REPUBLIC OF NAURU

ELECTORAL ACT 2016

No. 15 of 2016

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

Certified on 10th March 2016

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Enacted by the Parliament of Nauru as follows:

PART 1 – PRELIMINARY MATTERS

1 Short title

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

2 Commencement

This Act comes into force on the date on which it is certified by the Speaker.

3 Interpretation

In this Act, unless the contrary intention appears:

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

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

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

'candidate', in relation to an election, means a person nominated as a candidate for election as a member in accordance with section 57;

'Chief Secretary' as appointed under the *Public Service Act* 2016;

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

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

'Court of Disputed Returns' means the Court mentioned in section 95;

'days' includes Saturday, Sunday and public holidays;

'declaration', in relation to an election, means a declaration made under section 88;

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

'election' means:

(a) a general election of members; or

(b) a by-election; or

(c) a supplementary election;

'election official' means:

(a) a presiding officer; or

(b) other election official;

'Electoral Commission' means the Electoral Commission established by section 4 of the Act;

'Electoral Commissioner' means the Office of the Electoral Commissioner established by section 14 of this Act;

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

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

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

'member' means an elected member of the Parliament;

'Minister' means the Minister responsible for the administration of this Act;

'mobile polling station' means polling stations determined by the Electoral Commissioner under section 63;

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

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

(b) a law made under Article 75;

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

'petition' means a petition under section 93;

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

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

'presiding officer' means any person appointed under section 28(1)(a) of this Act;

'proxy voting' means a form of voting permitted under section 78;

'Returning Officer' means the Electoral Commissioner as referred to in section 19(3);

'Roll' means a roll of voters kept in accordance with section 37;

"Speaker's Residence" means the official residence from time to time of the Speaker of Parliament;

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

'supplementary election' means an election held under the circumstances described in section 60;

'Supreme Court' means the Supreme Court of Nauru as established under Article 48(1) of the Constitution;

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

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

PART 2 – THE ELECTORAL COMMISSION

4 Establishment of the Electoral Commission

(1) This section establishes the Electoral Commission.

(2) The Electoral Commission must consist of three members as follows:

(a) the Electoral Commissioner appointed under section 14 who is the Chairperson;

(b) the Deputy Electoral Commissioners of which there must be two appointed under section 24.

(3) Before taking office, members of the Electoral Commission must, before a Judge of the Supreme Court of Nauru, swear an oath of office as provided in Schedule 1.

5 Status of Electoral Commission

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

6 Functions of Electoral Commission

(1) The Electoral Commission has the general duty, responsibility and authority to formulate policy, the registration of voters for the election of members of Parliament and the conduct of elections in accordance with this Act, including responsibility and authority with respect to the following matters:

(a) registration and transfer of registration of voters;

(b) receipt and return of the writ of an election in accordance with section 56;

(c) monitoring and enforcing compliance with this Act;

(d) making Regulations for the effective conduct of the elections;

(e) has such other functions as are conferred upon it by any other written law.

(2) The Electoral Commission must ensure that voter information and education programmes are established and implemented from time to time to assist voters in exercising their rights and for the effective conduct of the elections.

(3) The Electoral Commission shall have the authority to appoint, remove and take disciplinary action against any employee of the Commission, and shall have the authority to determine all matters relating to the employment of all staff in the Commission including the:

(a) terms and conditions of employment;

(b) qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;

(c) salaries, benefits and allowances payable in accordance with the budget of the Commission;

(d) and the total number of staff that are required to be appointed in accordance with the budget of the Commission.

(4) In making appointments of any person to the Commission, the Electoral Commissioner must ensure the independence, impartiality and integrity of the Commission is upheld and maintained.

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

7 Protection from liability

No member, officer, staff or agent of the Electoral Commission shall be liable in any civil or criminal proceedings for any act or matter done or omitted to be done in good faith in the bona fide exercise or attempted exercise of any of the powers, functions and duties conferred by this Act in the Electoral Commission, Electoral Commissioner, Deputy Electoral Commissioners, presiding officers and other election officials.

8 Meetings of the Electoral Commission

(1) The Chairperson of the Electoral Commission must preside at all meetings of the Commission.

