

Republic of Nauru – 20th Parliament

Electoral (Amendment) Bill 2010

EXPLANATORY MEMORANDUM

BACKGROUND AND OBJECTIVES

The *Electoral (Amendment) Bill 2010* proposes a large number of amendments to the *Electoral Act*, most of which are minor corrections and modernisation of language, and some of which would effect substantive changes to the Act and the way it operates.

The principal objectives of the Bill are:

- to limit the scope for abuse of transfer of enrolment, by restricting the criteria for enrolment in a District to residence and birth;
- to bring the provisions relating to the electoral system and method for determining the result of an election into line with the way the system actually operates, by incorporating relevant regulations into the Act, and repealing and amending existing provisions that do not properly reflect the electoral system; and
- to make the Act easier to understand and administer, by replacing obsolete terms and clarifying the language in certain provisions.

The *Electoral Act* began its life as the *Electoral Ordinance 1965*. At that time, it governed elections for NLGC and for the Legislative Council. It has since been amended by:

- *Ordinances Revision Ordinance 1967 – 25/67*
- *Electoral Ordinance Amendment Act 1970 – 10/70*
- *Electoral (Amendment) Act 1973 – 15/73*
- *Electoral (Amendment) Act 1992 – 7/92*
- *Electoral Act (Amendment) Act 2007 – 6/07*
- *Referendum Procedures Act 2009 – 14/09*

Some of the amendments proposed in the *Electoral (Amendment) Bill 2010* are straightforward tidying up matters, such as removing references to the Council, the Administration, the Ordinance, etc, and recasting cross-references to provisions within the Act so that they are clearer. The Bill proposes to increase the penalties for offences under the Act, to reflect significant inflation since those penalty provisions were enacted.

It is proposed in new provisions, and in provisions that are being amended for some other reason, to introduce gender-neutral language.

It is proposed to make numerous other minor style and drafting changes in an effort to improve the clarity of the Act.

The key substantive amendments proposed in the Bill are:

- Restricting entitlement to enrolment and transfer so that a person can be enrolled in the District in which they were registered at birth, or the District in which they have resided for two months (see proposed new section 7(2));
- Requiring people to provide evidence of their place of residence if they are applying to have their name entered on or transferred to a roll for a District on the basis of residence (see proposed new section 9A; see also offences under proposed new section 11A);
- Requiring the Electoral Registrar to publish in the Gazette details of each enrolment and transfer (see proposed new section 9C);
- Prescribing a requirement for the order of candidates on a ballot paper to be randomly determined in the presence of the candidates (see proposed new section 18B);
- Correcting the provisions re the electoral system so that they reflect reality (see proposed repeal of section 27A, proposed insertion of new sections 26A and 26B, and proposed amendment of section 27);
- Prescribing a new method for the determination of exclusion of a candidate in the event of a tied result (replacing the existing provision which provides that exclusion is ‘determined by lot’ – see proposed new section 27A);
- Inserting a new regulation making power (new section 44, which replaces and is broader than existing section 27A);
- Inserting a transitional provision which allows voters to remain on the roll for the District where they are currently enrolled, even if it is not their place of residence or place of birth, but which restricts any future transfers in accordance with new section 7(2) (see proposed new section 45); and
- Repealing and replacing the Schedule to update the forms, so they reflect the various amendments throughout the body of the Act.

In order to achieve the first of these key changes, it is necessary to amend section 9, and to remove references in other sections to Councillors having exercised discretion in relation to approving enrolment. Rather than amending the existing provisions, it is proposed to repeal sections 7-11 and to replace them with new provisions, because this provides the opportunity to rearrange the order in which the provisions appear. It is envisaged that it will be clearer for those administering the Act, as well as for voters, if the provisions relating to entitlement to enrol, applications for enrolment and transfer, etc, proceeded in a logical order. It is therefore proposed to repeal and replace sections 7-11, even though much of what they are being replaced by has the same effect as what is being repealed, it is just organised differently.

Overview of proposed new provisions relating to enrolment and transfer:

- Section 7 covers entitlement to enrolment; this is the site of the key change that attempts to restrict the abuse of transfers
- Section 8 concerns application for enrolment
- Section 9 concerns applications transfer of enrolment
- Section 9A requires a person applying to be enrolled in the District in which they claim to reside to provide evidence of their place of residence
- Section 9B sets out the procedures that must be followed by the Registrar in considering an application for enrolment or transfer
- Section 9C requires the Registrar to publish in the Gazette details of each enrolment and transfer
- Section 9D requires the Registrar to give a notice of his reasons for rejection of an application, and prescribes a form for this purpose, which includes details of the right of appeal and the time limit for appeal
- Section 10 concerns alteration of the roll
- Section 11 concerns appeal in relation to enrolment
- Section 11A creates new offences: providing false or misleading information in an application under section 8 or 9, or in a statutory declaration under section 9A; the penalties are hefty: \$5,000 and imprisonment for five years.

Sections 7 to 11 are intended to flow logically through the process of enrolment:

entitlement > application > consideration of application (approved or rejected) > publication > notice of reasons for rejection > alteration of roll (and notice) > appeal

Overview of proposed amendments relating to the electoral system:

Section 27, which prescribes a first-past-the-post, single-transferable-vote preferential system, originally applied to all elections (for members of the Legislative Council and for NLGC Councillors) until:

- the *Electoral (Electoral system) Regulations 1971*, which, in exercise of power conferred under section 27A, introduced the Borda count for normal elections (in which each preference has a value and the value of each preference is tallied, no candidates being eliminated and no votes being transferred or redistributed); and
- the *Electoral (By-election) Regulations 1971* (later repealed and replaced by the *Electoral (By-election) Regulations 1973*), which provide that if a vacancy occurs and an election is to be held for the purpose of electing one member of Parliament only,

the method of determining the result of an election as set forth in section 27(1), (2), (3) and (5) shall be followed.

The effect of the proposed insertion of definitions for ‘by-election’ and ‘vacancy’ in section 3, and for the repeal of section 27A and insertion of new sections 26A and 26B and amendments to section 27 (most notably, repealing (4)), is to bring these two sets of regulations into the Act, and to make the Act reflect reality. Section 27(4) is already defunct, by virtue of the two sets of regulations mentioned above, and the fact that if there is more than one vacancy to be filled, then the by-election counting method does not apply (the normal Borda count applies).

NOTES ON SELECTED CLAUSES

In this Bill, the proposed amendments to the principal Act are not contained in clauses, but in the Schedule (clause 4 of the Bill provides that the Schedule amends the *Electoral Act*). This section of the Explanatory Memorandum therefore refers to the amending items contained in the Schedule to the Bill, rather than to clauses in the Bill. Amending items appear in the Schedule with a bold number in square brackets in the left margin.

This section of the Explanatory Memorandum does not provide notes on each amending item contained in the Schedule, but only on selected key amending items that propose substantive (rather than merely stylistic) amendments to the Act.

