

REPUBLIC OF NAURU

NAURU ISLAND COUNCIL ACT, 1992

(No. 2 of 1992)

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REPUBLIC OF NAURU

A BILL FOR

AN ACT

To establish a new body to undertake the functions of managing and governing the Island of Nauru at the district level and for other related purposes.

[Certified: 20/3/1992]

ENACTED BY THE PARLIAMENT OF NAURU AS FOLLOWS:

PART I - PRELIMINARY

SHORT TITLE AND COMMENCEMENT

1. (1) This Act may be cited as the Nauru Island Council Act 1992.

(2) This Act shall come into force on a date to be notified by the Minister in the Gazette.

DEFINITIONS

2. (1) In this Act -

"Accounting Record" includes -

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes, vouchers and other documents of prime entry; and
- (b) any working papers and other documents which are necessary to explain the methods and calculations by which accounts are made up.

"Accounts" means -

- (a) income and expenditure accounts; and
- (b) balance sheets; and
- (c) notes attached to or intended to be read with any income and expenditure account or balance sheet.

"Bank" means -

- (a) the Bank of Nauru; or

- (b) a bank within the meaning of the Banking Act 1959 of the Commonwealth of Australia; or
- (c) a bank approved by Cabinet for the purposes of this Act.

"Council" means the Nauru Island Council established by this Act.

"Councillor" means a person who holds the office of member of the Council.

"Council staff" includes a designated officer.

"Cottage Industry" means a business, incorporated or not, which employs no more than 5 people and has neither assets or liabilities in excess of \$50,000.

"Designated officer" means a person appointed to any of the following offices:

- (a) Chief Executive Officer;
- (b) Secretary;
- (c) Treasurer;
- (d) Engineer;
- (e) Building surveyor;
- (f) Sanitary inspector;
- (g) Environmental officer.

"Districts" means Districts of Aiwo, Boe, Yaren, Meneng, Buada, Anibare, Ijuw, Anabar, Anetan, Ewa, Baiti, Uaboe, Nibok and Denigomodu into which Nauru is divided by the customs of the Nauruans.

"Entitlement date" means Noon on the date, being a date not more than 14 nor less than 7 days before the date for an election for Council.

"Financial Year" means, except for the first financial year which commences on the election of the first Council after the commencement of this Act, the period of 12 months ending on 31st December each year.

"Head Chief" means the person elected by the Council to be Head Chief.

"Minister" means the Minister appointed to administer this Act.

"Prescribed" means prescribed by the regulations.

"Previous Council" means the Council established by the Nauru Local Government Council Act 1951-1985.

"Public body" means any government department or body established for a public purpose by an Act of the Parliament of Nauru.

"Public Notice" means a notice published in the Government Gazette.

"Voter" means a person who is enrolled on a voters' roll.

(2) Where the Council is empowered to do any act, matter or thing, the decision to do the act, matter or thing is to be made by a resolution of the Council.

PART II - THE NAURU ISLAND COUNCIL

THE COUNCIL

3. (1) The Council consists of its councillors, who are the representatives, elected in accordance with this Act, of persons who are resident in Nauru.

(2) The Council -

- (a) is a body corporate with perpetual succession; and
- (b) must have a common seal; and
- (c) may sue or be sued in its corporate name; and
- (d) is capable of acquiring, holding, dealing with or disposing of property for the purpose of performing its functions and exercising its powers; and
- (e) is capable of doing and suffering all acts and things which bodies corporate may by law do and suffer and which are necessary or expedient for performing its functions and exercising its powers.

(3) The common seal of the Council must -

- (a) bear the words "Nauru Island Council Est. 1992" and any other word, letter, sign or device the Council determines should be included; and
- (b) be kept at the Council office; and
- (c) be used in accordance with the regulations of the Council.

(4) All courts, judges and persons acting judicially must take judicial notice of the imprint of the seal of the Council on any document and must presume that the document was properly sealed until the contrary is proved.

PURPOSE OF THE COUNCIL

4. (1) The purpose of the Council are -

- (a) to provide for the peace, order and good government of Nauru at the district level; and

- (b) to facilitate and encourage appropriate development of Nauru at the district level in the best interests of the community; and
- (c) to provide equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively; and
- (d) to manage, improve and develop resources of Nauru at the district level efficiently and effectively.

(2) It is the intention of Parliament that the provisions of this Act be interpreted and every function, power, authority, discretion and duty conferred or imposed by or under this or any other Act on the Council be performed or exercised so as to give effect to the purposes and objectives of the Council.

OBJECTIVES

5. In seeking to achieve its purposes, the Council has the following objectives -

- (a) To preserve, enhance and promote the language, institutions, customs and usages of Nauruans;
- (b) To facilitate the involvement of members of the community, users of facilities and services and Council staff in the development, improvement and co-ordination of local government;
- (c) To co-ordinate with other public bodies to ensure that services and facilities are provided and resources are used effectively and efficiently;
- (d) To ensure adequate planning for the future of Nauru at the district level;
- (e) To represent and promote the interests of the community and to be responsive to the needs of the community at the district level;
- (f) To formulate comprehensive policies and set performance targets;
- (g) To develop, implement and monitor its strategic plans and budgets;
- (h) To develop, implement and monitor its corporate and financial management control techniques;
- (i) To delegate decision making to appropriate levels within the organisation;
- (j) To develop and implement co-ordinated personnel policies;
- (k) To facilitate accountability at all levels within the organisation by maintaining suitable information and reporting systems;
- (l) To promote and undertake research into any matter relating to the Council's objectives, functions or powers.

FUNCTIONS AND POWERS

6. (1) The Council has the following functions -

- (a) The functions specified in Schedule I;
- (b) Any other function conferred on the Council by or under this Act;
- (c) Any other function conferred on the Council by or under any other Act.

(2) The Council has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions and to enable it to achieve its purposes and objectives.

(3) The Council has no power to, and must not, carry on any business of a profit seeking nature and has no power to do any act, matter or thing outside of Nauru.

(4) Notwithstanding subsection (3) the Council may establish and/or promote cottage industry in Nauru.

(5) Nothing in subsection (3) shall prevent the Council from seeking to recover its costs or to make a surplus from the carrying out of a district function.

DISTRICTS AND COUNCILLORS

7. Councillors shall be elected for the respective Districts or groups of Districts as follows:

(1) One Councillor for each of the Districts of Aiwo, Boe, Yaren, Meneng and Buada.

(2) One Councillor for the group of Districts comprising the Districts of Anibare, Ijuw and Anabar.

(3) One Councillor for the group of Districts comprising the Districts of Anetan and Ewa.

(4) Two Councillors for the group of Districts comprising the Districts of Baiti, Uaboe, Nibok and Denigomodu.

PART III - ELECTIONS

DIVISION 1 - VOTERS

PERSONS ENTITLED TO BE ENROLLED

8. A person who on the entitlement date is resident within a district and enrolled on the roll of electors for that district in respect of the previous Council is entitled without application to be enrolled on the voters' roll in respect of that district.

PERSONS ENTITLED TO APPLY TO BE ENROLLED

9. A person who on the entitlement date -

- (a) is not a person referred to in section 8; and
- (b) is not less than 20 years of age; and
- (c) is a person who is -
 - (i) a member of the Nauruan Community ordinarily resident in Nauru; or
 - (ii) a person who is a citizen of Nauru ordinarily resident in Nauru -

is entitled to apply to be enrolled on the voters' roll in respect of his or her principal place of residence.

APPLICATIONS FOR ENROLLMENT

10. An application for a person to be enrolled for the purposes of section 9 must -

- (a) be in writing; and
- (b) be in the prescribed form; and
- (c) contain the prescribed particulars; and
- (d) be delivered to the Council office not later than 4.00p.m. on the entitlement date.

DIVISION 2 - VOTERS' ROLLS

VOTERS' ROLLS

11. (1) The Secretary is responsible to ensure that the voters' roll is prepared under this section and to ensure the maintenance of any records which may be required to facilitate the preparation of an accurate and complete voters' roll.

(2) The Secretary must on or before a date to be specified by Cabinet in each year (being a date after the entitlement date) cause to be made out a voters' roll of the persons who appear to the Secretary to be entitled to be enrolled.

(3) The Secretary must make such enquiries as he or she considers appropriate to ascertain whether any person who was enrolled on the previous voters' roll is still entitled to be enrolled.

(4) The Secretary must amend the voters' roll to omit the name of any person who is known to the Council or Secretary to have died and to cause to be corrected any omission, error, misnomer, or inaccurate description of any person, place or thing.

PREPARATION OF VOTERS' ROLLS

12. (1) The Council must cause a voters' roll to be prepared which must be in the prescribed form and contain the prescribed particulars.

(2) The Council must not later than 3 days before nomination day in any year in which an election is to be held and not later than a date to be specified by Cabinet in any other year certify in writing that the voters' roll has been prepared in accordance with this Act.

- (3) The voters' roll signed and certified by the Council -
- (a) continues in force until the next voters' roll is prepared; and
 - (b) must be amended unless directed by Cabinet under section 24.

VALIDITY OF VOTERS' ROLLS

13. (1) The validity of a voters' roll is not affected if -

- (a) from any cause, any act or thing required to be done in connection with the preparation, printing or copying of the voters' roll has been omitted or has not been completed; or
- (b) from any cause, there has been an error in the preparation, printing or copying of the voters' roll; or
- (c) there has been any misnomer or any inaccurate description of any person, place or thing on the voters' roll which is capable of being given a meaning.

(2) A voters' roll which is altered as directed under section 24 is as valid as if it had been prepared as required by this Act.

OFFENCES RELATING TO VOTERS' ROLLS

14. (1) A member of the Council staff who intentionally contravenes any provision of this Division is guilty of an offence.

Penalty: \$500.

(2) A person who alters any voters' roll after it has been signed and certified by the Council without authority to do so is guilty of an offence.

Penalty: \$500.