(2) Subject to this Act, the Electoral Commission will determine its own procedures.

(3) Minutes must be kept of the meetings of the Electoral Commission and such minutes must be prescribed by or under the direction of the Electoral Commissioner to form a permanent record of the meetings.

9 Independence of Electoral Commission

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

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

10 Impartiality in election administration

(1) The members of the Electoral Commission must:

(a) conduct their duties and functions and exercise their powers with the utmost impartiality, in compliance with the Constitution and the law and without regard to any political or personal factor;

(b) refrain from participating in any decision in the course of their work that raises a conflict of interest, and where it raises a conflict of interest the member in question must on notice immediately provide to his or her appointing authority a written explanation on the matter.

(2) In relation to subsection (1)(b), the President may, on his or her consideration of the written explanation provided, take no further action or decide that action be taken against the offending Commission member or if the case is of a serious nature, refer the matter for proceedings to be taken against the member in accordance with sections 23 or 27.

11 Transparency in election administration

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

(a) at any time an election is held the Electoral Commission must submit a post-election report within three months of the date of election to the Parliament concerning the conduct of the election including recommendations for changes that may be considered for implementation before the next election; and

(b) the submission of an Annual Report, which must include an audited statement of the Electoral Commission's financial affairs for the year of the report to the Parliament concerning the operation of the Electoral Commission and may submit additional reports.

12 Funding of the Electoral Commission

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

13 Financial authorities

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

14 Appointment of Electoral Commissioner

(1) This section establishes the office of the Electoral Commissioner.

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

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

(a) is a person qualified to be a Judge of the Supreme Court of Nauru and who possesses knowledge and experience relevant to electoral laws, policy and systems and the conduct or administration of national elections; or

(b) has held senior leadership and management positions in Nauru or elsewhere and who is competent and has a proven record in the positions that he or she has held or has extensive knowledge of electoral laws, policy and systems, and relevant experience in the management, conduct or administration of national elections.

15 Term of appointment of Electoral Commissioner

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

(2) The appointment of the Electoral Commissioner must be gazetted within 7 days of appointment.

(3) Before taking office, the Electoral Commissioner must, before a Judge of the Supreme Court of Nauru, swear an oath of office as provided in Schedule 1.

16 Disqualification from appointment as Electoral Commissioner

No person is qualified to be appointed as the Electoral Commissioner if he or she:

(a) is an undischarged bankrupt or insolvent and who has been declared bankrupt or insolvent according to law;

(b) is a person certified or otherwise adjudged according to law to be intellectually impaired;

(c) has been convicted and is under sentence or is subject to be sentenced for an offence punishable according to law by death or by imprisonment for one year or longer; or

(d) holds an office of profit in the service of Nauru or of a statutory corporation, being an office prescribed as such by section 59(1) for the purpose of this Act.

17 Remuneration

(1) The Electoral Commissioner will be paid such salaries, allowances and benefits equivalent or above that of the Chief Secretary of Nauru.

(2) If above that of the Chief Secretary, such salaries, allowances and benefits are subject to the determination of Cabinet.

(3) The salaries, allowances and benefits under subsection (1) must not be reduced during the term of office.

18 Independence of the Electoral Commissioner

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

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

19 Functions of Electoral Commissioner

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

(2) The Electoral Commissioner shall perform the following functions:

(a) to conduct and manage elections and ensure efficient delivery of polling services including the conduct of voting, counting, tabulation, declaration and publication of election results ensuring the highest degree of integrity and transparency;

(b) to advise the President, the Parliament and any Committee of Parliament, through the Speaker, and the Government concerning Nauru's electoral system, policies and laws;

(c) to provide reasonable and appropriate assistance and advice to the Speaker, Members of Parliament, the Clerk of Parliament, and candidates;

(d) to undertake the long term planning for the proper conduct of elections and the establishment and maintenance of proper and accurate records and rolls;

(e) to establish and maintain an impartial and independent electoral system for voters;

(f) to consider and determine applications by voters for transfer between districts;

(g) to devise, undertake and review programmes of education for voters, candidates and others involved in elections;

(h) to publish for general information, such data and reports on elections as the Electoral Commissioner thinks fit;

(i) to oversee, manage and implement electoral boundary redistributions;

(j) to make proposals for electoral law reform designed to strengthen and improve the process of voting and related matters;

(k) to promote fairness and equal opportunities for all candidates and to prevent abuse, to regulate the use of radio, television, internet and other political notices, reports, appeals and advertising during the election period;

(l) to perform any other functions as conferred by this Act or any other law.