Amending item [5] (re section 3): this item proposes a number of amendments to section 3 of the Act (Interpretation). It would repeal the definitions of ‘the Executive Council’ (because it is defunct) and ‘the Schedule’ (because it is a superfluous definition). This item would also replace the definition of ‘Electoral District’ and ‘Constituency’, which are currently defined as meaning the same thing and used interchangeably throughout the Act, with a new definition of ‘constituency’. This is proposed in order to avoid confusion between ‘District’ and ‘Electoral District’, and to use one term consistently (‘constituency’) so that the Act is easier to understand. It is proposed to insert a new definition for ‘by-election’, which is a definition taken from the *Electoral (By-Election) Regulations 1973*, which are effectively being incorporated into the Act. It is proposed to delete paragraph (b) from the definition of ‘election’ – the Act referred to in paragraph (b) is the *Nauru Act 1965* (Commonwealth), and it is a reference to elections for members of the Legislative Council which existed prior to independence. It is proposed to amend the definition of ‘Nauruan’, as the existing definition is flawed (the Constitution grants entitlement to citizenship, but does not define citizen) and it is necessary to include within the scope of the definition persons who are citizens under the *Naoero Citizenship Act 2005*. It is proposed to insert a new definition for the term ‘vacancy’, which is taken from the *Electoral (By-Election) Regulations 1973*.

Amending item [8] (re section 6): it is proposed to amend section 6 (Registrar to keep rolls) to insert two new subsections. New subsection (2) is based upon existing subsection 10(4), which provides for the rolls to be closed 21 days prior to an election, and to reopen after an election. It is proposed to move this provision into section 6 because it is a more logical location for the provision. Proposed new subsection (3) provides that from the time the roll for a District is reopened after an election until the time it is closed under subsection (2), the

roll remains open. This provision is intended to clarify the existing fact that the rolls are always open between elections, they do not open only just before election time.

Amending item [9] (re sections 7-11): this amending item proposes to repeal sections 7-11 and replace them with new sections 7-11A. Proposed new **section 7** deals with entitlement to enrolment, and effectively replaces existing sections 8 and 9. It provides (as does existing section 8) that any Nauruan who has reached the age of 20 is entitled to be enrolled. It narrows the grounds on which a person can claim entitlement to be enrolled in a particular District, abolishing entitlement to be enrolled on the basis of substantial connection by Nauruan custom, by the birth of either of the person's parents in that District, by the registration for electoral purposes of either of his parents in that District, or on the basis of enrolment of the person's spouse in that District (currently provided for under section 9(1)). The existing criteria for enrolment in a District have proven to be so broad and so flexible that a person can effectively choose to be enrolled in any District of his or her choice, whether or not he or she genuinely has a substantial connection with the District. This has led in recent years to gross abuse of electoral transfers, with some candidates paying voters to transfer to the District in which the candidate is running. Proposed new section 7 would restrict the criteria for enrolment, so that a person can choose to be enrolled only in the District where he or she was registered at birth, or the District where he or she is currently living and has been living for at least two months. The limitation of criteria also removes the need for discretionary approval of applications by members of Cabinet (existing provisions refer to Councillors, which in the present context means members of Cabinet). Because there would be only two unequivocal criteria for entitlement to enrol in a particular District, there would no longer be any need to submit transfer applications to Cabinet members for their signature, as there would be no room for the exercise of discretion. Proposed new section 7 would also make provision in subsection (3) for enrolment of Nauruans who are unable to satisfy either of the two enrolment criteria, because they have not lived in a District for more than two months, and because they do not have a registered District of birth. People in this category would be able to enrol in the District of their choice, but once so enrolled, any future application for transfer would be subject to the criteria set out in subsection (2). Proposed new section 46 would provide that a person who is currently enrolled in a District other than the District where he or she was registered at birth or where he or she lives can remain on their present roll, but any future application for transfer will be subject to the requirements of section 7(2).

Proposed new **section 8** provides for application for first time enrolment, and proposed new **section 9** provides for application for transfer of enrolment. Subsection (2) of proposed new section 9 is based on existing section 9(2), but would make it an offence for a person to fail to notify the Registrar when he or she ceases to be entitled to be enrolled in the District in which he or she is presently enrolled.

Proposed new **section 9A** would require a person applying for enrolment on the basis of residence in a District to provide evidence of his or her residence in that District by supplying two statutory declarations from qualified persons who can attest to the applicant's place of residence. The proposed section prescribes a list of persons of certain professions who are qualified to make such declarations for the purposes of this section. This provision is closely related to proposed new section 11A, which would impose heavy penalties on

persons providing false or misleading information in a declaration made under section 9A or an application made under section 8 or 9.

Proposed new **section 9B** sets out the procedure for consideration by the Registrar of applications for enrolment or transfer, and requires the Registrar to approve or reject applications. The provision requires the Registrar to be properly satisfied on specified grounds of a person's entitlement before approving an application.

Proposed new **section 9C** would require the Registrar to publish in the Gazette, within 5 days, details of all enrolments and transfers. This provision is designed to promote transparency of the enrolment and transfer process.

Proposed new **section 9D** is closely based on existing section 7A, requiring the Registrar to notify a person in writing if their application for enrolment or transfer is rejected, and to state the reasons for rejection. The proposed new provision prescribes a form for such notice, which includes information about the right to appeal and the time limit for appeals.

Proposed new **section 10** is closely based on existing section 10. It restates the provision of current section 10 that requires the Registrar to strike a person's name off the roll for a District if the person is dead or not entitled to have his or her name entered on the roll. It also restates the current provision preventing the Registrar from altering a roll except in very limited circumstances. Existing subsection (4) has been relocated to section 6(2). Existing subsection (2), which provides that, if the Registrar strikes a person's name off a roll, the Registrar must enter a person's name on another roll on which the person is apparently entitled to be enrolled, has been removed. Proposed new section 9(2) requires a person in those circumstances to apply for enrolment on the other roll, so it is not necessary or desirable to require the Registrar to transfer the person without the person first applying for the transfer.

Proposed new **section 11** restates the existing section 11 (appeal against a decision of the Registrar to reject an application for enrolment or strike a person's name off a roll) in clearer terms, with an additional provision requiring the Court to hear and determine the application as soon as practicable.

Proposed new **section 11A** creates new offences: providing false or misleading information in an application under section 8 or 9, or in a statutory declaration under section 9A; the penalties are hefty: \$5,000 and imprisonment for five years. The penalty of five years imprisonment reflects the penalty that already exists under the Oaths, Affirmations and Statutory Declarations Act for providing a false statutory declaration. The monetary penalty in this new provision is designed to be commensurate with the length of imprisonment and the seriousness of the offence. By virtue of section 62 of the Interpretation Act 1971, the penalties are maximum penalties (not mandatory penalties) and may be applied cumulatively or alternatively – in other words, the use of 'and' in the penalty provision means 'either or both'.

Amending item [11] (re section 12): this item proposes to renumber existing subsection (1) of section 12 (Electors) as subsection (1A) and to amend the language of that subsection to remove obsolete references to the election of a member for a District so that the subsection

reflects the new definition of constituency. It also proposes to insert, before what would now become subsection (1A), a new subsection (1) that clarifies what the term ‘elector’ means. New subsection (1) would provide that 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. The proposed amendments to subsection (2) are largely for the purpose of modernising the language, and it is also proposed to omit paragraph (c) because it is adequately covered by the term ‘infirm’ in paragraph (b).

