



REPUBLIC OF NAURU

Electoral (Amendment) Bill 2010

Serial No. 6 of 2010

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REPUBLIC OF NAURU

Electoral (Amendment) Bill 2010

Serial No. 6 of 2010

A Bill for:

An Act to amend the Electoral Act

Certified on [...]

Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Electoral (Amendment) Act 2010*.

2 Commencement

This Act commences on the day it receives the certificate of the Speaker under Article 47.

3 Act amended

The Schedule amends the *Electoral Act 2007-2009*.

4 Repeal

The following regulations are repealed:

- (a) *Electoral (Electoral System) Regulations (1971)*; and
- (b) *Electoral (By-Election) Regulations 1973*.

SCHEDULE – AMENDMENT OF ELECTORAL ACT

section 3

[1] Amendment of long title

1.1 Long title

omit

Legislative Council for the Republic of Nauru, and for other purposes

substitute

Parliament of Nauru and for related purposes

[2] Amendment of Part I heading

2.1 Part I, heading, after 'PRELIMINARY'

insert

MATTERS

[3] Repeal and substitution of section 1

3.1 Section 1

repeal, substitute

1 Short title

This Act may be cited as the *Electoral Act 1965*.

[4] Repeal of section 2

4.1 Section 2

repeal

[5] Amendment of section 3

5.1 Section 3

omit

In this Ordinance

substitute

In this Act

- 5.2 Section 3, definitions of '**election**', '**Electoral District**' and '**Constituency**', '**Nauruan**', '**the Executive Council**', '**the Registrar**', and '**the Schedule**'

omit

- 5.3 Section 3, definition of '**absolute majority of votes**'

omit

an Electoral District

substitute

a constituency

- 5.4 Section 3, definitions of '**candidate**', '**declaration**', '**petition**' and '**roll**'

omit

of this Ordinance

- 5.5 Section 3, definition of '**polling place**'

omit

in accordance with subsection (2) of section 18 of this Ordinance

substitute

under section 18A(b)

- 5.6 Section 3

insert (in alphabetical order)

'by-election' means a by-election held for the purpose of electing one member of Parliament to fill a vacancy;

'constituency' means a constituency described in the Second Schedule to the Constitution;

'Court of Disputed Elections' means the Court mentioned in section 30;

'election' means:

- (a) a general election of members; or
- (b) a supplementary election under section 17; or

(c) a by-election;

'Nauruan' means a person, other than a person who has ceased to be a Nauruan citizen under a law made under Article 75, who is a citizen of Nauru under:

(a) Article 71, 72, 73 or 74; or

(b) a law made under Article 75;

'Registrar' means the person holding the office of Electoral Registrar under section 4;

'vacancy' means any vacancy occurring in a seat of Parliament other than a vacancy under Article 32(1)(a) of the Constitution.

[6] Amendment of section 4

6.1 Section 4(1)

omit

Ordinance

substitute

Act

6.2 Section 4(1), after 'there shall'

insert

at all times

6.3 Section 4(1)

omit

the Administrator

substitute

Cabinet

6.4 Section 4(2)

omit

the last preceding subsection

substitute

subsection (1)

6.5 Section 4(3)

omit

of this section

6.6 Section 4(3)

omit

by this Ordinance

substitute

or her by this Act

6.7 Section 4(4)

omit

Ordinance

substitute

Act

[7] Amendment of Part II heading

7.1 Part II, heading

omit

ELECTORAL DISTRICTS

substitute

CONSTITUENCIES

[8] Amendment of section 6

8.1 Section 6, before 'The Registrar'

insert

(1)

8.2 Section 6(1)

omit

shall keep in respect of

substitute

must keep for

8.3 Section 6(1)

omit

to be

8.4 Section 6, after subsection (1)

insert

- (2) If a writ for an election in a constituency has been issued, the roll for a District that comprises or is part of that constituency:
 - (a) closes at midday on the 21st day before polling day; and
 - (b) re-opens on the day immediately following polling day.
- (3) From the time the roll for a District is re-opened until the time the roll is next closed under subsection (2), the roll remains open.