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

20 Exercise of powers of Electoral Commissioner

(1) The Electoral Commissioner must conduct his or her duties and exercise his or her powers in an impartial manner and in accordance with the law.

(2) Except as provided in this Act, and without diluting his or her duties and responsibilities specified in section 19, the Electoral Commissioner may delegate to the Deputy Electoral Commissioners his or her functions specified in section 19(2) (b) to (k) and may issue to election officials such directions in writing or otherwise as he or she from time to time considers necessary to ensure the effective performance of their functions.

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

21 Assistance of departments and instrumentalities of the Republic

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

(2) The assistance required under subsection (1) may include the provision of any information, material, personnel, staff, vehicles or any other relevant form of assistance.

(3) Any government department or instrumentality of the Republic must on a request made under subsection (1) do all it reasonably can to comply with the request in a timely manner and within its available resources.

22 Resignation of Electoral Commissioner

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

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

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

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

whichever is the later.

23 Removal of Electoral Commissioner

The Electoral Commissioner may not be removed from office except by a resolution of Parliament approved by not less than two thirds of the total number of members of Parliament praying for his or her removal from office on any one, a combination or all of the grounds as follows:

(a) proven incapacity or misconduct in the performance of his or her functions and duties under this Act;

(b) incompetence, persistent failure or negligence;

(c) if convicted of a criminal offence, the maximum penalty for which is one year or longer; or

(d) if declared a bankrupt or becomes insolvent.

24 Appointment of Deputy Electoral Commissioners

(1) There must be two Deputy Electoral Commissioners appointed by the President, acting on the advice of Cabinet.

(2) The Deputy Electoral Commissioners will be responsible to the Electoral Commissioner in the exercise of their responsibilities, functions, duties and powers conferred by this Act.

(3) The Deputy Electoral Commissioners must be persons who have held senior management and administration positions and have

knowledge and experience in electoral laws, policy and systems and the management, conduct or administration of national elections.

(4) An appointment made under subsection (1) must be published in the Government Gazette within 14 days from the date of appointment.

(5) Section 16 of this Act applies to this section to the extent that a person to whom paragraphs (a), (b) (c) or (d) apply is not qualified to be appointed as a Deputy Electoral Commissioner.

25 Term of appointment of Deputy Electoral Commissioners

(1) The Deputy Electoral Commissioners are appointed for a period of 4 years on terms and conditions approved by the Cabinet.

(2) The appointment of the Deputy Electoral Commissioners must be gazetted within 7 days of appointment.

(3) Before taking office, the Deputy Electoral Commissioners must, before a Judge of the Supreme Court of Nauru, swear an oath of office as provided in Schedule 1.

(4) In making the appointments under subsection (1) and with reference to section 15(1), the Cabinet must ensure that the appointments are made in a manner that will promote continuity to the Commission's operations and that at no time the Commission is left without a Chairperson or with less than 2 members including the Chairperson.

26 Resignation of Deputy Electoral Commissioners

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

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

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

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

whichever is the later.

27 Removal of Deputy Electoral Commissioner

A Deputy Electoral Commissioner may be removed from office by the President on the written recommendation of the Electoral Commissioner:

(a) for proven misconduct in the performance of his or her functions and duties under this Act; or

(b) incompetence, persistent failure or negligence; or

(c) if convicted of a criminal offence, the maximum punishment for which is one year or longer; or

(d) if declared a bankrupt or becomes insolvent.

28 Appointment of presiding officers and other election official

(1) The Electoral Commissioner may appoint persons with relevant qualifications, knowledge and experience of electoral systems to the positions of:

(a) presiding officers;

(b) other election officials as required to carry out the provisions of this Act; and

(c) substitutes for any persons appointed under subsections (a) and (b) to act in case of their illness, absence, death or removal.