Amending item [15] (re section 16): The proposed amendment to subsection (1) of section 16 (Nomination of candidate) are for the purpose of reflecting the new definition of constituency, updating a cross-reference to another provision and simplifying the language. It is also proposed to repeal subsections (2), (2A) and (2B) and to replace them with new subsections (2) and (2A). The proposed new subsections (2) and (2A), which concern the nomination of a person as a candidate for election as a member, are almost identical in effect to the subsections which it is proposed to repeal, but are intended to be clearer and easier to read. Existing subsection (2B) (which provides the nomination fee is to be paid into the Treasury Fund) is not replicated in the new provisions because it is superfluous. The nomination fee of \$50.00 that is currently specified in subsection (2A) would be replaced by a provision in new subsection (2A)(d) referring to the ‘prescribed fee’, which would in future enable the fees to be amended by regulation rather than by having to amend the Act.

Amending item [17] (re section 18): Existing section 18, in spite of its section heading (candidates who are unopposed to be declared elected), covers two distinct topics in its two subsections: in subsection (1), the declaration of unopposed candidates to be elected, and in subsection (2), the requirement for the Returning Officer to publicize candidates and the dates and places of a poll. It is proposed to break existing section 18 into two separate sections, by turning existing subsection (2) into new section 18A. There would be no substantive change to the meaning or effect of anything presently contained in section 18. The only amendments to the text of this section, apart from renumbering, are for the purpose of correcting obsolete references (for example reference to the Administrator), to reflect the new definition of constituency and to clarify the language.

Amending item [18] (re sections 18A and 18B): Proposed new section 18A (Publicising candidates and dates and places of poll) is explained immediately above. Proposed new section 18B (Determining order of candidates on ballot paper) is intended to reflect and to mandate the existing practice whereby the Returning Officer determines the order of candidates on a ballot paper by inviting the candidates for each constituency to attend his office at a specified time to randomly draw a number.

Amending item [19] (re section 19): This item proposes to amend section 19(1) to extend polling hours from 1:00pm-6:00pm to 11:00am-6:00pm, so that on an election day the polls would be open for seven hours rather than five hours. This amendment is proposed for the purpose of reducing the likelihood that some voters will miss the opportunity to vote because they are not able to attend their polling place during polling hours or because they are still queuing to vote when the polls close at 6:00pm. The other proposed amendments to section 19 are solely for the purpose of correcting cross-references to other sections to reflect changes to the numbering of those other sections.

Amending item [20] (re section 20): This item proposes to insert a new subsection (1A) in section 20 (compartments for voting), which would require the presiding officer at each polling place to ensure that during voting hours each voting compartment contains a pen for use by voters. This amendment is proposed because some voters have complained in previous years that voting compartments contained pencils rather than pens, and they were concerned that pencil marks on a ballot paper could easily be erased or tampered with.

Amending item [24] (re section 25): This item proposes to repeal subsection (2) of section 25 (Informal ballot-papers) and replace it with new subsections (2) and (2A). The proposed new subsections would not make any substantive change to the meaning or effect of existing subsection (2), but are intended only to modernise and clarify the language and, in the case of new subsection (2A) (which would replace existing (2)(b)), to break up into paragraphs a number of separate concepts in order to make the provision easier to follow.

Amending item [25] (re section 26): Section 26 is a remnant of the *Electoral Ordinance 1965* under which the first-past-the-post transferable preference system applied to all elections. Under that system, the initial count of first preference vote had a special significance, because it would determine whether any candidate had secured a majority of first preference vote and could thereby be declared elected and it also determines which candidate (the one with the lowest number of first preference votes) would be the first to be eliminated and to have all of his or her ballot papers redistributed to the candidates ranked second on those ballot papers. Since 1971, this voting system has been used only for by-elections, and the system used for normal elections is the Borda count, as prescribed in the *Electoral (Electoral System) Regulations*. This amending item proposes to delete from section 26 (Scrutiny of ballot-papers) paragraphs (b) and (c) which currently provide that all informal ballot papers are to be rejected, all unrejected ballot papers to be arranged in piles according to the candidate for whom a first preference is indicated, and that the first preference votes for candidates are then to be counted. In other words, the existing provisions state that part of the initial scrutiny of ballot papers is the counting of first preference votes for each candidate on all un-rejected ballot papers. Proposed new paragraphs (b) and (c), which would replace existing paragraphs (b) and (c), would provide that the initial scrutiny of ballot-papers includes identifying and rejecting all informal ballot-papers, and recording the number of informal ballot-papers and unrejected ballot-papers respectively. This amendment would mean that the counting of preferences is left to the provision that deals with the counting of votes and the determination of the result of an election (proposed new sections 26A and 26B and amended section 27).

Amending item [26] (repeal of section 27A): existing section 27A (Voting system) was inserted into the Act in 1970 in order to pave the way for the introduction of the Borda count electoral system. It is an unusual provision, as it is effectively a regulation-making power (in spite of its section heading and its placement in Part V of the Act), but one which says that regulations may be made which prescribe a different electoral system to that set out in the Act. It was in exercise of the power conferred by this provision that Cabinet made the *Electoral (Electoral System) Regulations* in 1971, radically changing the electoral system and rendering the Act an inaccurate reflection of the real system in place. It is proposed to repeal section 27A and to replace it with a new regulation making power in new Part VIII – Administrative provisions. The repeal of section 27A is closely tied to the insertion of new

sections 26A and 26B and the amendment of section 27 (see below), all of which are designed to ensure that the Act is an accurate statement of the electoral law in Nauru, and that very significant parts of Nauru's electoral law are not tucked away in regulations.

Amending item [27] (insertion of sections 26A and 26B): Proposed new sections 26A and 26B are based on the *Electoral (Electoral System) Regulations 1971*. These are the regulations that prescribe the Borda count electoral system that is used for general elections, in which every preference has a value and the value of every preference given to each candidate is tallied. At present, because this electoral system is prescribed in regulations made under existing section 27A, it is impossible to see from the text of the *Electoral Act* itself the electoral system that actually applies in Nauru. These proposed new sections, together with the other proposed amendments to Part V of the Act, effectively bring the regulations into the Act, so that the Act properly reflects Nauru's existing electoral system. The only significant difference between the *Electoral (Electoral System) Regulations* and these proposed new sections is that provision would be made in new section 26B(2) for determining the results of an election in a constituency returning three members. This has been included to accommodate the foreshadowed increase in the number of members for Meneng from two to three, but does not in itself have the effect of creating any three-member constituency.

Amending item [28] (re section 27): The proposed amendments to section 27 are designed to reflect the existing fact that this section, since 1971, has applied only to determining the results of a by-election. It is proposed to repeal subsection (4) because this subsection, by virtue of the *Electoral (By-election) Regulations*, is already defunct (because a by-election is defined as a by-election for the purpose of electing one member of Parliament to fill a vacancy).