[9] Repeal and substitution of sections 7 to 11

9.1 Sections 7 to 11

repeal, substitute

7 Entitlement to enrolment

- (1) Every Nauruan who has attained the age of 20 years is entitled to have his or her name entered on a roll.
- (2) The roll on which a Nauruan is entitled to have his or her name entered is:
 - (a) the roll for the District in which he or she has been living for not less than 2 months, or, if he or she is living outside Nauru, the District in which he or she had been living for not less than 2 months immediately before he or she ceased to live in Nauru; or
 - (b) the roll for the District that is entered in the Register of Births maintained under section 6(1) of the *Births, Deaths and Marriages Act 1957-2009*, or in any register or record of births certified under section 6(3) of that Act, as his or her place of birth.

Note for subsection (2)

Subsection (2) must be read with section 46.

- (3) A Nauruan is entitled to have his or her name entered on the roll of his or her choice if he or she:

- (a) is unable to satisfy the enrolment requirements of subsection (2)(a) because he or she has never lived:
 - (i) in Nauru; or
 - (ii) in one District for more than 2 months; and
- (b) is unable to satisfy the enrolment requirements of subsection (2)(b) because he or she:
 - (i) is not registered in the Register of Births; and
 - (ii) does not have a certified District of birth under section 6(3) of the *Births, Deaths and Marriages Act 1957-2009*.

Note for subsection (3)

Subsection (3) must be read with section 9(3).

- (4) A person is not entitled to have his or her name entered on more than one roll at the same time.

8 Application for enrolment

- (1) This section applies to a person whose name is not entered on any roll and who is entitled under section 7 to have his or her name entered on a roll.
- (2) The person may apply to the Registrar in the form prescribed in Schedule 1 to have his or her name entered on a roll on which he or she is entitled to have it entered.

9 Application for transfer of enrolment

- (1) A person may apply to transfer his or her name from the roll for a District to the roll for another District if the person is entitled, under section 7, to have his or her name entered on either roll.
- (2) A person commits an offence if:
 - (a) the person's name is entered on the roll for a District; and
 - (b) the person ceases to be entitled to have the person's name entered on that roll; and
 - (c) the person is entitled under section 7 to have his or her name entered on the roll for another District; and
 - (d) the person does not, within 3 months after the event mentioned in paragraph (b), apply to transfer the person's name to the roll for another District.

Penalty: \$50.

- (3) If a person is entitled under section 7(3) to have the person's name entered on the roll of his or her choice, the person is not entitled to have his or her name transferred to the roll for another District unless the person is entitled to have his or her name entered on the roll for the other District under section 7(2).
- (4) An application for a transfer of enrolment must be:
 - (a) made in the form prescribed in Schedule 2; and
 - (b) accompanied by the prescribed fee.

9A Proof of entitlement to enrolment

- (1) A person who applies to have his or her name entered on or transferred to a roll mentioned in section 7(2)(a) must submit 2 statutory declarations in the form prescribed in Schedule 3 from persons who can attest to the applicant's District of residence and who are qualified under subsection (2).
- (2) A person is qualified to make a statutory declaration for the purposes of subsection (1) if the person is an elector and is:
 - (a) Head of a Department under the *Public Service Act 1998*; or
 - (b) empowered to solemnise marriages under section 20 of the *Births, Deaths and Marriages Act 1957-2009*; or
 - (c) admitted to practice as a barrister and solicitor under section 3 of the *Legal Practitioners Act 1973* or as a pleader under section 10 of that Act; or
 - (d) registered as a medical practitioner under section 8 of the *Health Practitioners Act 1999*; or
 - (e) holds, under the Constitution, the office of Clerk of Parliament, Director of Audit or Ombudsman.

9B Consideration of application for enrolment or transfer

- (1) On receiving an application under section 8 or 9, the Registrar must:
 - (a) if satisfied that the person is entitled to have his or her name entered on the roll on which he or she has applied to have it entered – enter it on that roll; or
 - (b) if not satisfied that the person is entitled to have his or her name entered on the roll on which he or she has applied to have it entered – reject the application and issue a notice under section 9D.
- (2) For subsection (1), to be satisfied that a person is entitled to have his or her name entered on the roll on which he or she has applied to have it entered, the Registrar must:

- (a) if the application is based on entitlement under section 7(2)(a) – have received 2 validly sworn statutory declarations in accordance with section 9A; and
 - (b) if the application is based on entitlement under section 7(2)(b) – have verified in the Register of Births that the details of registration stated on the application form are correct.
- (3) If a person makes an application based on entitlement under section 7(3), the Registrar:
- (a) may require the person to provide evidence that the person is entitled to be enrolled under section 7(3); and
 - (b) must make his or her own thorough inquiry into the person's entitlement.