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

(3) In making an appointment under subsection (1), the Electoral Commissioner may, if he or she considers it desirable, consult with the Minister.

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

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

29 Duty of presiding officer

(1) A presiding officer is to preside and be responsible for the conduct of the election in accordance with this Act at the polling station to which he or she is assigned.

(2) The presiding officer, on polling day, must:

(a) be present at the relevant polling station for the duration of the poll at that station; and

(b) receive the votes of all persons whose names are on the Roll for that polling station and who appear and apply for a ballot paper.

(3) The presiding officer is responsible for the orderly conduct of the voting process at the polling station to which he or she is assigned.

(4) Every presiding officer must keep the peace, and may cause to be removed from a polling station any person who:

(a) obstructs the approaches to a polling station;

(b) wilfully and unnecessarily obstructs the procedures at the polling;

(c) conducts himself or herself in a disorderly way, or causes a disturbance;

(d) wilfully acts in defiance of the lawful directions of the Electoral Commissioner or presiding officer or other officials at the polling station, or

(e) is unlawfully present within the polling station.

30 Police to assist

(1) The Electoral Commissioner may request the Commissioner of Police or any police officer to provide assistance in the conduct of elections at the polling stations and during the scrutiny and counting of ballot papers.

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

31 Resignation of presiding officer

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

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

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

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

whichever is the later.

32 Removal of presiding officer and other election official

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

(a) for proven misconduct in the performance of his or her functions and duties under this Act; or

(b) incompetence, persistent failure or negligence; or

(c) if convicted of a criminal offence, the maximum punishment for which is one year; or

(d) if declared a bankrupt or becomes insolvent.

(2) The Electoral Commissioner may, if he or she considers it desirable, consult with the Minister.

33 Observers

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

PART 3 – CONSTITUENCIES AND ELECTORAL ROLL

34 Constituencies

(1) The members to be elected for the respective constituencies are as follows:

(i) two members for Aiwo;

(ii) two members for Anabar;

(iii) two members for Anetan;

(iv) two members for Boe;

(v) two members for Buada;

(vi) three members for Meneng;

(vii) four members for Ubenide;

(viii) two members for Yaren.

(2) Any amendment made to this Act altering the number of members to be elected for a constituency has effect from the day of the next general election after the commencement of the amendment.

35 Presidential residence

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

36 Speaker's Residence

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

37 Roll of voters

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

(2) The Roll is classified into Districts with each voter's name entered into the District the voter has registered in under sections 39 or 45.

(3) The Roll is to be updated from time to time following consultations between the Electoral Commissioner and the Registrar for Births, Deaths and Marriages.

38 Qualification for automatic registration of voters

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

39 Automatic registration of voters

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

(2) A person entered into a Roll under subsection (1) is registered in 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.*

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

40 Persons not entered in the Roll compiled under section 39

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

41 Application and entitlement for transfer of registration

(1) A person may apply for the transfer of his or her name from the Roll for a District in which his or her name is entered to the Roll of another District if the person is entitled under section 42 to have his or her name entered on the Roll of the District he or she wishes to have his or her registration transferred to.

(2) If he or she is entitled under section 42(2) to have his or her name entered on the Roll of his or her choice, he or she is not entitled to have his or her name transferred to the Roll for another District unless he or she is entitled to have his or her name entered on the Roll for the other District under section 42(1).

(3) An application for a transfer of registration must be:

(a) made in Form 2 of Schedule 2; and

(b) accompanied by a fee of $150.

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

(1) The Roll on which a person is entitled to have his or her name entered is:

(a) the Roll for the District in which he or she is currently living and has been living for not less than one month; or

(b) if he or she is living outside Nauru, the District in which he or she had been living for not less than one month immediately before he or she ceased to live in Nauru; or

(c) 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;* or

(d) in any register or record of births certified under section 6(3) of the *Births, Deaths and Marriages Act 1957* as his or her place of birth; or

(e) the Roll in respect of a District with which the Electoral Commissioner has certified in accordance with Schedule 3 that he or she has substantial connection through:

(i) Nauruan custom, customary links and affiliation;

(ii) birth by either his or her parent in that District;

(iii) the registration for any electoral purposes of either his or her parent in that District;

(iv) his or her spouse being born in that District.