Amending item [29] (new section 27A): Regulation 4(c) of the *Electoral (Electoral System) Regulations* and section 27(5) of the Act currently provide that in the event of a tie between two or more candidates, the Returning Officer shall decide by lot the candidate or candidates to be excluded. Proposed new section 27A would prescribe a new method for determining the exclusion of a candidate or candidates in the event of a tied result which, rather than being random, is designed to better reflect the will of the voters. This section would provide that in the event of a tie the Returning Officer would deduct from the total value of the votes received by each relevant candidate the value that was derived from the candidate's last preference votes. After making this deduction, the Returning Officer would then identify which of the remaining candidates had the highest remaining value of votes and would then exclude each other relevant candidate. If after this process the results were still tied, the Returning Officer would repeat the procedure of deduction in respect of second last preference votes, third last preference votes, and so on, until it was possible to identify one candidate with the highest remaining value of votes and to exclude the other relevant candidate or candidates. In the unlikely event that it was not possible to exclude any candidate by this procedure, because the preference votes received by each of the relevant candidates were equal in every respect, the Returning Officer would resort to the method currently prescribed, that is, determining by lot the candidate or candidates to be excluded.

Amending item [38] (new Parts XIII and IX): This amending item would insert two new parts in the Act: one concerning administrative provisions , and the other concerning transitional matters. Proposed new section 44 is a general regulation making power, which is effectively a modified replacement for existing section 27A. Proposed new section 45 would define certain terms that are used in new Part IX. Proposed new section 46, already referred to above under amending item 9, is a transitional provision concerning the effect of the new rules on enrolment and transfer upon existing enrolments. This section would provide that in-spite of new section 7(2), under which a person is entitled to enrol only in his or her District of residence or District of birth, a person who is currently enrolled in some other District is entitled to remain on the roll of that other District. However, if such person applies in future to transfer their enrolment they would only be entitled to transfer to their District of residence or District of birth. Proposed new section 47 would provide that Cabinet may make transitional provisions for giving effect to the transition from the Act as it was before this amendment, to the Act as it will be after amendment.



REPUBLIC OF NAURU

Electoral Act 1965

As in force on 26 July 2010

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THE SCHEDULES



REPUBLIC OF NAURU
Electoral Act 1965

As in force on 26 July 2010¹

An Act to provide for the Election of Members of the ~~Legislative Council for the Republic of Nauru, and for other purposes~~ Parliament of Nauru and for related purposes.

PART I — PRELIMINARY MATTERS

~~1~~ **Short title**

~~This Ordinance may be cited as the Electoral Act 2007-2009.~~

1 Short title

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

~~2~~ **Division of Parts**

~~This Ordinance is divided into Parts, as follows:~~

- ~~Part I — Preliminary (sections 1-4).~~
- ~~Part II — Electoral Districts and Electoral Rolls (sections 5-14).~~
- ~~Part III — The Writ and Nominations (sections 15-18).~~
- ~~Part IV — The Polling (sections 19-23).~~
- ~~Part V — The Scrutiny (sections 24-28).~~
- ~~Part VI — Disputed Elections (sections 29-42).~~

¹ Ordinance No.7 of 1965 as amended an in force as at the date of this compilation (26 July 2010). Particulars of that Ordinance and the amending legislation are set out in the Table of Constituent Legislation in the Notes at the end of this reprint. The legislative history of individual provisions is set out in the Table of Amendments in those Notes.

3

Interpretation

In this Ordinance Act, unless the contrary intention appears:

'absolute majority of votes', in relation to the scrutiny of votes cast at a poll for the election of a member for ~~an Electoral District~~ a constituency, means a number greater than the number equal to one-half of the number of ballot-papers other than informal ballot-papers received into the scrutiny;

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

'candidate', in relation to an election, means a person nominated as a candidate for election as a member in accordance with section 16 ~~of this Ordinance~~;

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

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

'declaration', in relation to an election, means a declaration made under section 28 ~~of this Ordinance~~;

'District' means each of the following Districts, namely, Aiwo, Anabar, Anibare, Anetan, Baiti, Boe, Buada, Denigomodu, Ewa, Ijuw, Meneng, Nibok, Uaboe or Yaren, being Districts into which Nauru is divided by the customs of the Nauruans;

'election' means:

- (a) a general election of members; or
- ~~(b) an election referred to in subsection (3) of section 14 of the Act; or~~
- ~~(be) a supplementary election under section 17 of this Ordinance; or~~
- (c) a by-election;

'elector' means a Nauruan whose name appears on a roll;

~~**'Electoral District'** and **'Constituency'** have the same meaning and mean the Constituencies and the District or Districts comprising the same set forth in the Second Schedule of the Constitution of Nauru;~~

'member' means an elected member of the Parliament;

'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;

~~a Nauruan citizen as defined in the Constitution of Nauru;~~

'nomination day', in relation to an election, means the day fourteen days preceding polling day;

'petition' means a petition under section 29 ~~of this Ordinance~~;

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

'polling place' in relation to an election, means a place at which the poll is to be taken that has been notified ~~in accordance with subsection (2) of section 18 of this Ordinance~~ under section 18A(b);

'the Registrar' means the person holding the office of Electoral Registrar appointed under ~~the next succeeding section~~ section 4;

'roll' means a roll of electors kept in accordance with section 6 ~~of this Ordinance~~;

~~**'the Executive Council'** means the Executive Council for the Territory of Nauru established by the Act;~~

~~**'the Schedule'** means the Schedule to this Ordinance.~~

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

4 Electoral Registrar

- (1) For the purposes of this ~~Ordinance~~ Act, there shall at all times be an Electoral Registrar, a Deputy Electoral Registrar and a Returning Officer, each of whom shall be appointed by ~~the Administrator~~ Cabinet.
- (2) Notice of an appointment made under ~~the last preceding subsection~~ subsection (1) shall be published in the Gazette.
- (3) A person appointed under subsection (1) ~~of this section~~ has such powers and functions as are conferred on him ~~by this Ordinance~~ or her by this Act.
- (4) Subject to the control of the Registrar, the Deputy Electoral Registrar has, and may exercise, all the powers and perform all the functions of the Registrar under this Ordinance Act.
- (5) Where at any time there is no Electoral Registrar appointed under subsection (1), the Chief Secretary shall be the Electoral Registrar:

Provided that he shall cease to be the Electoral Registrar upon a person being appointed as such under subsection (1).

PART II — ~~ELECTORAL DISTRICTS~~ CONSTITUENCIES AND ELECTORAL ROLLS

5 Constituencies

The members shall be elected for the respective constituencies as follows:

- (a) Two members for Aiwo;
- (b) Two members for Anabar;
- (c) Two members for Anetan;
- (d) Two members for Boe;
- (e) Two members for Buada;
- (f) Two members for Meneng;
- (g) Four members for Ubenide;
- (h) Two members for Yaren.

5A Presidential residence

- (1) Notwithstanding anything to the contrary herein the President of the Republic of Nauru shall be deemed to be living in that District where he would be living were he not President and be living in State House.
- (2) **'State House'** means the official residence from time to time of the President.