(3) A person who intentionally gives any wrong information to the Secretary or any person authorised by the Secretary resulting in any person being wrongfully inserted or retained on a voters' roll is guilty of an offence.

Penalty: \$500.

DIVISION 3 - QUALIFICATION OF COUNCILLORS

QUALIFICATIONS OF COUNCILLORS

15. (1) A person is qualified to be a candidate for the office of Councillor in respect of a District if he or she is enrolled on the voters' roll in respect of that District.

(2) If a Councillor ceases to have a qualification entitling the Councillor to continue in office, the Councillor ceases immediately to hold the office of Councillor.

DISQUALIFICATIONS

16. (1) (a) A person is not capable of becoming a Councillor if he or she is a member of Parliament;

(b) A person is not capable of continuing to be a Councillor if he or she becomes a member of Parliament at any time after being elected a Councillor.

(2) A person is not capable of becoming or continuing to be a Councillor or nominating as a candidate at an election if -

- (a) he or she is an undischarged bankrupt; or
- (b) his or her property is subject to control under the laws relating to bankruptcy; or
- (c) he or she is of unsound mind; or
- (d) except as provided in subsection (4), he or she is a member of Council staff; or
- (e) he or she has not taken an oath of allegiance or made the declaration of the office of Councillor within 3 months after the day on which he or she was declared elected; or
- (f) he or she is otherwise incapable of becoming or continuing to be a Councillor under this Act.

(3) A person who -

- (a) is convicted of any offence under Section 51; or
- (b) has been convicted or found guilty of a cognisable offence committed when he or she was over the age of 18 years which is punishable upon first conviction for a term of imprisonment of 1 year or more under the laws of Nauru or of any other place -

is not capable of becoming or continuing to be a Councillor for a period of 3 years after the conviction or of the expiration of the sentence whichever is later.

(4) Subsection (2)(d) does not apply to a member of the Council staff who takes leave to stand for election to the office of Councillor and who if elected resigns from the Council staff immediately upon being declared elected.

DIVISION 4 - ELECTIONS

GENERAL ELECTIONS

17. (1) A general election of Councillors is to be held on the sixth Saturday after this Act becomes law.

(2) After the general election under subsection (1), a general election of Councillors is to be held on the second Saturday in November every fourth year.

EXTRAORDINARY VACANCY WITHIN 3 MONTHS BEFORE AN ELECTION

18. If an extraordinary vacancy occurs within 3 months before an election, the Council may decide that the extraordinary vacancy not be filled.

BY-ELECTIONS

19. An election to fill an extraordinary vacancy must be held on a Saturday to be fixed by the Council which is not later than the 45th day after the extraordinary vacancy occurs.

DIVISION 5 - CONDUCT OF ELECTIONS

ONE VOTE PER PERSON

20. A person who is enrolled on the voters' roll is entitled only to one vote in respect of the district for which he or she is enrolled.

VOTING IS COMPULSORY

21. Except as provided in the regulations, it is compulsory for a person who is enrolled on the voters' roll to vote at any election in respect of the district in which he or she is enrolled.

Penalty: \$100.

HOLDING OF AN ELECTION

22. Schedule 2 has effect in respect of the holding of an election.

VOTING AND COUNTING OF VOTES

23. Schedule 3 has effect in respect of voting at elections and the counting of votes.

CABINET MAY GIVE DIRECTIONS

24. (1) Cabinet may by order published in the Gazette -

- (a) direct that an act or thing required to be done in connection with the preparation, printing or copying of a voters' roll which has been omitted or has not been completed, is to be done; and
- (b) direct that any error in the preparation, printing or copying of a voters' roll is to be corrected; and
- (c) direct that any misnomer or any inaccurate description of any person, place or thing on a voters' roll is to be corrected; and
- (d) give any direction or provide for any matters or things as may appear to Cabinet to be necessary or expedient with respect to the conduct of any election (including the conduct of any election by a person other than the Council or its returning officer); and
- (e) give directions in connection with any election to the Council or any officer thereof; and
- (f) appoint a person or an officer of the Council to carry out any directions referred to in paragraph (d) or (e).

(2) An Order of Cabinet under subsection (1) cannot change the method of counting votes under this Act.

DIVISION 6 - GENERAL PROVISIONS

COURT OF DISPUTED RETURNS

25. If any dispute relating to an election arise such dispute may be referred to the Supreme Court sitting as the Court of Disputed Returns.

APPLICATION FOR AN INQUIRY

26. (1) Within 7 days of the declaration of the results of an election, a candidate or any 10 voters who -

- (a) disputes or dispute the validity of the election;
or
- (b) is or are dissatisfied with the conduct of an election -

may apply to the Court of Disputed Returns in the prescribed form for an inquiry into the election.

(2) The application for an inquiry must be made to the Court of Disputed Returns.

(3) The prescribed fee must be forwarded with the application.

POWERS OF THE COURT OF DISPUTED RETURNS

27. (1) The Court of Disputed Returns has the power to -

- (a) declare that any person declared to be elected was not duly elected; or
- (b) declare any candidate duly elected who was not declared elected; or
- (c) declare an election void; or
- (d) dismiss or uphold an application in whole or in part; or
- (e) amend or permit the amendment of an application.

(2) The Court of Disputed Returns cannot order a recount of the whole or part of the ballot-papers unless it is satisfied that a recount is justified and has advised the Returning Officer of its intention.

(3) The decision of the Court of Disputed Returns is final and conclusive.

REPORT TO DIRECTOR OF PUBLIC PROSECUTIONS

28. The Court of Disputed Returns must submit a report to the Director of Public Prosecutions on a finding of improper conduct or possible offences against this Act at an election.

SCRUTINY OF VOTERS' ROLL

29. The Returning Officer must as soon as practicable after an election undertake a scrutiny of the voters' roll used at the election and prepare a list of the names of persons who were required to vote and did not vote at the election.

VADILITY OF ELECTION

30. (1) The validity of an election is not affected by any defect in the appointment of any person for the purpose of holding the election.

(2) The validity of an election is not affected by -

- (a) any irregularity in any of the proceedings preliminary to voting; or
- (b) any failure to hold the election at any place appointed; or
- (c) any failure to comply with any directions as to the holding of the elections or the counting of the votes; or
- (d) any mistake in any use of any forms -

if the election was conducted in accordance with the principles in this Act and the irregularity, failure or mistake did not affect the result of the election.

UNLAWFUL NOMINATION

31. If a person who is not qualified to be a candidate or is not capable of becoming a Councillor submits a notice of candidature the person is guilty of an offence.

Penalty: \$1,000.

PROHIBITIONS CONCERNING VOTING

32. (1) A person must not -

- (a) canvass for votes; or
- (b) solicit the vote of a person; or
- (c) induce a person not to vote for a particular candidate; or
- (d) induce a person not to vote at the election; or
- (e) exhibit any notice or sign (other than an official notice) relating to the election within 6 metres of any entrance to or within the premises used as a polling place at any time during polling hours or any adjournment.

Penalty: \$500.

(2) The authorised person in charge of a polling place may cause any area in the vicinity of the premises used as a polling place to be delineated by notices, signs or other means, and that area is to be treated as the polling place for the purposes of subsection (1).

(3) A person must not hinder or interfere with the free exercise or performance by another person of that person's right or duty to vote at an election.

Penalty: \$500.

(4) During the hours of polling at an election a person must not -

- (a) make any public demonstration having any reference to the election; or
- (b) use any loudspeaker or amplifier or any other apparatus or device for broadcasting or disseminating any matter intended or likely to affect the result of the election.

Penalty: \$500.

(5) Subsections (3) and (4) do not apply to any official statement or announcement made or exhibited under the authority of this Act.

(6) A scrutineer must not -

- (a) interfere with or attempt to influence any voter within the polling booth; or
- (b) communicate with any person in the polling booth except so far as is necessary to act as a scrutineer.

Penalty: \$500.

OFFENCES RELATING TO BALLOT PAPERS

33. (1) A person who -

- (a) erases, obliterates or alters any official mark, stamp or writing on any ballot paper; or
- (b) places any writing or other matter on any ballot paper which might lead persons to believe that it was placed under authority -

is guilty of an offence.

Penalty: \$500

(2) A person who -

- (a) forges or fraudulently marks, defaces or destroys a ballot paper; or
- (b) without authority supplies a ballot paper to any person; or
- (c) fraudulently puts any unauthorised ballot paper into a ballot box; or

- (d) is in possession of an unauthorised ballot paper;
or
- (e) without authority destroys, takes, opens or otherwise interferes with any ballot box or parcel of ballot papers -

is guilty of an offence.

Penalty: Imprisonment for 1 year if the offender is a Returning Officer, authorised person or interpreter; or imprisonment for 6 months if the offender is any other person.

(3) A person who -

- (a) votes or attempts to vote more than once at an election; or
- (b) fraudulently removes a ballot paper from a ballot box; or
- (c) personates any voter -

is guilty of an offence.

Penalty: Imprisonment for 3 months.

(4) A person who leaves a polling place with a ballot paper is guilty of an offence.

Penalty: \$500.

BRIBERY, TREATING AND UNDUE INFLUENCE

34. (1) A person must not ask for, receive or obtain, or offer or agree to ask for, or receive or obtain, any property or any loan or other benefit of any kind for himself or herself or any other person, on an understanding that -

- (a) any vote of the first-mentioned person; or
- (b) any candidature of the first-mentioned person; or
- (c) any support of, or opposition to, a candidate, by the first-mentioned person; or
- (d) the doing of any act or thing by the first-mentioned person the purpose of which is, or the effect of which is likely to be, to influence the preferences set out in the vote of a voter -

will in any manner be influenced or affected.

Penalty: Imprisonment for 1 year.

(2) A person must not, in order to influence or affect -

- (a) any vote of another person; or
- (b) any candidature of another person; or

- (c) any support of, or opposition to, a candidate by another person; or
- (d) the doing of any act or thing by another person the purpose of which is, or the effect of which is likely to be, to influence the preferences set out in the vote of a voter -

give or confer, or promise or offer to give or confer, any property or benefit of any kind to that other person or to a third person.