9C Gazettal of enrolment and transfer

Within 5 days after making an entry on a roll under section 9B(1)(a), the Registrar must publish in the Gazette the details of the entry, specifying:

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

9D Notice of reasons for rejection of application

Where the Registrar rejects an application under section 9B(1)(b), the Registrar must immediately give the applicant a notice in the form prescribed in Schedule 4.

10 Alteration of roll

- (1) The Registrar must strike off a roll the name of a person who:
 - (a) is dead; or
 - (b) is not entitled to have his or her name entered on the roll.
- (2) If the Registrar receives an application for transfer of enrolment from a person who has ceased to be entitled to have his or her name entered on the roll on which it is entered, the Registrar must remove the name of the person from the roll on which it is entered, regardless of whether the application is approved or rejected.
- (3) If the Registrar has struck the name of a person off a roll the Registrar must, unless the person is dead, immediately give the person a notice in the form prescribed in Schedule 5.
- (4) The Registrar must not alter a roll while it is closed under section 6(2), except:

- (a) to correct an error or omission; or
- (b) to remove the name of a person under subsection (1); or
- (c) under an order made by the District Court on an application under section 11.

11 Appeal in relation to enrolment

- (1) This section applies to a Nauruan:
 - (a) whose application to the Registrar to have his or her name entered on the roll for a District has been rejected under section 9B(1)(b); or
 - (b) whose name has been struck off the roll for a District under section 10(1).
- (2) The person may, within one month after receiving notice under section 9D or 10, apply to the District Court for an order directing that his or her name be entered on that roll.
- (3) The Registrar is the respondent on the application.
- (4) The Court must hear and determine the application as soon as practicable.
- (5) The judgment of the Court on the application is final.
- (6) The Registrar of the Court must give the Electoral Registrar a certified copy of the order of the Court.
- (7) The Electoral Registrar must make any entries on the roll for a District that are necessary to give effect to the order.

11A Providing false or misleading information

- (1) A person commits an offence if:
 - (a) the person makes an application under section 8 or 9; and
 - (b) the application contains false or misleading information; and
 - (c) the person:
 - (i) knows the information is false or misleading; or
 - (ii) is reckless about whether the information is false or misleading.

Penalty: \$5,000 and imprisonment for 5 years.
- (2) A person commits an offence if:
 - (a) the person provides, in support of another person's application under section 8 or 9, a statutory declaration attesting to the other person's place of residence; and

- (b) the statutory declaration contains false or misleading information; and
- (c) the person:
 - (i) knows the information is false or misleading; or
 - (ii) is reckless about whether the information is false or misleading.

Penalty: \$5,000 and imprisonment for 5 years.

[10] Insertion of new Part heading (Part IIA)

10.1 After section 11A

insert

PART IIA – ELECTORS

[11] Amendment of section 12

11.1 Section 12(1)

renumber as subsection (1A)

11.2 Section 12, before subsection (1A)

insert

- (1) A person is an elector for a constituency if the person's name appears on the roll for a District that comprises or is part of the constituency.

11.3 Section 12(1A) (as renumbered)

omit

a member for the District in respect of which he is an elector or of

11.4 Section 12(1A)

omit

group of Districts that includes the District in respect of

substitute

constituency for

11.5 Section 12(1A)

omit

, as the case may be

11.6 Section 12(2)

omit, substitute

(2) An elector must vote at each election of a member or members for the District for which he or she is an elector unless the elector:

- (a) is absent from Nauru on polling day; or
- (b) is unable to vote because he or she is seriously ill or infirm; or
- (c) has another valid and sufficient reason for not voting.

Penalty: \$50.

[12] Amendment of section 13

12.1 Section 13(1)

omit

in the last preceding section

substitute

in section 12(3)

12.2 Section 13(1)

omit

Form 2 in the Schedule

substitute

the form in Schedule 6

12.3 Section 13(2)

omit

in pursuance of the last preceding subsection, shall

substitute

under subsection (1) must,

12.4 Section 13(2)

omit

(not being less than fourteen days from the date on which the notice is sent)

substitute

(which must not be less than 14 days from the date on which the notice is sent),

12.5 Section 13(2)

omit

Form 3 in the Schedule.

substitute

the form in Schedule 7.