(2) A person is entitled to have his or her name entered on a Roll of his or her choice if he or she:

(a) is unable to satisfy the enrolment requirements of section 42(1)(a) and 42(1)(b) because he or she has never lived:

(i) in Nauru; or

(ii) in one District for not less than one month; and

(b) is unable to satisfy the enrolment requirements of section 42(1)(c) and 42(1)(d) because he or she:

(i) is not registered in the Register of Births; and

(ii) does not have a certified District of birth under section 6(3) of the *Births, Deaths and Marriages Act 1957.*

43 Proof of entitlement to register

(1) A person who intends to apply to have his or her name entered on or transferred to a Roll mentioned in section 42 must submit his or her application in Form 1 of Schedule 2 in relation to registration or Form 2 of Schedule 2 in relation to transfer of registration and have the form witnessed in accordance with subsection (3).

(2) A person, other than the applicant, may on his or her own initiative, make a statutory declaration in Form 3 of Schedule 2 or provide relevant evidence in another form in support of an application made under sections 39 and 41 and have the form witnessed in accordance with subsection (3).

(3) A form submitted for the purpose of subsection (1) and (2) must only be witnessed by:

(a) barrister and solicitor; or

(b) a Pleader; or

(c) a Commissioner for oaths; or

(d) any other person appointed by the Electoral Commissioner to be a witness.

44 Electoral Commissioner to enquire

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

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

(1) On receiving an application under section 40 or section 41, the Electoral Commissioner 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 48.

(2) In relation to subsection (1), the Electoral Commissioner must, in order 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:

(a) if the application is based on entitlement under section 42(1)(a) – have received a statutory declaration in accordance with section 43(1) and conducted his or her own enquiry on the basis of the application and its merit in accordance with section 44; and

(b) if the application is based on entitlement under section 42(1)(c) – have verified in the Register of Births that the details of registration stated on the application form are correct.

(3) If a person makes an application based on his or her entitlement of choice under section 42(2), the Electoral Commissioner:

(a) may require him or her to provide evidence that he or she is entitled to be registered under section 42(2); and

(b) must make his or her own enquiry on the basis of the person's application and its merits in accordance with section 44.

46 Gazettal of registration and transfer

Within 5 days after making an entry on a Roll under section 45(1)(a), the Electoral Commissioner must publish in the Government 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 registered; and

(c) the grounds of the person's entitlement to be registered in that District.

47 Limit on transfer of registration

No transfer of registration must be made:

(a) within 6 months of the last transfer; or

(b) after 5:00pm 21 days before polling day.

48 Notice of reasons for rejection of application

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

49 Appeal in relation to registration

(1) This section applies to a person:

(a) whose name has been struck off the Roll for a District under section 53(1);

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

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

(3) The Electoral Commissioner is the respondent on the application.

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

(5) If an application made under subsection (1)(a) is successful, the Electoral Commissioner must reinstate the name of the applicant.

(6) If an application made under subsection (1)(b) is successful, the Electoral Commissioner must enter the applicant's name in the Roll for the relevant District.

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

50 Electoral Commissioner to keep Roll

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

(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 closes at 5:00 pm 21 days before polling day.

(3) If no petition is filed with the Court of Disputed Returns under section 93 of this Act, the Roll must re-open 31 days after the official declaration and notification of results is made under section 88.

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

51 Publication of Roll

(1) The Electoral Commissioner must at least once a year, publish in the Government Gazette the Roll as maintained under this Act.

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

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

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

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

53 Revision of Roll

(1) The Electoral Commissioner may revise the Roll of voters to:

(a) correct any mistake or omission in the particulars of the registration of a person;

(b) remove from the Roll the name of any person who:

(i) is dead; or

(ii) has ceased to be a citizen of Nauru;

(c) enter any name removed by mistake, clerical error or false information;

(d) remove the name of a person who is not entitled to have his or her name entered on the Roll;

(e) on the application of a voter, record a change of the person's name or other particulars entered in the Roll.