Penalty: Imprisonment for 2 years.

(3) This section does not apply in relation to a declaration of public policy or promise of public action.

PENALTY ON OFFICERS

35. A Returning Officer, authorised person or interpreter who does any wilful or negligent act of omission or commission contrary to this Part is guilty of an offence.

Penalty: \$500.

INFORMATION FOR OFFENCE

36. An information for an offence under this Part may be laid at any time within the period of 6 months after the commission of the offence.

PART IV - COUNCIL ADMINISTRATION

DIVISION 1 - THE HEAD CHIEF AND OTHER COUNCILLORS

DECLARATION OF OFFICE

37. (1) A person elected to be a Councillor is not capable of acting as a Councillor unless he or she has made the following declaration -

"I, (name), declare that I will undertake the duties of the office of Councillor in the best interests of the people of the Nauruan Community and faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under this or any other Act to the best of my skill and judgment".

(2) The declaration must be -

- (a) made before a Judge or Magistrate or the Secretary; and
- (b) recorded in the minutes of the Council; and
- (c) dated and signed before a Judge or Magistrate or the Secretary.

OATH OF ALLEGIANCE

38. (1) A person elected to be a Councillor is not capable of acting as a Councillor unless he or she has taken the following oath of allegiance -

"I, (name), swear by Almighty God that I will be faithful and bear true allegiance to the Republic of Nauru and that I will justly and faithfully carry out my duties as a member of the Nauru Island Council. So help me God!"

(2) The oath of allegiance must be -

- (a) made before a Judge or Magistrate or the Secretary; and
- (b) recorded in the minutes of the Council; and
- (c) dated and signed before a Judge or Magistrate or the Secretary.

FAILURE TO TAKE OATH AND MAKE DECLARATION

39. If a person elected to be a Councillor does not take the oath of allegiance and make the declaration within 3 months after the day on which he or she was declared elected the office of that Councillor becomes vacant.

PENALTY FOR ACTING AS COUNCILLOR IF INCAPABLE

40. Any person who acts as a Councillor while incapable of being or continuing to be a Councillor other than because of unsound mind is guilty of an offence.

Penalty: \$1,000.

OUSTER FROM OFFICE

41. (1) The Minister, the Council or any person on the voters' roll of the Council may apply to the Supreme Court for the ouster from the office of Councillor of any person whom he, she or it believes is declared elected or holds the office contrary to this Act.

(2) If an application relates to the election of a Councillor the application must be made during the term for which that person was elected.

(3) The Supreme Court may make rules with respect to -

- (a) the procedure for making applications; and
- (b) proceedings for hearing the application; and

- (c) the payment of a deposit as security for costs; and
- (d) ordering an inquiry into any matter raised by the proceedings; and
- (e) orders as to costs.

RETIREMENT OF COUNCILLORS

42. A Councillor remains in office from the date of his election until the election of a successor at a succeeding election held in accordance with Section 17.

EXTRAORDINARY VACANCIES

43. (1) An extraordinary vacancy is created if the office of a Councillor becomes vacant because the Councillor -

- (a) fails to take the oath of allegiance or make the declaration of office; or
- (b) dies; or
- (c) resigns in writing delivered to the Secretary; or
- (d) becomes incapable of continuing to be a Councillor; or
- (e) ceases to be qualified to be a Councillor; or
- (f) is ousted from office; or
- (g) is absent from 4 consecutive ordinary meetings of the Council without leave obtained from the Council.

(2) The Council must not unreasonably refuse to grant leave.

(3) A Councillor is not to be taken to be absent from an ordinary meeting of the Council -

- (a) unless a meeting of the Council at which a quorum is present is actually held; or
- (b) while any proceeding for ouster from office of the Councillor is pending.

COUNCILLOR MAY BE RE-ELECTED

44. A Councillor may be re-elected to the office of the Councillor if he or she is capable of being and continuing to be a Councillor.

ELECTION OF HEAD CHIEF

45. (1) The Councillors must before transacting any business following a general election of Councillors, elect a Councillor to be Head Chief of the Council.

(2) The Head Chief is to be elected as soon as possible after any vacancy in the office occurs.

TERM OF OFFICE

46. (1) Subject to subsection (3) the Head Chief remains in office until the election of a successor.

(2) Any Councillor is eligible for election or re-election to the office of Head Chief.

(3) The Head Chief ceases to hold office -

- (a) upon ceasing to be a Councillor; or
- (b) upon resigning his office by writing under his hand delivered to the Secretary; or
- (c) upon being removed from office by a resolution of the Council.

PRECEDENCE OF HEAD CHIEF

47. (1) The Head Chief must take the chair at all meetings of the Council at which he is present.

(2) If there is a vacancy in the office of Head Chief or the Head Chief is absent, incapable of acting or refuses to act the Council shall, if it has not already done so, elect a Councillor to be Deputy Head Chief who shall be acting Head Chief.

(3) An acting Head Chief may during the time or under the circumstances described in the preceding subsection perform any function or exercise any power conferred on the Head Chief.

ALLOWANCES

48. (1) The Council may, with the prior written approval of the Minister, before 31st December in each year fix an allowance not exceeding the prescribed amount to be paid in the next year to the Head Chief and Deputy Head Chief (if any).

(2) The Council may, with the prior written approval of the Minister, before 31st December in each year fix an expense allowance to be paid in the next year to Councillors not exceeding the prescribed amount for expenses other than payable under section 49, incurred in performing their duties as Councillors.

(3) The fixing of an allowance after the period specified in this section does not invalidate the allowance fixed.

(4) A person is only entitled to receive the allowance while he or she holds the office for which it is payable.

REIMBURSEMENT FOR EXPENSES

49. The Council may reimburse Councillors or members of Council committees for necessary out-of-pocket expenses incurred while performing duties as a Councillor or committee member.

PROTECTION OF COUNCILLORS

50. A Councillor or member of a Council committee is not personally liable to any action, liability, claim or demand on account of any matter or thing done or omitted to be done or contract entered into by or on behalf of the Council if the matter or thing was done or omitted to be done or the contract was entered into by a Councillor or a member of a Council committee in the honest and reasonable belief or under a mistake of law that it was a proper exercise of any function or power of the Council under this or any other Act.

IMPROPER USE OF INFORMATION

51. A Councillor or member of a Council committee must not make improper use of any information acquired as a Councillor or member to gain directly or indirectly a pecuniary advantage for himself or herself or for any other person or with intent to cause detriment to the Council irrespective of whether detriment was caused.

Penalty: For a first offence - \$1,000.
For a second or subsequent offence -
Imprisonment for 3 months.

PECUNIARY INTERESTS

52. Section 51 does not apply to a direct or indirect pecuniary interest in a contract, proposed contract or other matter which a Councillor or member of a special committee has which is within a class or classes of contract prescribed by Cabinet for the purposes of this section and which has been disclosed in accordance with regulations prescribed by Cabinet.

DIVISION 2 - PROCEDURE AND PROCEEDINGS

COUNCIL PREMISES AND OFFICE

53. (1) The Council must maintain premises that are adequate for the Council to perform its functions.

(2) The Council must establish and maintain a Council office.

(3) The Council office must be open on the days and during the times determined by the Council.

TYPES OF MEETINGS

54. The Council may hold -

(a) extraordinary meetings at which general business of the Council may be transacted; and

(b) special meetings at which the business specified in the notice calling the meeting may be transacted.

QUORUM

55. A quorum for a meeting must consist of five Councillors including the Head Chief or in his absence the Deputy Head Chief.

SPECIAL MEETINGS

56. (1) The Head Chief or at least 3 Councillors may by a written notice call a special meeting of the Council.

(2) The notice must specify the date and time of the special meeting and the business to be transacted.

(3) The Secretary must call the special meeting as specified in the notice.

(4) Unless all Councillors are present and unanimously agree to deal with another matter, only the business specified in the notice is to be transacted.

SPECIAL COMMITTEES OF THE COUNCIL

57. (1) In addition to any advisory committee that the Council may establish, the Council may establish one or more special committees of the following:-

(a) Councillors;

(b) Council staff;

(c) other persons;

(d) any combination of persons referred to in paragraphs (a), (b), and (c).

(2) The Council may appoint members to a special committee and may at any time remove a member from a special committee.

(3) The Council may by instrument of delegation delegate any of its functions, duties or powers (other than this power of delegation or any prescribed power) under this or any other Act to a special committee of Councillors.

(4) The Council may require a special committee to report to the Council at intervals determined by the Council.

MEETINGS TO BE OPEN TO THE PUBLIC

58. (1) Unless subsection (2) applies, any meeting of the Council or a special committee must be open to members of the public.

(2) The Council or special committee may resolve that the meeting be closed to members of the public if the meeting is discussing any of the following:

- (a) Personnel matters;
- (b) Contractual matters;
- (c) Legal advice;
- (d) Matters affecting the security of Council property;
- (e) Any other matter which the Council or special committee considers would prejudice the Council or any person.

(3) If a Council or special committee resolves to close a meeting to members of the public the reason must be recorded in the minutes of the meeting.

(4) The Council must provide reasonable notice to the public of meetings of the Council.

(5) The Chairperson of a special committee must provide reasonable notice to the public of meetings of the special committee.

VOTING

59. A question before a meeting of the Council or special committee is to be determined as follows:

- (a) Each Councillor or member of the special committee present is entitled to one vote;
- (b) Unless otherwise prohibited by this Act, each Councillor or member of the special committee present must vote;
- (c) Unless the procedures of the Council or special committee otherwise provide, voting must be by a show of hands;
- (d) The question is determined by a majority of votes;
- (e) If there is an equality of votes the Chairperson has a second vote.

CONDUCT OF MEETINGS

60. (1) Except as provided in this Act, the conduct of meetings of the Council or committee is in the Council's discretion.

(2) The Council must make rules governing the conduct of meetings of the Council and its committees.

