention to be nominated as a candidate for the general election in 20. for the constituency of [insert name of constituency registered intending to be nominated from]</p> <p>I further declare that I am registered in the Roll of Voters for and eligible to be nominated for election in the constituency of, [insert name of constituency registered in and eligible to contest from]</p> <p>..... Date:..... /..... /20.</p> <p>[Signature]</p>	
PART 3: OFFICIAL PURPOSES	
<p>Declaration received by:</p> <p>Name:</p> <p>Signature:</p> <p>Designation:</p> <p>[Electoral Commissioner/Registrar/Staff]</p>	

Date: / /20.....

NOTICE

Section 135A(5) of the *Electoral Act 2016* makes it an offence for a person who fails to deliver a declaration of intent to contest the general election and gets nominated as a candidate. The offence carries a penalty of up to 2 years imprisonment or a fine of not more than \$5,000 or to both.

[Form 1 heading am SL 33 of 2021 reg 5, opn 5 Nov 2021]

FORM 2



REPUBLIC OF NAURU

Electoral Act 2016

[Section 135A(3); Regulation 4]

**NOTICE OF DELIVERY OF WRITTEN DECLARATION OF INTENT TO CONTEST
GENERAL ELECTION FOR 20. . . .**

NOTICE is hereby given that pursuant to Section 135A(3) of the *Electoral Act 2016*, a person intending to contest the general election for 20. . . . shall deliver his or her written declaration of intent to the Electoral Commission by no later than 5.00pm on the day of 20.

Any declaration delivered after . . . on 20. . . . will not be accepted pursuant to the requirements of Section 135A(1).

DATED this day of 20.

.....
[Registrar of the Electoral Commission]

NOTICE

FORM OF DECLARATION OF INTENT

A declaration of intent to contest the General Election for 20. . . . is to be made in the attached prescribed Form 1 of the *Electoral (Declaration of Intent) Regulations 2021*.

[Form 2 am SL 33 of 2021 reg 5, opn 5 Nov 2021]

FORM 3



REPUBLIC OF NAURU

Electoral Act 2016

[Section 135A(4); Regulation 5]

LIST OF PERSONS WHO HAVE DELIVERED DECLARATIONS OF INTENT TO CONTEST GENERAL ELECTION FOR 20...

NOTICE is hereby given that pursuant to Section 135A(4) of the *Electoral Act 2016*, the following persons have within the required timeframe, delivered their declarations of intent to contest the general election for 20...

	NAME OF PERSON WHO HAS DELIVERED DECLARATION OF INTENT	DATE DECLARATION OF INTENT DELIVERED	CONSTITUENCY INTENDING TO CONTEST FROM
1.			
<i>[Insert as many rows as necessary]</i>			

DATED this day of 20.....

.....
[Electoral Commissioner]

.....
[Electoral Commissioner]

.....
[Electoral Commissioner]

FORM 4**REPUBLIC OF NAURU****Electoral Act 2016***[Regulation 6(2)]*

**LIST OF PERSONS WHO HAVE WITHDRAWN THEIR DECLARATIONS OF INTENT
TO CONTEST GENERAL ELECTION FOR 20. . . .**

NOTICE is hereby given that pursuant to Regulation 6(2) of the *Electoral (Declaration of Intent) Regulations 2021*, the following persons have withdrawn their declarations of intent to contest the general election for 20. . . .

	NAME OF PERSON WHO HAS WITHDRAWN DECLARATION OF INTENT	DATE OF WITHDRAWAL	CONSTITUENCY INTENDED TO CONTEST FROM
1.			
<i>[Insert as many rows if necessary]</i>			

DATED this day of 20.....

.....
[Electoral Commissioner]

.....
[Electoral Commissioner]

.....
[Electoral Commissioner]

[The next page is 416,201]

Electoral (Survey or Poll) Regulations 2021

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Title</i>
1	Citation
2	Commencement
3	Notice for survey or poll
4	Eligibility to participate in survey or poll
5	Voting in survey or poll
6	Procedures for voting in survey or poll
7	Manner of voting
8	Determining result of survey or poll
9	Declaration of result of survey or poll
	SCHEDULE
	FORM 1 — BALLOT PAPER
	FORM 2 — CERTIFICATE OF RESULT OF [SURVEY/POLL*]

[The next page is 416,401]

Electoral (Survey or Poll) Regulations 2021

TABLE OF AMENDMENTS

The Electoral (Survey or Poll) Regulations 2021 SL 28 were notified and commenced on 12 October 2021.