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

(3) The Electoral Commissioner must not alter a Roll while it is closed under section 50(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 49.

PART 4 – VOTERS

54 Voters

(1) Voting is compulsory.

(2) A person is a voter for a constituency if the person's name appears on the Roll for a District that comprises or is part of the constituency.

(3) A voter is entitled to vote at the election of a member or members for the constituency for which he is a registered voter.

(4) A voter must vote at each election of a member or members for the District for which he or she is registered unless he or she:

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

(b) is unable to vote because he or she is seriously ill or infirm; or

(c) has another valid and sufficient reason for not voting.

(5) The Electoral Commissioner must, as soon as possible after polling day, prepare and certify a list of the names and descriptions of the voters who failed to vote at the election.

(6) The certified list under subsection (5) is evidence of the fact that a voter whose name appears in it did not vote at the election.

(7) A voter who does not vote and is not exempted under section 54(4) commits an offence under section 110 of this Act.

55 Notice to voters who fail to vote

(1) Within one month after polling day at an election, a notice as prescribed in Schedule 6, will be sent to each voter whose name appears on the certified list of voters referred to in section 54(5).

(2) A voter to whom a notice has been sent under subsection (1) must, within the time specified in the notice (which must not be less than 14 days from the date on which the notice is sent), complete, sign in the presence of a witness who under this Act is a registered voter and return to the Electoral Commissioner a reply in accordance with the Form in Schedule 7.

(3) If the voter 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 voter having personal knowledge of the facts may complete, sign in the presence of a witness who under this Act is a registered voter, and return the form on behalf of the absent or incapacitated voter and the voter to whom the notice has been sent is deemed to have complied with subsection (2).

(4) A person who does not comply with this section commits an offence under section 111 of this Act.

PART 5 – THE WRIT AND NOMINATIONS

56 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 14 days of such dissolution, death or vacation cause a writ for the holding of an election in accordance with Form A or Form B of Schedule 8, as the case requires, to be issued to the Electoral Commissioner not later than 4 weeks before the polling day fixed by the Speaker in the writ.

(2) The Electoral Commissioner must publish in the Government 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.

57 Nomination of candidate

(1) A person may be nominated as a candidate for election as a member for a constituency:

(a) if the Roll for the constituency for which he or she is being nominated has been closed in accordance with section 50(2); and

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

(2) A nomination of a candidate qualified to be elected as a member of Parliament must be delivered to the Electoral Commissioner at any time during official working hours from 9:00am on the day after the closing of the Roll and not later than 5:00pm 14 days before polling day.

(3) A written nomination of a person as a candidate must be:

(a) made in the form prescribed in Schedule 9; and

(b) signed by a minimum of two voters for the constituency for which the candidate is nominated; and

(c) signed by the candidate; and

(d) accompanied by a fee of $2000.

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

58 Withdrawal of candidature from election

A person who has been nominated as a candidate for election as a member may, by notice in writing given to the Electoral Commissioner no later than 12:00pm 7 days before polling day, withdraw his or her candidature for that election.

59 Prescription under Article 31(e) of the Constitution

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

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

(3) In the event of a by-election or supplementary election or where Parliament is dissolved less than 3 years from the date of its first

sitting and elections are held following that dissolution, an employee is deemed to have resigned upon submitting his or her nomination for candidature under this Act.

(4) If there is a conflict between this Act and any other law, the provisions of this Act must take precedence.

60 Failure of election

(1) For the purposes of this section, an election for a constituency fails if:

(a) the required number of candidates for the constituency is not nominated or is not returned as elected; or

(b) after the day on which the names of candidates are published in accordance with section 62 and before the closing of the poll a candidate dies.

(2) Subject to this Act, where an election for a constituency fails, a new writ must be issued immediately by the Speaker to the Electoral Commissioner in accordance with Form C of Schedule 8 for a supplementary election for that constituency.

(3) Where an election for a constituency fails in consequence of the death of a candidate, the supplementary election must be held on the Rolls that were prepared for the purpose of the election that failed.