VALIDITY OF PROCEEDINGS

61. Proceedings of the Council or committee are not invalidated because of -

- (a) any vacancy in the number of Councillors or members; or
- (b) any defect in the election or appointment of a Councillor or member; or
- (c) any incapacity to be a Councillor or member; or
- (d) any failure to comply with section 58.

MINUTES OF MEETINGS

62. (1) The Secretary to the Council must keep minutes of each meeting of the Council.

(2) The minutes of the Council meeting must be submitted to the next appropriate meeting of the Council for confirmation.

(3) The Chairperson of a special committee must arrange for minutes of each meeting of the committee to be kept.

(4) If subsection (3) applies, the Chairperson must submit the minutes of a committee meeting to the next meeting of the committee for confirmation.

(5) If the minutes are confirmed the Chairperson at the meeting must sign the minutes and certify that they have been confirmed.

DIVISION 3 - COUNCIL STAFF

COUNCIL STAFF

63. (1) The Council must establish an appropriate management structure.

(2) The Council must appoint a Secretary, a Treasurer and as many members of Council staff as it thinks necessary for the performance of its functions and the exercise of its powers under this Act and any other Act.

(3) The Council may appoint a person to be Chief Executive Officer.

PRINCIPLES TO BE OBSERVED WITH RESPECT TO COUNCIL STAFF

64. The following principles are to be observed with respect to Council staff:

- (a) Recruitment to Council staff should be from individuals selected on the basis of relative ability, knowledge and skills in fair and open competition which assures that all receive equal opportunity;
- (b) Promotion and advancement should be from qualified individuals selected in fair and open competition on the basis of relative efficiency measured in relation to the position involved;
- (c) Council staff should be used efficiently and effectively;
- (d) Council staff should be protected against arbitrary action, personal favouritism and coercion;
- (e) All necessary steps should be taken to ensure that all Council staff maintain proper standards of integrity, conduct and concern for the public interest.

DESIGNATED OFFICERS

65. (1) The Council must ensure that persons appointed as designated officers have the relevant prescribed qualifications.

(2) The Council may have a Council engineer, a Council surveyor and a Council sanitary inspector and a Council environmental officer.

(3) The Council may appoint a person who does not have the relevant prescribed qualifications to be a designated officer, but not Chief Executive Officer, for a period not exceeding 6 months but may not renew the appointment.

(4) With the prior approval of the Minister and on terms and conditions and for the period of time approved by the Minister, the Council may arrange for the functions of a designated officer to be performed by a person who does not have the relevant prescribed qualifications.

DELEGATION OF POWERS

66. (1) The Council may by instrument of delegation delegate to a member of its staff any power, duty or function of the Council under this Act or any other Act other than -

- (a) this power of delegation; and
- (b) the power to approve any expenditure not contained in a budget approved by the Council; and
- (c) any prescribed power.

(2) The Chief Executive Officer or a designated officer may by an instrument of delegation delegate to a member of the Council staff any power, duty or function of his or her office other than this power of delegation.

(3) The Secretary must keep a register of delegations to members of Council staff.

BENEFITS GAINED BY COUNCIL STAFF

67. (1) A member of Council staff must not exact or accept from any person any fee or reward -

- (a) for anything done by virtue of his or her employment; or
- (b) in relation to any act, matter or thing to be done under this Act or any other Act dealing with local government or requiring any act, matter or thing to be done or performed by the Council for a local governing purpose and which is a duty of that employment unless the fee or reward is received from the Council or with the Council's written permission.

(2) A person who contravenes this section is guilty of an offence.

Penalty: \$1,000.

LONG SERVICE LEAVE

68. (1) The Council must implement appropriate long service leave arrangements for Council staff in accordance with the regulations.

(2) Regulations made under this Act with respect to long service leave cannot -

- (a) reduce or adversely affect the position of any person in respect of service; or
- (b) specify levels of benefits for any person or class of persons which are less than those which applied

under the Nauru Local Government Council Act 1951-1985 as in force before the commencement of this Act.

NAURU ISLAND COUNCIL EMPLOYMENT ADVISORY COMMITTEE

69. (1) The Council may establish a Nauru Island Council Employment Advisory Committee.

(2) The functions and powers of the Committee are as follows:

- (a) To recommend the qualifications for designated officers; and
- (b) To recommend salaries and terms and conditions of employment of Council staff, including-
 - (i) permanent staff; and
 - (ii) part-time and temporary staff; and
- (c) To conduct inquiries into the hiring or dismissal of Council staff as directed by the Council.

REVIEW OF DETERMINATION

70. A person who is aggrieved by a determination of the committee may apply to the Council for a review of the determination.

EMPLOYEES OF THE PREVIOUS COUNCIL

71. (1) A person who was an employee of the previous Council may be employed by the Council as a member of Council staff.

(2) A person employed as a member of Council staff and who was an employee of the previous Council shall not be financially disadvantaged thereby but this shall not require the Council to employ that person in a position the same or analogous to that previously occupied or to require that person's employment in a position to which a person with better qualifications or experience is appointed.

(3) The Committee shall endeavour to find positions for as many of the employees of the previous Council as reasonably possible.

(4) The Committee may, but need not, offer employment to persons who are or were at the commencement of this Act employed by a corporation which was or is a wholly owned subsidiary corporation of the previous Council.

PART V - REGULATIONS AND BY-LAWS

POWER TO MAKE REGULATIONS AND BY-LAWS

72. (1) The Council may make regulations and by-laws for or with respect to any act, matter or thing in respect of which the Council has a function or power under this or any other Act.

(2) A regulation or by-law must not be inconsistent with any Act or regulation.

(3) A regulation or by-law is inoperative to the extent that it is inconsistent with any Act or regulation.

RULES, REGULATIONS AND BY-LAWS OF PREVIOUS COUNCIL

73. Every rule, regulation and by-law of the previous Council still in force on the date of commencement of this Act shall remain in force as a regulation or by-law until 30th June 1997 or such earlier time as it shall be amended or repealed.

PROCEDURE FOR MAKING REGULATIONS AND BY-LAWS

74. (1) Before the Council makes any regulation or by-law it must comply with the following procedure.

(2) The Council must give notice in the Gazette stating -

- (a) the purpose and general purport of the proposed regulation or by-law; and
- (b) that a copy of the proposed regulation or by-law can be obtained from the Council office; and
- (c) that any person affected by the proposed regulation or by-law may make a submission relating to the proposed local regulation or by-law.

(3) After any regulation or by-law has been made the Council must give a notice in the Gazette specifying -

- (a) The title of the regulation or by-law; and
- (b) the purpose and general purport of the regulation or by-law; and
- (c) that a copy of the regulation or by-law may be inspected at the Council office.

(4) After any regulation or by-law has been made the Council must send a copy to the Minister.

(5) The Minister may within 14 days, with the advice of Cabinet, disallow a regulation or by-law in which event he must cause a notice of disallowance to be published in the Gazette and the regulation or by-law as the case may be shall thereupon be repealed.

(6) If the Minister does not disallow a regulation or by-law he must cause it to be placed on the table of Parliament at the next following sitting of Parliament and the regulation or by-law is subject to disallowance by a resolution of Parliament.

AVAILABILITY OF REGULATIONS AND BY-LAWS

75. (1) The Council must print copies of every regulation and by-law which is in force.

(2) The Council must ensure that a copy of every regulation and by-law -

- (a) is available for inspection at the Council's offices during the Council's normal office hours; and
- (b) can be purchased on demand at the Council office during the Council's normal office hours.

(3) A person cannot be convicted of an offence against, or be prejudicially affected by, any regulation or by-law if it is proved that at the time of the alleged offence or at the relevant time, a copy of the regulation or by-law could not be purchased or inspected at the Council office during the Council's normal office hours.

SUNSET PROVISION

76. (1) Except as provided in section 73, any regulation or by-law is revoked on the day which is 10 years after the day which is the earliest day on which any provision of the regulation or by-law came into operation.

(2) If a regulation or by-law is revoked by this section or section 73 any regulation or by-law amending that regulation or by-law is also revoked.

PART VI - ACCOUNTS AND AUDIT

ACCOUNTS AND RECORDS

77. (1) The Council has a duty to ensure that there are kept in accordance with the regulations proper accounts and records of the transactions and affairs of the Council and such other records as will sufficiently explain the financial operations and financial position of the Council.

- (2) The Council has a duty to do all things necessary to -
- (a) ensure that all money payable to the Council is properly collected; and
 - (b) ensure that appropriate arrangements are implemented for the security of all money received by the Council; and
 - (c) ensure that all money expended by the Council is correctly expended and properly authorised; and
 - (d) ensure that adequate control is maintained over assets owned by or in the custody of the Council; and
 - (e) ensure that all liabilities incurred by the Council are properly authorised; and
 - (f) ensure efficiency and economy of operations and the avoidance of waste and extravagance; and
 - (g) develop and maintain an adequate budgeting and accounting system; and
 - (h) develop and maintain adequate internal control systems.

ANNUAL REPORT

78. (1) The Council must in respect of each financial year prepare an annual report containing -

- (a) a report of its operations during the financial year; and
- (b) financial statements for the financial year.

(2) The report of operations must -

- (a) be prepared in a form and contain information determined by the Council to be appropriate; and
- (b) contain any prescribed information.

(3) The financial statements must -

- (a) be prepared in the prescribed manner and form; and
- (b) be submitted in their finalised form to the auditor for auditing within 3 months of the end of the financial year.

(4) If the financial statements are not submitted to the auditor within 3 months of the end of the financial year, the Minister may appoint a person to submit financial statements to the auditor and charge to the Council the costs incurred by that person in doing so.

(5) The Council must before 30th April in each year (or at such later date as the Minister may approve, which approval must be notified to Parliament on the next sitting day of Parliament) submit its annual report to the Minister who must lay the same before Parliament on the next sitting day of Parliament.

(6) After the annual report has been submitted to the Minister, the Council must give public notice that the annual report has been prepared and can be inspected at the Council office.