Penalty: \$50.

12.6 Section 13(3)

omit

the last preceding subsection

substitute

subsection (2)

12.7 Section 13(4), at the end

insert

Penalty: \$50.

12.8 Section 13(5), penalty

omit, substitute

Penalty: \$50.

[13] Amendment of section 14

13.1 Section 14(1)

omit

the last preceding section

substitute

section 13

13.2 Section 14(2)

omit

of this Ordinance

[14] Amendment of section 15

14.1 Section 15(1)

omit

Form 4 or Form 5 of the Schedule to this Act

substitute

Form A or Form B of Schedule 8

14.2 Section 15(2), after 'writ,'

insert

and

[15] Amendment of section 16

15.1 Section 16(1)

omit

an Electoral District

substitute

a constituency

15.2 Section 16(1)(a)

omit

Electoral District

substitute

constituency

15.3 Section 16(1)(a)

omit

subsection (4) of section 10

substitute

section 6(2)

15.4 Section 16(1)(b)

omit, substitute

- (b) unless his name is entered on the roll for the District which comprises, or is included in, that constituency.

15.5 Section 16(2), (2A) and (2B)

repeal, substitute

- (2) A Nauruan qualified to be elected as a member may be nominated as a candidate for election as a member for a constituency by delivering to the Returning Officer not later than noon on the day 14 days before polling day a written nomination of the person as a candidate in accordance with subsection (2A).
- (2A) A written nomination of a person as a candidate must be:
- (a) made in the form prescribed in Schedule 9; and
 - (b) signed by 2 or more electors for the constituency for which the candidate is nominated; and
 - (c) signed by the candidate; and
 - (d) accompanied by the prescribed fee.

15.6 Section 16(3)

omit

seven

substitute

7

[16] Amendment of section 17

16.1 Section 17(1)

omit

in respect of an Electoral District fails where

substitute

for a constituency fails if

16.2 Section 17(1)(a)

omit

an Electoral District

substitute

the constituency

16.3 Section 17(1)(b)

omit

paragraph (a) of subsection (2) of the next succeeding section

substitute

section 18A(a)

16.4 Section 17(2)

omit

in respect of an Electoral District

substitute

for a constituency

16.5 Section 17(2)

omit

forthwith

substitute

immediately

16.6 Section 17(2)

omit

in respect of that Electoral District

substitute

for that constituency

16.7 Section 17(3)

omit

in respect of an Electoral District

substitute

for a constituency

[17] Amendment of section 18

17.1 Section 18

omit

(1)

17.2 Section 18(2)

repeal

17.3 Section 18

omit

in respect of an Electoral District

substitute

for a constituency

17.4 Section 18

omit

that Electoral District

substitute

that constituency

[18] New sections 18A and 18B

18.1 After section 18

insert

18A Publicising candidates and dates and places of poll

The Returning Officer must, on nomination day or as soon as possible after that day, by notice exhibited in a conspicuous place at or near the building known as the Government Offices, Nauru, and by notice in the Gazette, publish:

- (a) the names of the candidates and the electors by whom they have been nominated; and
- (b) if the number of candidates for a constituency is greater than the number of members to be elected – the date fixed by the Speaker in the writ as the

date on which the poll is to be taken and the places determined by the Returning Officer as the places at which the poll is to be taken in each District.

18B Determining order of candidates on ballot paper

- (1) As soon as practicable after the close of the period for withdrawal of nominations under section 16(3), the Returning Officer must for each constituency for which an election is to be held:
 - (a) invite all candidates to attend the determination of the order of candidates on the ballot paper at a specified place and time; and
 - (b) at the specified place and time:
 - (i) place in a container the same number of pieces of paper as there are candidates for the constituency, each piece of paper bearing a consecutive number (starting with '1') and being folded in such manner that it is not possible to see the number; and
 - (ii) invite each candidate in turn to draw one piece of paper from the container; and
 - (iii) after all candidates present have drawn a piece of paper, draw a piece of paper from the container on behalf of each candidate who is not present.
- (2) Candidates must be listed on a ballot paper in the order that corresponds to the number drawn by or on behalf of each candidate under subsection (1).