(4) For the purpose of subsection (2) only, the Speaker continues to hold the authority to issue a writ and is deemed to be Speaker for the purpose of this section.

61 Candidates who are unopposed to be declared elected

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

62 Publicising candidates, dates and polling stations

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

(a) the names of the candidates and the voters by whom they have been nominated; and

(b) if the number of candidates for a constituency is greater than the number of members to be elected – the date fixed by the Speaker in

the writ as the date on which the poll is to be taken and the places determined by the Electoral Commissioner as the places at which the poll is to be taken in each District.

63 Provision of mobile polling stations

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

(2) All mobile polling stations must on nomination day or as soon as possible after that day, be published:

(a) by notice exhibited in a conspicuous place at or near the Government Offices, Yaren;

(b) at designated places in the constituencies; and

(c) by notice in the Government Gazette.

(3) Despite subsection (2), in exceptional circumstances, and on good cause being shown, additional polling stations may be designated by the Electoral Commissioner for the purpose of subsection (1).

64 Determining order of candidates on ballot paper

(1) Twenty four hours after the close of the period for withdrawal of nominations under section 58, the Electoral Commissioner must for each constituency for which an election is to be held:

(a) invite all candidates, who may be represented by their agent or nominee, to attend the determination of the order of candidates on the ballot paper at a specified place and time; and

(b) at the specified place and time:

(i) place in an opaque container, the same number of pieces of paper as there are candidates for the constituency, each piece of paper bearing a consecutive number (starting with the number '1') and being folded in such a manner that it is not possible to see the number; and

(ii) invite each candidate or his or her agent or nominee, in turn to draw a piece of paper from the container; and

(iii) after all candidates or their agent or nominee present have drawn a piece of paper, draw a piece of paper from the container on behalf of each candidate who is not present.

(2) The Electoral Commissioner must record the candidates name and numbers drawn in subsection (1).

(3) 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).

65 Printing of names of candidates on ballot papers

(1) The surname or family name of each candidate for election must appear first and must be followed by the candidate's other names on the ballot paper.

(2) The surname or family name of each candidate is to be in a more conspicuous type than the other names on the ballot paper.

(3) If the Electoral Commissioner considers that a similarity in the names of two or more candidates is likely to cause confusion, a description or addition is to be included with each name to enable them to be distinguished from each other.

PART 6 – THE POLL

66 Polling times

(1) Subject to section 61, every election must be by secret ballot and the voting commences at 9:00am on polling day.

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

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

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

67 Adjournment of polling

(1) In circumstances of *force majeure*, the Electoral Commissioner may decide that polling stations not commence polling or polling may be adjourned on polling day.

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

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

68 Polling station record book

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

(a) the names of all election officials and observers present during the polling;

(b) the number of ballot papers received and a note of any missing election materials;

(c) key events including the opening and closing times of the poll at the relevant polling station;

(d) serial numbers of seal or seals used to secure ballot boxes;

(e) names of assisted voters;

(f) any disturbance or incidents that have taken place in or around the polling station and any requests made to the police; and

(g) any complaints filed and decisions on complaints.

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

69 Polling booths

(1) At each polling station, there must be one or more separate polling booths and the presiding officer must ensure at all times the privacy and anonymity of the voter and secrecy of the vote cast.

(2) The presiding officer must ensure, at all times during voting hours, that each polling booth contains a pen, affixed to the polling booth, for use by voters.

70 Ballot papers, ballot boxes and electoral roll

(1) A presiding officer must be provided with a sufficient number of ballot papers in accordance with Schedule 11 and must initial the back of those ballot papers before delivering them to voters who are about to vote at the polling station at which he or she presides.

(2) The presiding officer must also be provided with an opaque ballot box, on the top of which there should be an opening sufficiently large to permit a folded ballot paper to be placed in the ballot box.

(3) The presiding officer must lock the ballot box before the polling commences and the ballot box must not be opened during the election except in accordance with section 81.

(4) In addition to subsections (1) and (2), the Electoral Commissioner must issue to the presiding officer the electoral roll and voter list for the particular polling station that each presiding officer is presiding over and responsible for.