AUDIT

79. (1) The finalised financial statements of the Council must be audited by the auditor within 2 months, or such later date as approved by the Minister, of receiving the financial statements.

(2) It is the duty of a Council to keep its accounts and records up to date and ready for inspection at any time.

(3) The auditor -

- (a) has right of access at all times to the documents of the Council; and
- (b) may require from a member of Council staff any information, assistance and explanations necessary for the performance of the duties of the auditor in relation to the audit.

(4) The Minister may direct that the accounts of the Council be audited by the auditor at the intervals the Minister determines.

(5) For the purposes of subsection (3) the auditor has the power after advising the Secretary to require a member of the Council staff to appear before him or her for examination on oath or affirmation and to produce any books, accounts and documents of the Council.

(6) The auditor may administer an oath or affirmation.

(7) A person must not -

- (a) refuse or fail to comply with a requirement of the auditor to the extent to which that person is able to comply; or
- (b) give information which he or she knows is false or misleading to the auditor; or
- (c) when appearing before the auditor -
 - (i) refuse to take an oath or affirmation; or
 - (ii) make a false or misleading statement.

Penalty: \$1,000 or imprisonment for 2 years.

EXAMINING AND SETTLING OF FINANCIAL STATEMENTS

80. (1) Before the financial statements are signed they must be examined and settled at a Council meeting of which at least 14 days public notice has been given.

(2) The financial statements and the report of the auditor must be examined and settled at the meeting which must be held within 6 weeks of receiving the financial statements and the report.

(3) If the report of the auditor contains a disallowance of any item in the financial statements the Council must -

- (a) amend the financial statements; or
- (b) appeal to the Minister.

(4) If the Minister dismisses the appeal the Council must amend the financial statements.

(5) If the Minister upholds the appeal the Council must attach a statement to the financial statements explaining how the disallowed item has been dealt with.

(6) If the report of the auditor contains any qualification of the financial statements the qualification must be noted in the financial statements.

APPOINTMENT OF AUDITOR

81. (1) The Minister must appoint a person who must be the holder of a certificate of qualification as an auditor to be the auditor for the Council.

(2) The auditor is entitled to be paid remuneration out of the District Fund of the amount and on the terms and conditions fixed by the Minister.

(3) The Public Service Act 1961-1979 does not apply to the auditor.

(4) The auditor has the same duty, privilege and responsibility in relation to the Council as if he or she had been appointed by the Council.

(5) Without limiting subsection (4) the auditor must -

- (a) make an audit of the accounts of the Council using due care, skill and diligence; and
- (b) report to the Council as to -
 - (i) the examination of the accounts; and
 - (ii) whether or not he or she has obtained all the information and explanations he or she required; and

(iii) whether in his or her opinion the financial statements are properly drawn up so as to give a true and fair view of the transactions of the Council during the financial year and of the financial position of the Council as at the end of the financial year.

IMPOSITION OF SURCHARGE

82. (1) If the Auditor considers that -

- (a) any expenditure has been incurred in contravention of any Act, regulation or by-law; or
- (b) any deficiency or loss has been incurred by the misconduct of a Councillor or a member of the Council staff; or
- (c) any money which should have been brought into account has not been brought into account -

the auditor may unless section 50 or 92 applies recommend to the Minister that the Councillor or member of the Council staff responsible be surcharged.

(2) The Minister may by notice in writing require the Councillor or member of the Council staff to show cause why he or she should not be surcharged.

(3) The surcharge must not exceed the amount of the expenditure, deficiency or loss or the amount which has not been brought into account.

(4) If the Councillor or member of the Council staff does not show cause to the satisfaction of the Minister, the Minister may by notice in writing impose the surcharge.

(5) A person may make application to the Supreme Court for the review of a decision of the Minister imposing a surcharge.

PAYMENT OF SURCHARGE

83. (1) A surcharge is a debt due and payable to the Council by the person on whom it is imposed.

(2) The Council is entitled to deduct any amount towards the discharge of the amount of the surcharge from any allowances or other benefit payable to the person on whom the surcharge is imposed.

(3) If the person on whom a surcharge is imposed is a Councillor who does not pay the surcharge within 3 months of it being imposed or confirmed on a review, the person becomes incapable of continuing to be or becoming a Councillor until the surcharge is paid.

PART VII - FINANCIAL PROVISIONS

FUNDS

84. (1) Parliament shall grant to the Council such funds by way of subvention as it considers necessary to enable the Council to carry out its functions.

(2) The Council must establish a fund to be called the District Fund into which must be paid any money received under this Act or any other Act.

PAYMENTS OUT OF THE DISTRICT FUND

85. The Council may apply any money in the District Fund to -

- (a) enable the Council to perform the functions and exercise the powers conferred on the Council by or under this Act or any other Act; or
- (b) repay to a person any money overpaid or wrongly paid by the person to the Council; or
- (c) refund to a person the whole or part of any money paid by the person to the Council for a particular purpose or as a condition of any agreement or arrangement which has not been performed or which has been only partly performed whether by that person or the Council.

POWER TO DEFER OR WAIVE PAYMENTS

86. (1) The Council may waive the payment by a person of the whole or part of any money payable by the person to the Council for a particular purpose or as a condition of any agreement or arrangement which has not been performed or which has been only partly performed whether by that person or the Council.

(2) Subsection (3) applies -

- (a) to a person who owes any money to a Council for any act, matter or thing done by the Council or for a particular purpose or as a condition of any agreement or arrangement; and
- (b) if the Council considers that the payment of the money would cause hardship to the person.

(3) The Council may -

- (a) defer the payment of the whole or any part of the money and the interest or any part of the interest payable on that money for the period and subject to any conditions determined by the Council; or

- (b) waive the payment of the whole or any part of the money and the interest or any part of the interest payable on that money; or
- (c) waive the payment of the whole or any part of the interest payable on the money.

INVESTMENTS

87. The Council may invest surplus money -

- (a) in securities issued by the Republic; or
- (b) in securities guaranteed by the Republic of Nauru; or
- (c) with a bank; or
- (d) with a financial institution guaranteed by the Republic of Nauru; or
- (e) in any other manner approved by the Minister after consultation with the Minister for Finance either generally or specifically, to be an authorised manner of investment for the purposes of this subsection.

POWER TO BORROW

88. (1) The Council may borrow money to enable the Council to perform the functions and exercise the powers conferred on the Council under this Act or any other Act.

(2) This section also applies to borrowing in the form of finance leases.

(3) The amount borrowed for ordinary purposes must not at any time exceed the amount approved by Cabinet by notice in the Gazette.

PREPARATION OF REVENUE ESTIMATES ETC.

89. (1) The Council must on or before 31st December prepare its revenue and expenditure estimates and requirements, if any, for borrowing, for the financial year commencing 1st January.

(2) The revenue and expenditure estimates must -

- (a) be in the prescribed form; and
- (b) contain the prescribed particulars.

(3) The Council must not borrow money unless the proposed borrowings were included in its revenue and expenditure estimates or the proposed borrowings are to re-finance existing loans.

BUDGET

90. The amounts to be expended by the Council in a year must not exceed the aggregate of the moneys standing to the credit of the District Fund.

PART VIII - SPECIFIC FUNCTIONS, POWERS AND RESTRICTIONS

RESTRICTION ON POWER TO ENTER INTO CONTRACTS

91. (1) Before the Council enters into a contract to the value of \$50,000 or more, it must give notice thereof in the Gazette stating the purpose of the contract and invite proposals to the Council to undertake the contract.

(2) Subsection (1) does not apply if -

- (a) the Council resolves that the contract must be entered into because of an emergency; or
- (b) the subject matter of the contract is not available in Nauru; or
- (c) the contract is entered into with a public body; or
- (d) the contract is for professional services.

PROTECTION FROM LIABILITY

92. The Minister, Councillor, a member of Council staff, or a person performing functions or exercising powers under this Act is not personally liable to any action, liability, claim or demand on account of any matter or thing done or omitted to be done or contract entered into by or on behalf of the Council if the matter or thing was done or omitted to be done or the contract was entered into by that person in the honest and reasonable belief or under a mistake of law that that person was properly exercising any function or power of the Council under this or any other Act.

SERVICE OF THE COUNCIL

93. Any document required to be served on or given to the Council may be served on or given to the Council by -

- (a) delivering the document to a member of Council staff at the Council office; or
- (b) sending the document by post to the Council's postal address.

OBSTRUCTING COUNCIL

94. Any person who obstructs the Council or a Councillor or a member of the Council staff in the performance of anything the Council or the Councillor or the member is empowered to do by any Act, regulation or by-law is guilty of an offence.

Penalty: \$1,000.

REGULATIONS

95. (1) Cabinet may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act including but not limited to the things specified in Schedule 4.

(2) Regulations made under this Act may be made -

(a) so as to confer powers or impose duties in connection with the regulations on any government department, the Council or public authority or any officer thereof; and

(b) so as to apply, adopt or incorporate, with or without modification, the provisions of any Act or of any regulations made under any Act as in force at a particular time.

(3) Regulations made under this Act may be disallowed in whole or in part by resolution of Parliament in accordance with section 30 of the Interpretation Act 1971.

REFERENCES TO NAURU LOCAL GOVERNMENT COUNCIL

96. Reference to the Nauru Local Government Council in any Act or Ordinance shall with effect from a date to be fixed by the Minister and notified in the Gazette, be deemed to be from that date to be reference to the Nauru Island Council.