[19] Amendment of section 19

19.1 Section 19(1)

omit

subsection (1) of the last preceding section

substitute

section 18

19.2 Section 19(1)

omit

one o'clock in the afternoon

substitute

11 o'clock in the morning

19.3 section 19(1)

omit

six

substitute

6

19.4 Section 19(2)

omit

paragraph (b) of subsection (2) of the last preceding section

insert

section 18A

[20] Amendment of section 20

20.1 Section 20, after subsection (1)

insert

(1A) The presiding officer must ensure, all times during voting hours, that each voting compartment contains a pen, affixed to the voting compartment, for use by electors.

20.2 Section 20(2), penalty

omit, substitute

Penalty: \$20

[21] Amendment of section 21

21.1 Section 21(1)

omit

Form 7 in the Schedule

substitute

the form prescribed in Schedule 10

21.2 Section 21(3) and (4)

omit

paragraph (a) of section 26 of this Ordinance

substitute

section 26(a)

[22] Amendment of section 22

22.1 Section 22(1) and (2)

omit, substitute

- (1) Subject to this Act, an elector is not entitled to vote at a polling place other than a polling place in the District in which he or she is enrolled.
- (2) Subject to section 23, the presiding officer must deliver to each elector claiming to vote a ballot-paper initialled in accordance with section 21(1).

22.2 Section 22(3)

omit

the last preceding subsection

substitute

subsection (2)

[23] Amendment of section 23

23.1 Section 23(1)(a) and (b)

omit (all references)

Electoral District

substitute

constituency

23.2 Section 23(3) and (4)

omit

of this section

23.3 Section 23(4), penalty

omit, substitute

Penalty: \$100 and imprisonment for one month.

[24] Amendment of section 25

24.1 Section 25(1)(a)

omit

subsection (1) of section 21 of this Ordinance

substitute

section 21(1)

24.2 Section 25(2)

omit, substitute

- (2) If there are 2 names specified on a ballot-paper and an elector has indicated his or her vote on the ballot-paper by placing the figure '1' in the square opposite to the name of one candidate and has left the other square blank, the ballot-paper is not informal by reason only of subsection (1)(b).
- (2A) An elector is taken to have indicated that the elector's preference for a candidate (the '**remaining candidate**') is the elector's last preference if:
 - (a) there are more than two names specified on a ballot-paper; and
 - (b) the elector has indicated on the ballot-paper his or her first preference for one candidate and his or her contingent votes for each other candidate except the remaining candidate; and
 - (c) the square opposite the remaining candidate has been left blank.

24.3 Section 25(3)

omit

paragraph (c) of subsection (1) of this section

substitute

subsection (1)(c)

[25] Amendment of section 26

25.1 Section 26(b) and (c)

omit, substitute

- (b) identify and reject all informal ballot-papers;
- (c) record the number of informal ballot-papers and unrejected ballot-papers respectively; and

[26] Repeal of section 27A

26.1 Section 27A

repeal

[27] Insertion of sections 26A and 26B

27.1 After section 26

insert

26A Counting of votes in election

- (1) This section and section 26B apply to the counting of votes marked on unrejected ballot-papers in any election except a by-election.
- (2) For each constituency the Returning Officer must:
 - (a) ascertain the total number of first preference votes, second preference votes and third preference votes, and so on, cast for each candidate and make a list of the total number of such preference votes;
 - (b) give the value of unity to each first preference vote, one half to each second preference vote, one third to each third preference vote, and so on, the value of each preference vote being the reciprocal of the number of the preference indicated by the elector; and
 - (c) add the values of the votes for each candidate and make out and sign a statement specifying the total value of the preference votes for the candidate.

26B Determination of result of election

- (1) In a constituency returning 2 members, the 2 candidates receiving the highest total value of votes calculated under section 26A are elected.
- (2) In a constituency returning 3 members, the 3 candidates receiving the highest total value of votes calculated in accordance with section 26A are elected.
- (3) In a constituency returning 4 members, the 4 candidates receiving the highest total value of votes calculated in accordance with section 26A are elected.
- (4) If 2 or more candidates receive an equal value of votes and one or more of the candidates must be excluded, the Returning Officer must determine under section 27A the candidate or candidates to be excluded.