5B Speaker's Residence

- (1) Notwithstanding anything to the contrary herein the Speaker of Parliament of the Republic of Nauru shall be deemed to be living in that District where he would be living were he not the Speaker of Parliament and be living in the Speaker's Residence.
- (2) **'Speaker's Residence'** means ~~the~~ the official residence from time to time of the Speaker of Parliament.

6 Registrar to keep rolls

- (1) The Registrar ~~must keep for~~ ~~shall keep in respect of~~ each District a roll of the names of Nauruans who are ~~to be~~ entitled to vote at an election.
- (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.~~

~~7 Forms for enrolment~~

~~Forms of application for, and transfer of enrolment, and such other forms as are necessary for the purposes of Parts II and III shall be made available by the Registrar to persons who wish to use them and the Registrar shall assist persons in the use of the forms.~~

~~7A Rejection of applications~~

~~Where the Registrar is not satisfied that any person applying to have his name entered on any roll is entitled to have it so entered, he shall forthwith notify the applicant in writing that the application is rejected and shall state his reason for rejecting it.~~

~~8 Qualifications for enrolment~~

~~Every Nauruan who is over the age of twenty years is entitled to have his or her name entered on a roll.~~

~~9 Claims for enrolment and transfer of enrolment~~

~~(1) The roll on which a Nauruan is entitled to have his name entered is:~~

~~(a) the roll in respect of the District in which he has been living for not less than one month, or, if he is living outside Nauru, of the District in which he had been living for not less than one month immediately before he ceased to live in Nauru;~~

~~(b) the roll in respect of the District which is entered in the Register of Births maintained under subsection (1) of section 6 of the *Births, Deaths and Marriages Ordinance 1957-1967*, or in any register or record of births certified under subsection (3) of that section, as his place of birth;~~

~~(c) the roll in respect of a District with which the Secretary of the Council has certified in accordance with Form 8 that he has a substantial connection:~~

~~(i) by Nauruan custom;~~

~~(ii) by reason of the birth of either of his parents in that District; or~~

~~(iii) by reason of the registration for any electoral purpose of either of his parents in that District;~~

~~(d) any roll on which his name is already entered and has been so entered for not less than three years; or~~

~~(e) the roll on which the name of his spouse is entered for the time being;~~

~~whichever he applies for.~~

- ~~(2) Where any person whose name is entered on the roll of any District ceases to be entitled to have his name entered on that roll, he shall notify the Registrar of that fact in writing within one month of the date on which he has ceased to be so entitled, and he shall at the same time apply to the Registrar in writing in accordance with Form 1 in the Schedule to this Ordinance to have his name entered on another roll on which he is entitled under the preceding subsection to have it entered.~~
- ~~(3) Where any person whose name is entered on a roll on which he is entitled to have it entered wishes to have it transferred onto the roll of another District on which he is entitled to have it entered, he shall request the Registrar in writing in accordance with Form 1 of the Schedule to this Ordinance to have his name entered on that other roll.~~
- ~~(4) Notwithstanding the provisions of subsection (1), where:~~
- ~~(a) any application is made by any person whose name is not already on any roll to be entered on the roll in respect of a District other than a District in which he has been living for not less than one month; or~~
- ~~(b) any application is made by any person for his name to be removed from the roll in respect of one District and entered on the roll in respect of another District which is not in the same Electoral District,~~
- ~~the applicant shall attend upon:~~
- ~~(i) the Councillor, or one of the Councillors, for the District on the roll of which the applicant is applying to have his name entered, or for the group of Districts of which that District forms part;~~
- ~~(ii) the Councillor, or one of the Councillors, for the District on the roll of which the applicant's name is entered or, where it is not already entered on the roll of any District, of the District in which the applicant has been living for not less than one month, or for the group of Districts of which that District forms part; and shall tender to each such Councillor a notice in accordance with Form 9 of the Schedule to this Act and each of these Councillors shall forthwith endorse on that notice whether he consents to the entry or transfer of the applicant's name as proposed or not and shall sign that endorsement.~~
- ~~(5) Where any Councillor who has been notified under the last preceding subsection of an application for entry or transfer endorses on the notice that he does not consent to the entry or transfer proposed, the applicant may lodge with the Electoral Registrar an application in accordance with Form 10 of the Schedule to this Act for the consent of the Council to the entry or transfer. The Electoral Registrar shall forthwith send that application to the Council and, unless the Council informs him in writing within seven days of the application being sent to it that it does not consent to the entry or transfer, it shall be deemed to have consented thereto.~~
- ~~(6) Upon receipt of a notice under subsection (2) or a request under subsection (3) and, where any consent is required, upon being satisfied that it has been given or is to be deemed to have been given, the Registrar shall remove the name of the person concerned from the roll on which it is entered and, if he is satisfied that the person is entitled to have his name entered, he shall enter it on that roll. If the~~

~~Registrar is not satisfied that the applicant is entitled to have his name entered on the roll on which he has applied to have it entered or, if any consent is required, he is not satisfied that it has been given or is to be deemed to have been given, he shall reject the application and may by notice in writing require him to apply in writing in accordance with Form 1 in the Schedule to this Act to have his name entered on another roll on which he is entitled under subsection (1) to have it entered.~~

~~(7) Notwithstanding the provisions of subsection (4) of section 10, where an application has been made to the Council under subsection (5) of this section less than seven days before the closing of any roll and the Council has not informed the Electoral Registrar before the closing of that roll whether it consents to the entry or transfer or not, that roll may be re-opened for the purpose of giving effect to any consent, or refusal of consent, to the entry or transfer by the Council.~~

~~(8) No person is entitled to have his name on more than one roll at the same time.~~

9A Application for change of enrolment

~~An application by an elector to transfer an existing registration on a roll for a District to the Roll of another District change must not be accepted or the transfer of registration given effect until the applicant pays a transfer fee of \$10 in cash in respect of the application.~~

10 Alteration of rolls and closing of rolls before election

~~(1) The Registrar shall cause to be struck off any roll the name of a Nauruan who:~~

~~(a) is dead;~~

~~[(b) repealed]~~

~~(c) is not entitled, under this Ordinance, to enrolment.~~

~~(2) Where the Registrar has caused the name of a Nauruan to be struck off a roll he shall if the Nauruan is apparently entitled to have his name entered on the roll in respect of a District as the District in which he has or had been living for not less than one month, enter his name on the roll in respect of that District and in any event, unless the Nauruan is dead or has ceased to reside in Nauru, cause the Nauruan to be notified of the action taken.~~

~~(3) The Registrar shall cause to be made such alterations in the entries on any roll as are required as a result of any change in the place at which an elector lives in a District.~~

~~(4) Where an election is to be held, the roll in respect of a District in which the election is to be held shall be closed on the twenty-first day preceding polling day and shall not be re-opened until the day after polling day.~~

~~(5) While a roll is closed in accordance with the last preceding subsection, an alteration shall not be made to the roll except to correct an error or omission, to remove the name of a person under subsection (1) of this section or in pursuance~~

~~of an order made by the District Court on an application to that Court under the next succeeding section.~~

~~11 Appeal in relation to enrolment~~

~~(1) A Nauruan:~~

~~(a) whose application to the Registrar to have his name placed on, or transferred to, the roll in respect of a District has been rejected under subsection (6) of section 9 of this Ordinance; or~~

~~(b) who has been notified that his name has been struck off the roll in respect of a District under subsection (1) of the last preceding section;~~

~~may, within one month after the receipt of the notification of the rejection of his application, or the notification that his name has been struck off the roll, as the case may be, apply to the District Court for an order directing that his name be entered on, transferred to, or reinstated on, as the case may be, that roll.~~

~~(2) The Electoral Registrar shall be deemed to be the respondent on the application.~~

~~(3) The District Court shall hear and determine an application under this section and shall have power to join the Council as a party to the proceedings.~~

~~(4) A judgment of the District Court given on an application under this section is final.~~

~~(5) The Registrar of the District Court shall send to the Electoral Registrar a certified copy of the order of the District Court and the Electoral Registrar shall cause such entries (if any) to be made on the roll in respect of a District as are necessary to give effect to the order.~~

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.