SCHEDULES

SCHEDULE 1

FUNCTIONS OF THE COUNCIL

Section 6

THE FUNCTIONS OF THE COUNCIL INCLUDE THE FOLLOWING:

1. General public services including -
 - (1) Animal control, protection and conservation;
 - (2) Animal impounding;
 - (3) Flora and fauna control;
 - (4) Tip establishment and operation;
 - (5) Litter control;
 - (6) Collection and disposal of refuse.
2. Health, education, welfare and other community services including -
 - (1) Services for children and families;
 - (2) Public conveniences;
 - (3) Prevention and abatement of nuisances;
 - (4) Youth services;
 - (5) Control of juvenile delinquency;
 - (6) Aged, disabled and disadvantaged persons services;
 - (7) Cemeteries.
3. Planning and land use including building control.
4. Property services including cleaning of districts.
5. Recreational and cultural services including -
 - (1) Nauruan language and culture;
 - (2) Halls and public buildings;
 - (3) Sport, recreation, leisure and arts;
 - (4) Beaches, parks, gardens and reserves.
6. Any other functions relating to the peace, order and good government of the districts including -
 - (1) Parking;
 - (2) Encouragement of employment opportunities;
 - (3) Environment control, protection and conservation;
 - (4) General district administration.

SCHEDULE 2

PROVISIONS WITH RESPECT TO THE HOLDING OF AN ELECTION

Section 22.

RETURNING OFFICER AND STAFF

1. (1) An election must be held before a Returning Officer.
- (2) The Secretary is to be the Returning Officer.
- (3) The Secretary must appoint at least one Deputy Returning Officer.
- (4) A Deputy Returning Officer is an authorised person for the purposes of this Act.
- (5) If the Returning Officer dies, resigns or becomes incapable of acting, a Deputy Returning Officer nominated for the purpose of this subsection in his or her instrument of appointment is to be the Returning Officer.
- (6) The Returning Officer may by instrument of delegation delegate to any Deputy Returning Officer or authorised person any power or duty of the Returning Officer other than this power of delegation.
- (7) The Returning Officer may appoint -
 - (a) authorised persons to exercise the powers or duties delegated to them; and
 - (b) interpreters for the purposes of an election.
- (8) A person who is a candidate at the election or a Councillor of the Council in respect of which the election is to be held cannot be appointed or act as a Returning Officer, authorised person or interpreter at the election or otherwise assist in the conduct of the election.

DECLARATION BEFORE CARRYING OUT DUTIES

2. (1) The Returning Officer must before acting as the Returning Officer for the first time in respect of the Council make a declaration in the prescribed form.
- (2) Any person appointed to be an authorised person or interpreter at an election must make a declaration in the prescribed form before carrying out any duties at that election.

NOTICE OF ELECTION

3. (1) Not less than 21 days nor more than 45 days before an election, the Returning Officer must give public notice of the election.

(2) The public notice must specify that notice of candidature will be received at the Council office by the Returning Officer up to 4.00p.m. on the 14th day before the election.

RETURNING OFFICER TO GIVE ELECTION ADVICE

4. The Returning Officer may give any advice to members of the public relating to the conduct of an election that the Returning Officer considers appropriate.

NOTICE OF CANDIDATURE

5. (1) A candidate for election must -

- (a) complete a notice of candidature which is to be in the prescribed form; and
- (b) sign the notice of candidature; and
- (c) make a declaration in the prescribed form; and
- (d) have the notice of candidature seconded by one or more persons enrolled for the district for which the candidate is a candidate.

(2) A candidate must be named in a notice of candidature by specifying -

- (a) the surname and the Christian or given name, or one or more of the Christian or given names and the address under which the candidate is enrolled on the voters' roll; and
- (b) in the case of a by-election where the candidate is not enrolled on the voters' roll, the surname and the Christian or given name, or one or more of the Christian or given names and the address under which the candidate is entitled to be enrolled.

(3) The candidate's name is to appear on the ballot-paper in the form specified in the notice under subclause (2).

(4) For the purposes of subclause (3) a Christian or given name may be specified by -

- (a) an initial standing for that name; or
- (b) a commonly accepted variation of that name, including an abbreviation or an alternative form of that name.

VALIDITY OF CANDIDATURE

6. (1) A person is not eligible to be a candidate for election if the notice of candidature is not properly completed.

(2) The Returning Officer can only reject a notice of candidature if clause 5 has not been complied with.

(3) The Returning Officer must return any rejected notice of candidature to the person who submitted it.

WITHDRAWAL OF NOTICE OF CANDIDATURE

7. (1) A candidate may withdraw a notice of candidature before 4.00p.m. on the 14th day before the election.

(2) A notice of withdrawal must be in the prescribed form and signed by the candidate.

(3) The Returning Officer must keep the notice of candidature.

(4) The Returning Officer must refund the prescribed fee to the candidate.

RETIREMENT OF CANDIDATE

8. (1) A candidate may retire before a declaration of an election is made or if an election is to be held before the day of the election.

(2) A notice of retirement must be in the prescribed form and signed by the candidate.

(3) The following provisions apply upon retirement of a candidate:

- (a) If practicable, the Returning Officer must give public notice of the retirement before the day of the election;
- (b) If the candidate retires after the ballot-papers have been printed the Returning Officer must take all practicable steps to remove the name of the retiring candidate from the ballot-papers;
- (c) If the Returning Officer receives a completed ballot-paper on which the name of the retiring candidate has not been removed, the name of the retiring candidate and any figure next to the name are to be treated as removed and the ballot-paper is to be given effect to in the voter's order of preference in respect of the remaining candidates.

4. The Returning Officer must keep the notice of candidature.

DEATH OF A CANDIDATE

9. If a candidate dies on or before the 14th day before the election, the notice of candidature becomes void.

FILLING OF VACANCIES

10. (1) If -

- (a) the number of candidates; or
- (b) the death of a candidate; or
- (c) the withdrawal of a candidate -

means that the number of candidates is equal to or less than the number of vacancies to be filled at an election, the Returning Officer must declare the candidate or candidates to be elected and give public notice of the declaration.

(2) If the Returning Officer declares the candidate or candidates to be elected under subclause (1)(a), the declaration must be made -

- (a) in the case of a by-election, immediately on the 14th day before election day; or
- (b) in the case of any other election, on election day.

(3) If there are no candidates for an election the election fails and the Returning Officer must give public notice that the election has failed.

(4) A vacancy caused if there is no candidate or the number of candidates is less than the number of vacancies is to be treated as an extraordinary vacancy occurring on the 14th day before election day.

(5) A vacancy under subclause (1)(b) is to be treated as an extraordinary vacancy occurring on the day the Returning Officer receives notice of the death.

(6) If the number of candidates exceeds the number of vacancies to be filled, an election must be held.

(7) The Returning Officer must give notice of -

- (a) an extraordinary vacancy under subclause (4); and
- (b) an election under subclause (6).

INSPECTION OF NOTICES OF CANDIDATURE

11. Any person may inspect notices of candidature at the Council office during ordinary office hours.

POLLING PLACES

12. (1) The Returning Officer must appoint and name polling places within the district.

(2) The Returning Officer -

(a) may at the same time as notice of the election is given under clause 3; and

(b) must not later than 5 days before election day -

give public notice of the polling places appointed for the holding of the election.

(3) The public notice may specify which polling places have suitable access for physically disabled people.

(4) If the Returning Officer considers it necessary, the Returning Officer may provide additional polling places on election day.

(5) Polling places appointed under subclause (4) do not have to be kept open for the full polling period.

(6) A polling place cannot be established on any premises which are licensed premises for the sale or consumption of liquor.

(7) Unless it is required for classes, a government school may be appointed as a polling place.

(8) If a government school is appointed as a polling place it is the duty of the person or body having control of the school to make it available for use by the Returning Officer on election day.

(9) The cost of cleaning or repairing any damage after a government school has been used as a polling place is to be met by the Council.

(10) The Council must make available any of its buildings for use as a polling place.

POLLING BOOTHS

13. (1) The Returning Officer must provide one or more polling booths at each polling place.

(2) The Returning Officer must provide the following in each polling booth:

- (a) One or more compartments providing adequate facilities for each voter to vote in secret;
- (b) One or more suitable containers having a secure fastening to be used as ballot-boxes;
- (c) Translations of the directions to the voter printed on the ballot-paper in the Nauruan language;
- (d) Voters' rolls, ballot-papers, stationery and furniture as the Returning Officer considers necessary.

(3) There must be at least one polling booth in each district.

(4) The Returning Officer may provide for mobile booths in hospitals or other institutions whether or not the hospital or institution is appointed as a polling place.

(5) Polling places appointed under subclause (4) do not have to be kept open for the full polling period.

(6) There must be at least 2 electoral staff at each polling place at all times.

BALLOT-PAPERS

14. (1) Ballot-papers for an election are to be in the prescribed form.

(2) The Returning Officer must as soon as practicable after 4.00p.m. on the 14th day before election day hold a ballot by lot to determine the order in which the name of each candidate is to appear on the ballot-paper.

(3) A candidate or a person authorised in writing by a candidate may be present at the ballot by lot.

(4) If in the opinion of the Returning Officer a similarity in the names of 2 or more candidates is likely to cause confusion, the Returning Officer may arrange for the names of the candidates to be printed with a description or addition to distinguish them from each other.

SCRUTINEERS

15. (1) A candidate may appoint no more than 2 scrutineers for each polling place.

(2) The appointment of scrutineers must be in the prescribed form and delivered to the Returning Officer.

(3) A person cannot be appointed as a scrutineer if he or she is -

- (a) a Councillor; or
- (b) a candidate at the election.

(4) Before a scrutineer can act as a scrutineer he or she must make a declaration in the prescribed form.

(5) Only one scrutineer for a candidate can be present in each polling booth at any time.

(6) The authorised officer in charge of a polling booth may remove a scrutineer if more than one scrutineer for a candidate is present.

(7) A scrutineer must not be prevented from entering or leaving a polling booth during the hours of polling.

(8) If a scrutineer is absent from a polling booth another scrutineer may take his or her place.

(9) Any member of the police force or any authorised person may remove a scrutineer from a polling booth if the scrutineer -

- (a) commits any breach of this Act; or
- (b) is guilty of misconduct; or
- (c) fails to obey a lawful direction of an authorised person.

HOURS OF POLLING

16. (1) Except as provided in clauses 12(5) and 13(4), each polling place must be open for voting from 1:00p.m. until 6:00p.m. on polling day.