[28] Amendment of section 27

28.1 Section 27, heading

omit, substitute

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

28.2 Section 27(1)

omit

each Electoral District

substitute

votes marked on unrejected ballot-papers in a by-election

28.3 Section 27(2)

omit

Electoral District in respect of

substitute

constituency for

28.4 Section 27(3)

omit

for election as a member for an Electoral District

28.5 Section 27(3)(a)

omit

for that Electoral District

28.6 Section 27(3)(d)

omit

Electoral District

substitute

constituency

28.7 Section 27(4)

omit

28.8 Section 27(5)

omit

shall decide by lot

substitute

must determine under section 27A

[29] New section 27A

29.1 After section 27

insert

27A Determination of exclusion of candidate

(1) In this section:

'relevant candidate' means a candidate who may be excluded as a result of the Returning Officer's determination.

(2) If the Returning Officer is required, under section 26B(4) or 27(5), to determine a candidate or candidates to be excluded, the Returning Officer must:

(a) in relation to each relevant candidate, deduct from the total value of the votes received by the candidate the value that was derived from last preference votes; and

(b) identify which of the relevant candidates has the highest remaining value of votes after making the deduction; and

(c) exclude each other relevant candidate.

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

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

(a) tossing a coin; or

(b) drawing the names out of a container in such manner that the Returning Officer cannot see which names he or she is drawing.

- (5) A determination by lot under subsection (4) must be made in the presence of each of the relevant candidates.

[30] Amendment of section 28

30.1 Section 28

omit

Administration

substitute

Government

[31] Amendment of section 29

31.1 Section 29

omit

Supreme Court

substitute

Court of Disputed Elections

[32] Amendment of section 31

32.1 Section 31(b), after 'relief'

insert

to which

32.2 Section 31(b), after 'entitled'

omit

to

32.3 Section 31(e)

omit

forty

substitute

40

32.4 Section 31(e)

omit

of this Ordinance

[33] Amendment of section 32

33.1 Section 32

omit

Court, an amount of twenty dollars

substitute

Court an amount of \$200

[34] Amendment of section 33

34.1 Section 33

omit

either of the last two preceding sections has not been complied with

substitute

the petitioner has failed to comply with section 31 or section 32

[35] Amendment of section 35

35.1 Section 35(1)(e) and (f)

omit

of this Ordinance

35.2 Section 35(1)(g)

omit

in respect of an Electoral District

substitute

for a constituency

[36] Amendment of section 40

36.1 Section 40

omit

of this Ordinance

[37] Amendment of section 42

37.1 Section 42(1) and (2)

omit

of this Ordinance

37.2 Section 42(3)

omit

in respect of an Electoral District

substitute

for a constituency

37.3 Section 42(3)

omit

in respect of that Electoral District

substitute

for that constituency

[38] New Parts VIII and IX

38.1 After section 43

insert

PART VIII – ADMINISTRATIVE PROVISIONS

44 Cabinet may make regulations

- (1) Cabinet may make regulations under this Act.
- (2) The regulations may provide for the following matters:

- (a) voting by proxy;
- (b) voting by people who are unable to attend a polling place;
- (c) the fees for:
 - (i) applications for transfer of enrolment; and
 - (ii) nomination of candidates; and
 - (iii) any other application made or service provided under this Act;
- (d) any other matter necessary or convenient for giving effect to this Act.

PART IX – TRANSITIONAL PROVISIONS

45 Definitions

In this Part:

'commencement date' means the date on which the *Electoral (Amendment) Act 2010* commences;

'pre-amendment Act' means the *Electoral Act 2007-2009* as in force immediately before the commencement date;

'post-amendment Act' means this *Electoral Act 1965* as in force on the commencement date.

46 Effect of amendments on existing enrolment

- (2) Despite section 7(2), if, immediately before the commencement date, a person's name is entered on the roll for a District other than one to which he or she is entitled under section 7(2) to have his or her name entered:
 - (a) the person is entitled to have his or her name remain on that roll; and
 - (b) any application for transfer of enrolment under section 9 made after the commencement date is subject to section 7(2).

47 Transitional regulations

- (1) The regulations may make provision (a **'transitional regulation'**) about a matter for which:
 - (a) it is necessary to make provision to achieve the transition from the operation of the pre-amendment Act to the post-amendment Act; and
 - (b) the post-amendment Act does not make provision or sufficient provision.

- (2) A transitional regulation may have retrospective operation to a date not earlier than the commencement date.
- (3) However, to the extent a transitional regulation has retrospective operation, it must not operate to the disadvantage of a person (other than the Republic) by detrimentally affecting the person's rights or imposing liabilities on the person.
- (4) This section expires 12 months after the commencement date.