PART IIA – ELECTORS

12 Electors

(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.

(1A) An elector is entitled to vote at the election of a member for the District in respect of which he is an elector or of a member or members for the group of Districts that includes the District in respect of constituency for which he is an elector, as the case may be.

(2) An elector ~~must~~shall vote at each election of ~~a member for the District in respect of which he is an elector, or of~~ a member or members for the ~~group of Districts that includes the District in respect of~~ District for which he ~~or she~~ is an elector, ~~as the case may be,~~ unless the elector:

(a) ~~he~~ is absent from Nauru on polling day; or

(b) ~~he~~ is unable to vote because he or she is seriously ill or infirm ~~and by reason of that illness or infirmity is precluded from attending a polling place to vote;~~

~~(c) in the case of a woman, she is precluded by approaching maternity from attending at any polling place to vote; or~~

~~(d)~~ ~~he~~ has some an other valid and sufficient reason for not voting.

Penalty: \$50 ~~Six~~ dollars.

(3) The Returning Officer shall, as soon as possible after polling day, prepare a list of the names and descriptions of the electors who appear not to have voted at the election, and shall certify the list by writing under his hand.

(4) The list so certified is evidence of the fact that an elector whose name appears in it did not vote at the election.

13 Notice to electors who fail to vote

(1) There shall, within one month after polling day at an election, be sent to each elector whose name appears on the certified list of electors referred to ~~in the last preceding section~~ in section 12(3) a notice in accordance with the form ~~Form 2~~ in ~~the~~ Schedule 6.

(2) An elector to whom a notice has been sent ~~in pursuance of the last preceding subsection, shall~~ under subsection (1) must, within the time specified in the notice (which must not being less than 14 ~~fourteen~~ days from the date on which the notice is sent), complete, sign in the presence of a witness who is an elector or a

person qualified to be an elector, and return to the Returning Officer, a reply in accordance with ~~the form Form 3~~ in ~~the~~ Schedule 7.

~~Penalty: \$50.~~

- (3) If the elector to whom a notice under this section is addressed is unable, by reason of absence from his place of living or physical incapacity, to complete, sign and return the reply as required by this section, any other elector having personal knowledge of the facts may complete, sign in the presence of a witness who is an elector or a person qualified to be an elector, and return the form on behalf of the absent or incapacitated elector and the elector to whom the notice has been sent shall then be deemed to have complied with ~~the last preceding subsection~~ subsection (2).

- (4) An elector shall not state in a reply returned in pursuance of this section a false reason for his failure to vote.

~~Penalty: \$50.~~

- (5) An elector who makes, in pursuance of this section, a reply on behalf of another elector shall not state in the reply returned in pursuance of this section a false reason for the failure of that other elector to vote.

~~Penalty: Six dollars.~~ Penalty: \$50.

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Action where reason considered insufficient

- (1) Where a reply under ~~the last preceding section~~ section 13 states a reason for the failure of an elector to vote, which, in the opinion of the Returning Officer, is not a valid and sufficient reason for that failure, the Returning Officer shall submit the facts to the Chief Secretary.
- (2) Proceedings for an offence against section 12 ~~of this Ordinance~~ shall not be instituted except with the written consent of the Chief Secretary.

PART III — THE WRIT AND NOMINATIONS

15

Writ for elections

- (1) Where Parliament has been dissolved or a member has died or vacated his seat in accordance with Article 32 of the Constitution, the Speaker shall, subject in the case of a general election to compliance with Article 39, within fourteen days of such dissolution, death or vacation cause a writ for the holding of an election in accordance with ~~Form 4 or Form 5 of the Schedule to this Act~~ Form A or Form B of Schedule 8, as the case requires, to be issued to the Returning Officer not later than four weeks before the polling day fixed by the Speaker in the writ.
- (2) The Returning Officer shall publish in the Gazette the particulars of the writ, and the dates of the nomination day and the day when the rolls will be closed for the election.

16 Nomination of candidate

- (1) No person may be nominated as a candidate for election as a member for ~~an Electoral District~~ a constituency:
- (a) until every roll for that ~~Electoral District~~ constituency has been closed in accordance with ~~subsection (4) of section 10~~ section 6(2); and
 - (b) unless his name is entered on the roll ~~in respect of~~ the District which comprises, or, ~~as the case may be, of a District which~~ is included in, that ~~Electoral District~~ constituency.

~~(2) A Nauruan qualified to be elected a member may be nominated as a candidate for election as a member for an Electoral District by delivering to the Returning Officer not later than noon on the day fourteen days before polling day a written nomination of the person as a candidate in accordance with Form 6 in the Schedule, signed by two or more electors in respect of that Electoral District or of a District included in that Electoral District, as the case may be, and by the candidate.~~

~~(2A) A nomination form must not be accepted under subsection (2) unless it is accompanied by payment of a cash nomination fee of \$50.~~

~~(2B) The nomination fee must be paid into the Treasury Fund.~~

(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.

- (3) A person who has been nominated as a candidate for election as a member may, by notice in writing given to the Returning Officer not less than ~~7~~ seven days before the date on which the election is to be held, withdraw his candidature for that election.

17 Failure of election

- (1) For the purposes of this section, an election ~~in respect of an Electoral District~~ fails wherefor a constituency fails if:

- (a) the required number of candidates for ~~an Electoral District~~ the constituency is not nominated or is not returned as elected; or

- (b) after the day on which the names of the candidates are published in accordance with ~~paragraph (a) of subsection (2) of the next succeeding section section 18A(a)~~ and before the closing of the poll a candidate dies.
- (2) Subject to this Act, where an election ~~in respect of an Electoral District for a constituency~~ fails, a new writ shall be ~~forthwith immediately~~ issued by the Speaker for a supplementary election ~~in respect of that Electoral District for that constituency~~.
- (3) Where an election ~~in respect of an Electoral District for a constituency~~ fails in consequence of the death of a candidate, the supplementary election shall be held on the rolls that were prepared for the purpose of the election that failed.