Amending Legislation	Notified	Date of Commencement
Electoral (Survey or Poll) (Amendment) Regulations 2021 SL 32	5 November 2021	28 October 2021

[The next page is 416,601]

The Electoral Commission makes the following Regulations under Sections 108A and 136 of the *Electoral Act 2016*:

1 Citation

These Regulations may be cited as the *Electoral (Survey or Poll) Regulations 2021*.

2 Commencement

These Regulations commence on the day they are notified in the Gazette.

3 Notice for survey or poll

- (1) Where the Electoral Commission carries out a survey or poll, it shall publish a notice in the Gazette outlining the details of the proposed survey or poll.
- (2) The notice under subregulation (1) shall include the following information:
 - (a) the issue or question for which the survey or poll is seeking voters' opinions;
 - (b) the timeframe for conducting the survey or poll; and
 - (c) the manner or method in which the survey or poll will be conducted, which may include voting by electronic means or in person.

4 Eligibility to participate in survey or poll

A person who is registered on the Roll of voters shall be eligible to vote in a survey or poll carried out by the Electoral Commission.

5 Voting in survey or poll

- (1) Voting in a survey or poll is compulsory.
- (2) A voter who fails to vote and is not exempted from voting commits an offence and is liable to a penalty not exceeding \$100.

6 Procedures for voting in survey or poll

The procedures under the *Electoral Act 2016* for voting in or the conduct of an election shall be used with the necessary modifications for voting in or conducting a survey or poll.

7 Manner of voting

The voting in a survey or poll shall be by ballot contained in Form 1 in the Schedule and each voter shall indicate his or her vote:

- (a) in cases where the voter agrees with the question posed, by ticking the box next to the word 'Yes'; or
- (b) in cases where the voter disagrees with the question posed, by ticking the box next to the word 'No'.

8 Determining result of survey or poll

- (1) The ballot papers for a survey or poll shall be counted as soon as practicable after a survey or poll is closed.

- (2) Upon completion of the counting of votes, the Electoral Commission shall certify the results of a survey or poll.

9 Declaration of result of survey or poll

The Electoral Commission, on completion of the counting of the votes from a survey or poll, shall:

- (a) certify the results of such survey or poll by certifying the number of 'Yes' votes and the number of 'No' votes in Form 2 in the Schedule;
- (b) provide to the Cabinet or Speaker the certified results of the survey or poll; and
- (c) publish a notice in the Gazette announcing the certified results of the survey or poll.

[The next page is 416,801]

SCHEDULE
FORM 1
BALLOT PAPER



REPUBLIC OF NAURU
ELECTORAL ACT 2016

[Regulation 7]

BALLOT PAPER
[Survey or Poll*]

VOTING INSTRUCTIONS

Read the question(s)* and tick “YES” or “NO”.

[Insert question for voter to vote on]

Yes No

*[Note: If necessary, insert additional question(s).]**

*[Insert question for voter to vote on]**

Yes No

*[Note: *delete whichever does not apply]*

[Form 1 subst SL 32 of 2021 reg 4, opn 28 Oct 2021]

FORM 2



**REPUBLIC OF NAURU
ELECTORAL ACT 2016**

[Regulation 9]

CERTIFICATE OF RESULT OF [SURVEY/POLL*]

To the [Honourable Chairman of the Cabinet/Honourable Speaker*]:

We hereby certify that the results of the [survey/poll*] held on [insert date] in respect of the question [insert question] are as follows:

1. Registered voters: *[insert number]*
2. Number of votes cast: *[insert number]*
3. Number of votes not cast: *[insert number]*
4. Number of "Yes" votes counted: *[insert number]*
5. Number of "No" votes counted: *[insert number]*
6. Number of invalid votes counted: *[insert number]*
7. Total percentage of votes cast: *[insert number]*
8. Total percentage of invalid votes cast: *[insert number]*
9. Total percentage of "Yes" votes: *[insert number]*
10. Total percentage of "No" votes: *[insert number]*
11. The following proportion of votes cast answered the question ["Yes"/"No"]*: *[insert proportion]*

DATED this day of 20.....

.....
[Electoral Commissioner] [Electoral Commissioner] [Electoral Commissioner]

*[Note: *delete whichever does not apply]*

[Form 2 subst SL 32 of 2021 reg 4, opn 28 Oct 2021]

[The next page is 420,001]

420,001

Service 0

Service 0

420,002