[39] Repeal and substitution of Schedule

39.1 Schedule

repeal, substitute

SCHEDULE 1

Section 8(2)

REPUBLIC OF NAURU
ELECTORAL ACT 1965

APPLICATION FOR ENROLMENT

NAME (in full):

DATE AND YEAR OF BIRTH:

ANY NAME FORMERLY USED:

TO THE ELECTORAL REGISTRAR, NAURU:

1. I am a Nauruan citizen.
2. [I have been living for not less than two months*/Immediately before my departure from Nauru I had been living for not less than two months] in the District of.....
3. My place of birth was registered as the District of.....
4. I have attained the age of 20 years.
5. My name is at present not entered on any roll.
- 6.† I apply to have my name entered on the roll for the District of
- 7.^ I attach two statutory declarations in accordance with section 9A of the *Electoral Act*.

I declare that all the statements made in this application are true to the best of my knowledge.

Signature of Applicant:

Date:

* Delete whichever is not applicable.

† The applicant may apply to have his/her name entered on the roll in respect of either of the following:

- (a) the District in which he or she has been living for not less than 2 months or, if he or she is living outside Nauru, the District in which he or she had been living for not less than two months immediately before he or she ceased to live in Nauru; or
- (b) the District registered as the place of his or her birth;

BUT THE APPLICANT MUST NOT APPLY FOR THE APPLICANT'S NAME TO BE ENTERED ON THE ROLL OF MORE THAN ONE DISTRICT.

^ This is a requirement only if the applicant is applying to have his/her name entered on the roll for a District on the basis of residence; it is not required for applicants seeking to enrol on the basis of registration at birth.

SCHEDULE 2

Section 9(4)

REPUBLIC OF NAURU
ELECTORAL ACT 1965

APPLICATION FOR TRANSFER OF ENROLMENT

NAME (in full):

DATE AND YEAR OF BIRTH:

ANY NAME FORMERLY USED:

TO THE ELECTORAL REGISTRAR, NAURU:

1. I am a Nauruan citizen.
2. [I have been living for not less than two months*/Immediately before my departure from Nauru I had been living for not less than two months] in the District of.....
3. My place of birth was registered as the District of.....
4. I have attained the age of 20 years.
5. My name is at present entered on the roll for the District of.....
- 6.† I apply to have my name transferred to the roll for the District of
- 7.^ I attach two statutory declarations in accordance with section 9A of the *Electoral Act*.
8. I attach a receipt for payment of the prescribed fee.

I declare that all the statements made in this application are true to the best of my knowledge.

Signature of Applicant:

Date:

* Delete whichever is not applicable.

† The applicant may apply to have his/her name entered on the roll in respect of either of the following:

- (a) the District in which he or she has been living for not less than 2 months or, if he or she is living outside Nauru, the District in which he or she had been living for not less than two months immediately before he or she ceased to live in Nauru; or
- (b) the District registered as the place of his or her birth;

BUT THE APPLICANT MUST NOT APPLY FOR THE APPLICANT'S NAME TO BE ENTERED ON THE ROLL OF MORE THAN ONE DISTRICT.

^ This is a requirement only if the applicant is applying to have his/her name entered on the roll for a District on the basis of residence; it is not required for applicants seeking to enrol on the

basis of registration at birth.

SCHEDULE 3

Section 9A(1)

REPUBLIC OF NAURU
ELECTORAL ACT 1965

**REPUBLIC OF NAURU
STATUTORY DECLARATION
IN SUPPORT OF APPLICATION FOR ENROLMENT OR TRANSFER**

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

1. I have been asked by (name of applicant for enrolment or transfer) to make this declaration in support of his/her application for enrolment or transfer under section 8 or 9 of the Electoral Act 1965;
2. I have known the applicant for (time).....;
3. I can attest from my own personal knowledge that [the applicant lives in District, and that the applicant has lived there for at least 2 months*/immediately before the applicant ceased to live in Nauru, he or she had been living in District for at least 2 months];
4. I am aware that the penalty under section 15 of the *Oaths, Affirmations and Statutory Declarations Act 1976* for wilfully making a false statement in a statutory declaration is imprisonment for 5 years, and that the penalty under 11A of the *Electoral Act 1965* for intentionally or recklessly making a statutory declaration that contains false or misleading information is \$5,000 and imprisonment for 5 years;

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

Signed:

Declared at this day of,

Before me: (Signature)

(Title)

* Delete whichever is not applicable

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

SCHEDULE 4

Section 9D

REPUBLIC OF NAURU
ELECTORAL ACT 1965

NOTICE OF REASONS FOR REJECTION OF APPLICATION

TO: (name of applicant)

I am writing to notify you that your application under section 8*/section 9 of the *Electoral Act 1965* to have your name entered on the roll for (District) has been rejected.