18 Candidates who are unopposed to be declared elected

- ~~(1)~~ If the number of candidates ~~in respect of an Electoral District for a constituency~~ is not greater than the number of members to be elected for that ~~Electoral District constituency~~, the Returning Officer shall declare the candidate or candidates duly elected.

18A Publicising candidates and dates and places of poll

- ~~(2)~~ The Returning Officer ~~must~~shall, 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 Administration~~ 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 ~~in respect of an Electoral District for a constituency~~ is greater than the number of members to be elected, ~~---~~ the date fixed by the ~~Administrator-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).

PART IV — THE POLLING

19 Election to be held by ballot

- (1) Subject to ~~subsection (1) of the last preceding section~~section 18, every election shall be by ballot and the voting shall commence at ~~one o'clock in the afternoon~~ 11 o'clock in the morning of polling day and shall close at ~~six~~6 o'clock in the afternoon of the same day.
- (2) The poll shall be taken at the place or places in each District notified by the Returning Officer in accordance with ~~paragraph (b) of subsection (2) of the last preceding section~~section 18A.
- (3) The Returning Officer shall appoint a person to act as presiding officer at each polling place.

20 Compartments for voting

- (1) At each polling place, there shall be one or more separate voting compartments.
- (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.
- (2) A person who is not an elector about to mark his ballot-paper shall not enter such a compartment during the poll.

Penalty: ~~Two dollars~~\$20.

21 Ballot-papers and ballot-boxes

- (1) A presiding officer shall be provided with a sufficient number of ballot-papers in accordance with ~~Form 7 in the Schedule~~the form prescribed in Schedule 10, and shall initial the back of those ballot-papers before he delivers them to electors who are about to vote at the polling place at which he presides.
- (2) The presiding officer shall also be provided with a ballot-box, in the top of which there shall be an opening sufficiently large to permit a folded ballot-paper to be placed in the ballot-box.

- (3) The presiding officer shall lock the ballot-box before the polling commences and the ballot-box shall not be opened during the election except in accordance with ~~paragraph (a) of section 26 of this Ordinance~~section 26(a).
- (4) The presiding officer shall retain the key to the ballot-box until he hands it to the Returning Officer for the purposes of ~~paragraph (a) of section 26 of this Ordinance~~section 26(a).

22 Method of voting

- (1) Subject to this Ordinance Act, an elector is not entitled to vote at a polling place other than a polling place in the District ~~in respect of~~in which he ~~or she~~or she is enrolled ~~as an elector~~.
- (2) Subject to ~~the next succeeding section~~section 23, the presiding officer ~~must~~shall deliver to each elector claiming to vote a ballot-paper initialled in accordance with ~~subsection (1) of the last preceding section~~section 21(1).
- (3) When he has received a ballot-paper in accordance with ~~the last preceding subsection~~subsection (2), an elector shall enter a voting compartment and, without leaving it, mark his vote on the ballot-paper, then fold the ballot-paper so as to conceal his vote and openly, in the presence of the presiding officer, place the ballot-paper in the ballot-box.
- (4) If an elector cannot read or his sight is so impaired that he cannot vote without assistance, the presiding officer may, at the request of the elector, mark in accordance with the wishes of the elector, fold and deposit the elector's ballot-paper for him.

23 Presiding officer may ask certain questions

- (1) The presiding officer may ask an elector who claims to vote the following questions:
 - (a) 'Are you the person whose name appears as (the name of the elector) on the roll of persons entitled to vote at an election of members for (the name of the ~~Electoral District constituency~~Electoral District constituency or the names of the Districts included in the ~~Electoral District constituency~~Electoral District constituency)?';
 - (b) 'Are you qualified to vote at this election of members for (the name of the ~~Electoral District constituency~~Electoral District constituency or the names of the Districts included in the ~~Electoral District constituency~~Electoral District constituency)?'; and
 - (c) 'Have you already voted at this election?'
- (2) The presiding officer is not entitled to ask such an elector any other questions in relation to his claim to vote at the election.
- (3) A person who refuses to answer any question referred to in subsection (1) ~~of this section~~, or who fails to answer questions (a) and (b) so referred to in the affirmative and question (c) so referred to in the negative, shall not be permitted to vote.

- (4) A person shall not make a false answer to a question asked in accordance with subsection (1) ~~of this section~~.

Penalty: ~~Ten dollars or~~ \$100 and imprisonment for one month ~~or both~~.

PART V — THE SCRUTINY

24 The scrutiny

- (1) The result of the polling shall be ascertained by scrutiny.
- (2) The Returning Officer may appoint a presiding officer or other person to assist in the conduct of the scrutiny.

25 Informal ballot-papers

- (1) Subject to the next succeeding subsection, a ballot-paper is informal if:
- (a) it is not authenticated by the initials of the presiding officer in accordance with ~~subsection (1) of section 21 of this Ordinance~~ section 21(1);
- (b) it has no vote indicated on it or it does not indicate the elector's first preference for one candidate and his contingent votes for all the remaining candidates; or
- (c) it has on it any mark or writing (not authorised by this Act to be put on it) by which, in the opinion of the Returning Officer, the elector can be identified.

~~(2) Where:~~

~~(a) there are two names specified on a ballot-paper and an elector has indicated his 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 paragraph (b) of the last preceding subsection; and~~

~~(b) there are more than two names specified on a ballot-paper and an elector has indicated on the ballot-paper his first preference for one candidate and his contingent votes for all the remaining candidates except one and the square opposite to the name of that candidate has been left blank — the elector shall be deemed to have indicated the order of his preference for all the candidates and that his preference for the candidate opposite to the name of whom the square has been left blank is his last preference.~~

(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.~~
- (3) Notwithstanding ~~paragraph (c) of subsection (1) of this section~~subsection (1)(c), a ballot-paper is not informal by reason only of the fact that a mark or writing has been placed on it by the Returning Officer.
- (4) A ballot-paper is not informal for any reason other than the reasons specified in this section, but is to be given effect according to the elector's intention so far as that intention is clear.

26 Scrutiny of ballot-papers

As soon as practicable after the close of the poll, the presiding officer at each polling place shall bring the locked ballot-box from that place to the Returning Officer, who shall, in the presence of the presiding officer:

- (a) open the ballot-box;
- ~~(b) reject all informal ballot-papers and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate; and~~
- ~~(c) count the first preference votes for each candidate on all unrejected ballot-papers;~~
- (b) identify and reject all informal ballot-papers;
- (c) record the number of informal ballot-papers and unrejected ballot-papers respectively; and
- (d) place in a separate parcel all ballot-papers that have been rejected as informal.

~~27A~~ **Voting system**

~~Notwithstanding anything to the contrary herein Cabinet may make regulations as it thinks fit to provide for postal voting or voting by proxy or both and for prescribing the method of counting votes and determining the result of a poll in any constituency~~

~~Provided that no such regulation may make any distinction between constituencies returning the same number of members.~~

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.

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

(1) In respect of ~~each Electoral District~~ votes marked on unrejected ballot-papers in a by-election, the Returning Officer:

(a) shall ascertain the total number of first preference votes given for each candidate; and

(b) shall make out and sign a statement setting out the number of first preference votes given for each candidate, and certify, by endorsement on the copy of the writ received by him, the like particulars.