(2) If at the close of polling a person is in the polling place for the purpose of voting he or she is entitled to vote.

POWER TO KEEP THE PEACE

17. (1) The Returning Officer and any person authorised by the Returning Officer for the purpose have the following powers -

- (a) To maintain and enforce order and keep the peace at any election or polling place;
- (b) Without any warrant to cause any person who -
 - (i) obstructs the approaches to any polling place or polling booth; or
 - (ii) behaves in a disorderly manner; or
 - (iii) breaches subclause (2) or (3) - to be removed;

(c) Without warrant to cause any person reasonably suspected of committing an offence against this Act to be arrested.

(2) Only the following persons can remain in a polling booth -

- (a) Any person who is voting;
- (b) Any person assisting the person who is voting;
- (c) The Returning Officer and any authorised person or interpreter;
- (d) One scrutineer for each candidate;
- (e) Any members of the police force necessary to keep the peace.

(3) Except as provided in Clause 2 of Schedule 3, only the following persons can speak to a voter in the polling booth -

- (a) Any person assisting the person who is voting;
- (b) The Returning Officer and any authorised person or interpreter;
- (c) Any member of the police force.

BALLOT-BOX TO BE KEPT CLOSED

18. (1) Immediately before a polling booth is opened for voting, the authorised person in charge of the polling booth must in the presence of any scrutineers -

- (a) make sure that the ballot-box is empty; and
- (b) close and securely fasten the ballot-box.

(2) The ballot-box must not be opened until the close of voting.

ISSUE OF THE BALLOT-PAPERS

(1) A voter in respect of an election for a district is entitled to vote at any polling booth established in respect of that district.

(2) Except as provided in clause 20(4) or 20(5), the authorised person in charge of a polling booth must issue a ballot-paper to any person who is enrolled or appears to be entitled to be enrolled on the voters' roll who applies to vote at the polling booth.

(3) The authorised person must initial the ballot-paper and give it to the person claiming the vote.

(4) The authorised person must place a mark against the voter's name on the voters' roll to show that the voter has received a ballot-paper.

(5) If required by the Returning Officer the authorised person must place the official mark on the ballot-paper so that the polling booth in which the ballot-paper was issued may be identified.

(6) If the ballot-paper is otherwise correct a failure to comply with subclauses (3), (4) and (5) does not make a ballot-paper invalid.

IDENTIFICATION OF VOTERS

20. (1) The authorised person in charge of a polling booth must put the following questions to each person claiming to vote at the election -

- (a) what is your family name and Christian or given names?;
- (b) have you voted before in this election for this district?

(2) If a person fails to give his or her family name and Christian or given names shown on the voters' roll, the authorised person may require him or her to provide proof of identity.

(3) If a person cannot or will not provide proof of identity, the authorised person may require him or her to make a declaration in the prescribed form.

(4) If the person refuses to complete a declaration in the prescribed form, the authorised person must not give him or her a ballot-paper.

(5) If a person admits to having voted before in the election, the authorised person must not give him or her a ballot-paper.

(6) The authorised person must keep a written record of any person who has been refused a ballot-paper.

(7) If the authorised person is satisfied that a voter is sufficiently identified the claim to vote is not to be refused because of any -

- (a) omission of any Christian or given name; or
- (b) inclusion of a wrong Christian or given name or a wrong address; or
- (c) mistake in the spelling of any family name -

in the voters' roll.

PROCEDURE IF SECOND BALLOT-PAPER APPLIED FOR

21. (1) If a person applying for a ballot-paper -

- (a) gives as his or her name the name of a person who appears to the authorised person in charge of the polling booth to have already received a ballot paper; and
- (b) claims that he or she has not already voted at the election -

the authorised person must give the person a ballot-paper.

(2) If a person who has received a ballot-paper in accordance with the regulations gives the declaration envelope and the unmarked ballot-paper to the authorised person in charge of a polling booth at which the person is entitled to vote, the authorised person must give the person a ballot-paper.

(3) The authorised person must cancel the declaration envelope and the unmarked ballot-paper and send them to the Returning Officer.

(4) If a person to whom a ballot-paper has been issued in accordance with the regulations -

- (a) claims that he or she has not received the ballot-paper; and
- (b) makes a declaration in the prescribed form -

the authorised person must give the person a ballot-paper.

(5) The authorised person must advise the Returning Officer of any person who has voted under subclause (4).

CERTAIN BALLOT-PAPER TO BE KEPT SEPARATE

22. (1) The following marked ballot-papers must be placed in a separate envelope provided for the purpose -

- (a) a marked ballot-paper received from a person who appears to be entitled to be enrolled;
- (b) a marked ballot-paper received from a person who has made a declaration under clause 20(3).
- (c) a marked ballot-paper received from a person referred to in clause 21(1);
- (d) a marked ballot-paper received from a person who has made a declaration under clause 21(4).

(2) The authorised person must mark the envelope and set it aside for separate custody.

(3) The Returning Officer may allow or disallow a ballot-paper to which this clause applies.

DECLARATION OF RESULT

23. (1) The Returning Officer must as soon as practicable on or after election day publicly declare the result of the election by giving the name or names of the candidate or candidates elected.

(2) The Returning Officer must as soon as practicable after publicly declaring the result -

- (a) give public notice of -
 - i) the name or names of the Councillor or Councillors elected; and
 - ii) the order in which the Councillors were elected; and
- (b) advise the Minister of the result.

DEATH OR INCAPACITY OF AN ELECTED CANDIDATE BEFORE THE DECLARATION OF THE RESULT

24. (1) The death or incapacity of an elected candidate after the close of voting but before the declaration of the result does not affect the declaration of the election of any other elected candidates.

(2) The vacancy arising as a result of the death or incapacity of the elected candidate is to be treated as an extraordinary vacancy occurring on the day on which the candidate would have been declared elected.

ADJOURNMENT OF ELECTION

25. (1) If for any reason or cause an election at a polling place cannot start or has to be suspended, the authorised person in charge of the polling place may adjourn the election at that polling place.

(2) The election may be adjourned to the next day that is not a Sunday or a public holiday.

(3) The Returning Officer must immediately give notice of the adjournment in any manner that the Returning Officer thinks necessary.

SCHEDULE 3

PROVISIONS WITH RESPECT TO VOTING AND THE COUNTING OF VOTES

Section 23.

PART I - VOTING

MARKING OF BALLOT-PAPERS

1. (1) A person must mark his or her vote on the ballot-paper in the prescribed manner.

(2) A ballot-paper can only be rejected if it is not marked as prescribed.

(3) Except as otherwise expressly provided, a ballot-paper is to be given effect to according to the voter's intention so far as the voter's intention is clear.

DISADVANTAGED VOTERS

2. (1) This clause applies to any voter who -

- (a) is wholly or partially blind; or
- (b) is unable to read or write; or
- (c) has severe difficulty in reading or writing; or
- (d) is not sufficiently familiar with the English or Nauruan language to vote without assistance and an interpreter is not available.

(2) After receiving a ballot-paper, the voter may request -

- (a) a person nominated by the voter; or
- (b) an authorised person -

to assist the voter to mark the ballot-paper or to mark the ballot-paper as the voter instructs.

(3) An authorised person must be present when the ballot-paper is marked and at the request of the voter may inspect the ballot-paper before it is placed in the ballot-box.

(4) The voter may indicate the manner in which he or she wants to mark his or her vote by presenting a statement in writing.

(5) The person assisting the voter must without allowing the manner in which the ballot-paper has been marked to be disclosed, deposit it in the ballot-box and leave the polling booth.

SPOILT BALLOT-PAPERS

3. (1) If a voter -

- (a) has not deposited a ballot-paper in the ballot-box; and
- (b) satisfies the authorised person in charge of the polling booth that he or she has spoiled the ballot-paper; and
- (c) returns the spoiled ballot-paper to the authorised person -

the authorised person must issue another ballot-paper to the voter.

(2) The authorised person must -

- (a) cancel the spoiled ballot-paper by writing "Spoilt by voter" on the face of the ballot-paper; and
- (b) initial the spoiled ballot-paper; and
- (c) retain the spoiled ballot-paper until the close of voting.

(3) If an authorised person spoils a ballot-paper he or she must -

- (a) cancel the spoiled ballot-paper by writing "Spoilt by official" on the face of the ballot-paper; and
- (b) retain the spoiled ballot-paper until the close of voting.

METHOD OF VOTING

4. (1) Except as provided in clause 2, the voter must mark the ballot-paper as provided under clause 1 using the facilities provided in private and secretly.

(2) The voter must without allowing the manner in which the ballot-paper has been marked to be disclosed deposit it in the ballot-box and leave the polling booth.

PART 2 - GENERAL PROVISIONS

PLACE WHERE VOTES TO BE COUNTED

5. (1) The ballot-papers are to be collected and counted at a central counting place.

(2) The Returning Officer must advise each candidate before election day where the count is to be made.

PROCEDURE FOR COUNT

6. (1) The authorised person in charge of each polling booth must as soon as practicable after the close of voting do the following in the presence of any scrutineers and any authorised persons only:

- (a) Make up into separate parcels -
 - (i) the copies of the voters' roll or rolls on which the fact of any person having received a ballot-paper has been noted; and
 - (ii) the spoilt ballot-papers; and
 - (iii) the unused ballot-papers; and
 - (iv) the documents and ballot-papers referred to in clause 22 of Schedule 2;
- (b) Write on the outside of each parcel -
 - (i) a description of the contents; and
 - (ii) the name of the District; and
 - (iii) the name of the polling place; and
 - (iv) the name and number of the polling booth; and
 - (v) the date of voting;
- (c) Enclose and properly fasten each parcel and sign the statement under paragraph (b) and permit any scrutineers to also sign the statement;
- (d) Send the parcel and unopened ballot-boxes to the authorised person who is to count the votes.

(2) Each candidate is entitled to have one scrutineer at each table to be used at the central counting place.