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

You are entitled to appeal to the District Court against this decision. If you wish to appeal you must do so within one month after receiving this notice.

Signed:
Electoral Registrar
(Date)

* *Delete whichever is not applicable*

SCHEDULE 5

Section 10(3)

REPUBLIC OF NAURU
ELECTORAL ACT 1965

NOTICE OF REASONS FOR REMOVAL FROM ELECTORAL ROLL

TO: (name of person struck off roll)

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

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

You are entitled to appeal to the District Court against this decision. If you wish to appeal you must do so within one month after receiving this notice.

Signed:
Electoral Registrar
(Date)

SCHEDULE 6

Section 13(1)

REPUBLIC OF NAURU
ELECTORAL ACT 1965

District of.....

Number on Roll.....

NOTICE TO AN ELECTOR WHO APPEARS TO HAVE FAILED TO VOTE

TO: (Name).....

(Address).....

You are notified that you appear to have failed to vote at the election held under the *Electoral Act 1965* on (date) and you are called upon to give the true reason why you failed to vote.

You are required to:

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

NOTE:

1. An elector who:

- (a) fails to vote at an election without a valid and sufficient reason for that failure; or
- (b) on receipt of this notice, fails to complete, sign and return within the time specified in the notice, the form (duly witnessed) attached to it; or
- (c) states in that form a false reason for not having voted or, in the case of an elector completing the form on behalf of any other elector, states in that form a false reason why that other elector did not vote,

is guilty of an offence and is, on conviction, liable to a penalty not exceeding \$50.

2. If the elector to whom this notice is addressed is unable, by reason of absence from his place of living or physical incapacity, to complete, sign and return the attached form within the time specified in this notice, any other elector who has personal knowledge of the facts may complete, sign and return the form duly witnessed, and the completing, signing and returning of the form will be treated as compliance by the first-mentioned elector with the requirements of this notice.

Signed:
Returning Officer
(Date)

SCHEDULE 7

Section 13(2)

REPUBLIC OF NAURU
ELECTORAL ACT 1965

District of :.....

**FORM OF DECLARATION TO BE COMPLETED AND RETURNED
TO THE RETURNING OFFICER, NAURU**

I,..... declare that the following is the true reason why I*
..... failed to vote at the election held under the *Electoral Act*
1965, on (date)..... .

†

(Personal signature of Elector)

I, the undersigned, being an elector or a person qualified to be an elector, certify that I have seen the abovementioned elector sign the above declaration.

(*Signature of Witness in own handwriting*)

(*Occupation*)

(*Address*)

Date

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

† Here set out the precise and true reason for having failed to vote.

SCHEDULE 8

Section 15(1)

REPUBLIC OF NAURU
ELECTORAL ACT 1965

FORM A

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

To the Returning Officer

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

GIVEN under my hand at Nauru, this (date)

Speaker of Parliament

FORM B

Section 15(1)

REPUBLIC OF NAURU
ELECTORAL ACT 1965

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

To the Returning Officer

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

GIVEN under my hand at Nauru, this (date)

Speaker of Parliament

SCHEDULE 9

Section 16(2A)

REPUBLIC OF NAURU
ELECTORAL ACT 1965

NOMINATION OF CANDIDATE FOR ELECTION AS A MEMBER OF PARLIAMENT

We nominate * of †

to be a candidate for election as a Member of Parliament for the Constituency of

.....

Dated (date)

.....
(name and signature of Elector)

.....
(name and signature of Elector)

I consent to the above nomination and attach evidence of payment of the prescribed fee.

Dated (date)

.....
(signature of Candidate)

* Insert in full the names of the candidate.

† Insert name of District in which candidate is enrolled.

SCHEDULE 10

Section 21(1)

REPUBLIC OF NAURU
ELECTORAL ACT 1965

BALLOT-PAPER

Constituency of

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

CANDIDATES

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

DIRECTIONS TO ELECTORS

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