(2) The candidate who has received the largest number of first preference votes is, if that number constitutes an absolute majority of votes, elected as a member for the ~~Electoral District in respect of~~ constituency for which he was a candidate for election.

- (3) If no candidate ~~for election as a member for an Electoral District~~ has received an absolute majority of first preference votes, the Returning Officer shall proceed with the scrutiny and the counting of votes as follows:
- (a) a second count of the ballot-papers ~~for that Electoral District~~ shall be made;
 - (b) on the second count the candidate who has received the fewest first preference votes shall be excluded, and each ballot-paper counted to him shall be counted to the candidate next in order of the elector's preference;
 - (c) if a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his ballot-papers to the unexcluded candidate next in order of the elector's preference shall be repeated until one candidate has received an absolute majority of votes; and
 - (d) the candidate who has then received an absolute majority of votes shall be elected for that ~~Electoral District~~constituency.
- ~~(4) Where two members are required to be elected in respect of an Electoral District and one candidate has been elected in accordance with subsection (2) or (3) of this section, the Returning Officer shall proceed with the scrutiny and counting of the votes as follows:~~
- ~~(a) the Returning Officer shall re-arrange all the ballot-papers under the names of the respective candidates in accordance with the first preference indicated on the ballot-papers, except that each ballot-paper on which a first preference for the elected candidate is indicated shall be placed in the parcel of the candidate next in order of the voter's preference;~~
 - ~~(b) if a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the scrutiny shall proceed as provided in paragraph (c) of the last preceding subsection until one other candidate has received an absolute majority of votes; and~~
 - ~~(c) the candidate who has then received an absolute majority of votes shall be elected as the other member for that Electoral District.~~
- (5) If on any count two or more candidates have an equal number of votes and one of them has to be excluded, the Returning Officer ~~shall decide by lot~~must determine under section 27A the candidate to be excluded.

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.

28 Declaration of election

As soon as possible after the result of an election is ascertained, the Returning Officer shall, by notice exhibited in a conspicuous place at or near the building known as the ~~Administration~~ Government Offices, Nauru, and by notice in the Gazette, declare:

- (a) the result of the election;
- (b) the name or names of the candidate or candidates elected;
- (c) the number of formal votes cast; and
- (d) the number of informal votes.

PART VI — DISPUTED ELECTIONS

29 Method of disputing elections and declarations

The validity of an election or the declaration of an election may be disputed by petition addressed to the Court of Disputed Elections and not otherwise:

Provided that, where the validity of an election or the declaration of an election is disputed, the person or persons named in the Returning Officer's notice

published under section 28 as the candidate or candidates elected shall, notwithstanding that the ~~Supreme Court~~Court of Disputed Elections may declare that he was, or they were, not duly elected, for all purposes be deemed, until such declaration is made, to be a member or members, as the case may be, duly elected.

30 The Court of Disputed Elections

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

31 Requisites of petition

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

- (a) shall set out the facts relied on to invalidate the election or the declaration of the election;
- (b) shall contain a prayer asking for the relief to which the petitioner claims to be entitled ~~to~~;
- (c) shall be signed by a candidate at the election or by a person who was qualified to vote at the election;
- (d) shall be attested by two witnesses; and
- (e) shall be filed in the registry of the Supreme Court within ~~forty~~ 40 days after the publication in the Gazette of the notice in relation to the election in accordance with section 28 ~~of this Ordinance~~.

32 Deposit as security for costs

At the time of filing the petition, the petitioner shall deposit with the Registrar of the Supreme Court, an amount of ~~\$200~~twenty dollars as security for costs.

33 Proceedings may be stayed unless requisites complied with

The Supreme Court may, on the application of a respondent to a petition, order a stay of proceedings if ~~either of the last two preceding sections has not been complied with~~the petitioner has failed to comply with section 31 or section 32.

34 Returning Officer entitled to enter appearance

- (1) The Returning Officer is entitled, by leave of the Court of Disputed Elections, to enter an appearance in any proceedings before the Court relating to a petition and to be represented and heard in those proceedings.
- (2) Where the Returning Officer enters an appearance in accordance with the last preceding subsection, he shall be deemed to be a party respondent to the petition.

35 Power of Court

- (1) The Court of Disputed Elections shall sit as an open Court and its powers shall include the following:
- (a) to adjourn;
 - (b) to compel the attendance of witnesses and the production of documents;
 - (c) to grant to a party to a petition leave to inspect, in the presence of the Electoral Registrar, the rolls and other documents (except ballot-papers) used at or in connection with an election and to take, in the presence of the Electoral Registrar, extracts from those rolls and other documents;
 - (d) to examine witnesses on oath;
 - (e) to declare that a person who has been declared to be elected under section 28 ~~of this Ordinance~~ was not duly elected;
 - (f) to declare a candidate duly elected who has not been declared to be elected under section 28 ~~of this Ordinance~~;
 - (g) to declare an election ~~in respect of an Electoral District~~ for a constituency absolutely void;
 - (h) to dismiss or uphold a petition in whole or in part; and
 - (i) to award costs.
- (2) The Court of Disputed Elections may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks just and sufficient.

36 Inquiries by Court

The Court of Disputed Elections shall not inquire into the correctness of a roll.

37 Real justice to be observed

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

38 Decisions to be final

The decisions of the Court of Disputed Elections are final and conclusive and shall not be questioned in any way.

39 Costs

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

40 Deposit applicable for costs

If costs are awarded to a party against a petition, the deposit made by the petitioner under section 32 ~~of this Ordinance~~ may be applied in payment of the sum ordered, but otherwise the deposit is repayable to the petitioner.

41 Other costs

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

42 Effect of decision of Court

- (1) Where the Court of Disputed Elections declares that a person who has been declared to be elected under section 28 ~~of this Ordinance~~ was not duly elected, he shall be deemed not to have been elected.
- (2) Where the Court of Disputed Elections declares a candidate duly elected who has not been declared to be elected under section 28 ~~of this Ordinance~~, he shall be deemed to have been elected.
- (3) Where the Court of Disputed Elections declares an election ~~in respect of an Electoral District for a constituency~~ void, the election ~~in respect of that Electoral District for that constituency~~ shall be deemed to have failed.

PART VII – SPECIAL PROVISIONS APPLYING TO REFERENDA

43 Qualification to vote

- (1) For Article 84(4), a person is taken to be qualified to vote at an election of members at the time a referendum is held if the person's name appears on a roll at midnight on the 6th working day immediately before the date of the referendum.
- (2) In this section:

'working day' means a day other than Saturday, Sunday or a public holiday.

Note for section 43

Under Article 84(4), a person who, at the time the referendum is held, is qualified to vote at an election of members of Parliament, is entitled to vote at a referendum held for the purposes of Article 84.

Example for section 43

If the date of a referendum held for the purposes of Article 84 is Saturday 14 November, a person is entitled to vote at the referendum if the person's name appears on a roll at midnight on Friday 6 November.

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 PROVISION

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.

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

Explanatory document only

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)

Explanatory document only

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

.....

.....

.....

.....

.....

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.