(3) The authorised person at the central counting place must as soon as practicable do the following in the presence of any scrutineers and any authorised persons only:

- (a) Open the ballot-box and take out the ballot-papers and ascertain the number of votes received by each candidate;
- (b) Set aside the informal ballot-papers;
- (c) Make up into separate parcels -
 - (i) the used ballot-papers; and
 - (ii) the informal ballot-papers;
- (d) Prepare and sign a certificate which may be signed by any of the scrutineers specifying the number of -
 - (i) votes received by each candidate; and
 - (ii) ballot-papers set aside as informal; and
 - (iii) ballot-papers referred to in clause 22 of Schedule 2; and
 - (iv) spoilt ballot-papers; and
 - (v) unused ballot-papers; and
 - (vi) ballot-papers received by the authorised person;

- (e) Write on the outside of each parcel -
 - (i) a description of the contents; and
 - (ii) the name of the district; and
 - (iii) the name of the polling place; and
 - (iv) the name and number of the polling booth; and
 - (v) the date of voting;
- (f) Enclose and properly fasten each parcel and sign the statement under paragraph (e) and permit any scrutineers to also sign the statement;
- (g) Send the parcels (including the parcels received from the polling booths) and the certificate to the Returning Officer.

RETURNING OFFICER TO DETERMINE NUMBER OF FIRST PREFERENCES

7. The Returning Officer must as soon as practicable -

- (a) ascertain from the certificates received under clause 6 or 7 the number of first preference votes given for each candidate; and
- (b) add that number to the number of first preference votes given to each candidate in the form of allowed pre-poll or postal ballot-papers.

PART 3 - RESULT WHERE ONLY ONE COUNCILLOR IS TO BE ELECTED

ONLY TWO CANDIDATES

8. If only one Councillor is to be elected and there are only two candidates the result is to be determined as follows -

- (a) the candidate who has received the greater number of first preference votes is to be declared elected by the Returning Officer;
- (b) if the two candidates have received an equal number of votes the result is to be determined by lot by the Returning Officer.

MORE THAN TWO CANDIDATES

9. If only one Councillor is to be elected and there are more than two candidates the result is to be determined as follows:

- (a) The candidate who has received the greatest number of first preference votes if that number constitutes an absolute majority of votes is to be declared elected by the Returning Officer;
- (b) "Absolute majority of votes" means a number of votes greater than one-half of the total number of ballot-papers (excluding ballot-papers which are rejected) and if necessary includes the vote by lot;

- (c) If no candidate has received an absolute majority of votes, the Returning Officer upon receipt of the several sealed parcels from any authorised person and with the assistance of any authorised persons and in the presence and subject to the inspection of any one scrutineer, if present, appointed by each candidate but of no other person, must -
- (i) open all the sealed parcels containing used ballot-papers; and
 - (ii) arrange such ballot-papers together with the allowed postal ballot-papers if any, by placing in a separate parcel all those on which a first preference is indicated for the same candidate and preference votes are also duly given for all the remaining candidates, omitting ballot-papers which are rejected; and
 - (iii) declare the candidate who has received the fewest first preference votes a defeated candidate; and
 - (iv) distribute the ballot-papers counted to the defeated candidate amongst the non-defeated candidates next in order of the voters' preference; and
 - (v) after the distribution again ascertain the total number of votes given to each non-defeated candidate;
- (d) The candidate who has then received the greatest number of votes if that number constitutes an absolute majority of votes is to be declared elected by the Returning Officer;
- (e) If no candidate then has an absolute majority of votes the process of declaring the candidate who has the fewest votes a defeated candidate and distributing the ballot-papers counted to the defeated candidate amongst the non-defeated candidates next in order of the voters' preference is to be repeated until one candidate has received an absolute majority of votes and is declared elected by the Returning Officer;
- (f) If on any count 2 or more candidates have an equal number of votes and one of them has to be declared a defeated candidate the result is to be determined by lot by the Returning Officer;
- (g) If on the final count 2 candidates have received an equal number of votes the result is to be determined by lot by the Returning Officer.

PART 4 - RESULT WHERE TWO OR MORE COUNCILLORS ARE TO BE ELECTED

TWO OR MORE COUNCILLORS TO BE ELECTED

10. (1) If 2 or more Councillors are to be elected the result is to be determined as set out in this Part.

(2) In this Part -

"Absolute majority of votes" means a number of votes greater than one-half of the total number of ballot-papers (excluding ballot-papers which are rejected) and if necessary includes the vote by lot.

"Continuing candidate" means a candidate not already elected or excluded from the count.

(3) The first vacancy is to be filled in the manner specified in Part 3 of this Schedule for determining the result where one Councillor is to be elected and there are more than 2 candidates.

(4) For the purposes of subclause (3), a reference in Part 3 of this Schedule to a "defeated candidate" or a "non-defeated candidate" is to be construed as a reference to an "excluded candidate" or a "continuing candidate" as the case may be.

(5) The second vacancy is to be filled as follows:

(a) The Returning Officer with the assistance of any authorised persons and in the presence and subject to the inspection of any one scrutineer, if present, appointed by each candidate but of no other person, must -

(i) re-arrange all the ballot paper (other than the ballot-papers which are rejected) under the names of the respective candidates for which a first preference is indicated; and

(ii) place the ballot-papers on which a first preference is indicated for the elected candidate in the parcel of the continuing candidate next in order of the voter's preference; and

(iii) determine the total number of votes given to each continuing candidate;

(b) The candidate who has received the greatest number of votes if that number constitutes an absolute majority of votes is to be declared duly elected by the Returning Officer;

- (c) If no candidate has an absolute majority of votes the Returning Officer must -
- (i) declare the candidate who has received the fewest votes an excluded candidate; and
 - (ii) distribute the ballot-papers counted to the excluded candidate amongst the continuing candidates next in order of the voters' preference; and
 - (iii) determine the total number of votes given to each continuing candidate;
- (d) The candidate who then has received the greatest number of votes if that number constitutes an absolute majority of votes is to be declared duly elected by the Returning Officer;
- (e) If no candidate then has an absolute majority of votes the process of declaring the candidate who has the fewest votes an excluded candidate and distributing the ballot-papers counted to the excluded candidate amongst the continuing candidates next in order of the voter's preference is to be repeated until one candidate has received an absolute majority of votes and is declared elected by the Returning Officer.

(6) The third and every subsequent vacancy is to be filled in the manner specified in subclause (5) with every ballot-paper on which a first preference is indicated for an elected candidate being placed in the parcel of the continuing candidate next in order of the voter's preference.

(7) If on any count 2 or more candidates have an equal number of votes and one of them has to be declared an excluded candidate the Returning Officer must determine by lot which is to be declared an excluded candidate.

(8) If on the final count 2 candidates have received an equal number of votes the result is to be determined by lot by the Returning Officer.

PART 5 - MISCELLANEOUS PROVISIONS

SAFE CUSTODY OF BALLOT-PAPERS

11. (1) The Returning Officer must -
- (a) keep a record of the number of ballot-papers that have been printed; and
 - (b) reconcile that number with the number of ballot-papers which have been issued, spoilt or left unused.

(2) Each authorised person in charge of a polling booth must give the Returning Officer a receipt specifying the total number of ballot-papers that he or she has received.

(3) Each authorised person in charge of a polling booth is personally responsible for -

- (a) the safe custody of the ballot-papers until they are issued or otherwise disposed of by the authorised person; and
- (b) the return of the used ballot-papers to the Returning Officer.

(4) The Returning Officer must -

- (a) certify the record kept under subclause (1) as being true and correct; and
- (b) submit the record to the Council as soon as is practicable after election day.

DISPOSAL OF BALLOT PAPERS

12. (1) As soon as practicable after the completion of the count of votes or in case of the voters' roll the scrutiny of the voters' roll, the Returning Officer must -

- (a) enclose in one or more separate packets -
 - (i) the parcels of used ballot-papers; and
 - (ii) the parcels of spoilt ballot-papers; and
 - (iii) the parcels of ballot-papers set aside; and
 - (iv) all parcels, copies of voters' rolls, books or other papers used in connection with the election; and
- (b) secure the packets; and
- (c) write on the packet -
 - (i) a description of the contents; and
 - (ii) the name of the district; and
 - (iii) the date of polling;
- (d) sign the writing on the packet.

(2) The Returning Officer must deliver the parcels to the Secretary.

(3) The Secretary must keep the parcels safely and secretly for 3 years.

(4) After 3 years the Secretary must cause the parcels to be destroyed by burning in his or her presence or in the presence of an authorised person.

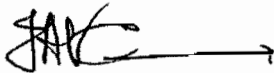
(5) The Secretary may permit a sealed packet or sealed parcel to be opened only as specifically provided by or under this Act.

SCHEDULE 4
REGULATIONS

Section 95

1. Any matter relating to enrolment and the preparation of voters' rolls.
2. Providing for exemptions from and the enforcement of compulsory voting.
3. Providing for a system of postal voting.
4. Prescribing the matters in respect of which the Council must keep accounts and records.
5. Prescribing the manner and form in which the accounts and records must be kept.
6. Prescribing the entries to be made in accounts and records.
7. Providing for the establishment of loan funds, reserve funds and other prescribed funds.
8. Providing for the handling and disposal of unclaimed money.
9. Providing for the dismissal or reduction in status of members of Council staff.
10. Providing for the payment of long service leave and other benefits to members of Council staff.
11. Providing for termination and redundancy of members of Council staff, payments on termination and redundancy and appeals relating to termination and redundancy.
12. Providing for the disclosure of pecuniary interests.
13. Prescribing forms for the purposes of this Act.

I hereby certify that the above is a fair print of a Bill for an Act entitled Nauru Island Council Act 1992, that has been passed by Parliament of Nauru, and is now presented to the Speaker for his Certificate under Article 47 of the Constitution.



Clerk of Parliament
20/3/1992

Pursuant to Article 47 of the Constitution, I Derog Gioura, Speaker of Parliament, hereby certify that the Nauru Island Council Act 1992, has been passed by the Parliament of Nauru.



Speaker
20/3/1992