71 Identification of voter

(1) Prior to receiving a ballot paper under section 73, a voter must:

(a) present a form of identification to the presiding officer; and

(b) satisfy the presiding officer that he or she is in fact a person registered to vote at that polling station.

(2) If a voter does not have any form of identification, the presiding officer must take necessary measures to verify the identification of the voter, including asking the voter questions provided under section 72 to verify his or her identity.

(3) A mistake in the spelling of the voter's name does not warrant the rejection of a person to vote if in the opinion of the presiding officer, the voter is sufficiently identified in the Roll for that District.

(4) If a voter has since the compilation of the Roll, changed his or her name by marriage or deed poll, he or she is not disqualified from voting under the name appearing in the Roll, provided he or she can provide sufficient proof to the presiding officer that he or she is registered in the Roll for that District.

72 Presiding officer may ask certain questions

(1) If a voter appears on polling day to vote but does not carry any form of identification, the presiding officer may ask the voter questions in either English or Nauruan, or both as the case requires, as follows:

(a) 'Are you the person whose name appears as (the name of the voter) on the Roll of persons entitled to vote at an election of members for (the name of the constituency or the names of the Districts included in the constituency)?'

(b) 'Are you qualified to vote at this election of members for (the name of the constituency or the names of the Districts included in the Constituency)?'; and

(c) ‘Have you already voted at this election?’

(2) The presiding officer is not entitled to ask a voter any other questions in relation to his or her claim to vote at the election.

(3) A person who refuses to answer any questions referred to in subsection (1), or who fails to answer questions (a) and (b) so referred to in the affirmative and question (c) so referred to in the negative, must not be permitted to vote.

(4) A person who makes a false statement to a question asked in accordance with subsection (1) commits an offence under section 113.

73 Method of voting

(1) Subject to this Act, a voter is not entitled to vote at a polling station other than a polling station in the District in which he or she is registered.

(2) Once a presiding officer has verified that a voter present at a polling station is registered to vote at that polling station and is entitled to vote, the presiding officer or designated election official must:

(a) prior to handing that person a ballot paper, cross off the name of the voter from the voter list;

(b) hand the voter one ballot paper initialled in accordance with section 70(1);

(c) immediately have the voter sign next to his or her name on the voter list to confirm that the person has received a ballot paper.

(3) The voter must:

(a) upon receipt of the ballot paper, retire to a polling booth;

(b) mark his or her vote on the ballot paper in the way prescribed in section 74;

(c) fold the ballot paper so as to conceal his or her vote; and

(d) place the ballot paper in a ballot box in the presence of the presiding officer or an election official.

(4) While at a polling station, a voter must not reveal or announce the content of his or her ballot paper, and any voter who does so, will have his or her ballot paper confiscated and invalidated by the presiding officer, provided it has not yet been inserted into the ballot box.

(5) A voter whose ballot paper has been invalidated under subsection (4) is not entitled to receive another ballot paper.

74 Casting of vote

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

(a) 1 and 2 where there are two candidates;

(b) 1, 2 and 3 where there are three candidates;

(c) 1, 2, 3 and 4 where there are four candidates; and

(d) so on as the case requires.

75 Removal of unmarked ballot papers from polling station

(1) During the polling process, it is an offence for any person, other than the presiding officer to remove any unmarked ballot paper from the polling station.

(2) The presiding officer may only remove an unmarked ballot paper from a polling station under the following circumstances:

(a) if a voter, who has been assigned to that polling station is unable to appear and cast his or her vote due to any illness, physical disability or for any reason approved by the Electoral Commissioner; or

(b) if another polling station has run out of ballot papers and the Electoral Commissioner expressly authorises that ballot papers be transferred by the presiding officer to that other polling station.

(3) If a presiding officer removes a ballot paper in subsection (2)(a), the presiding officer must ensure that he or she is accompanied by one other election official and the procedures for assisted voting under section 77 are strictly adhered to.

(4) Any person who contravenes this section commits an offence under section 115.

76 Spoiled ballot papers

(1) A voter who has inadvertently dealt with a ballot paper in such a way that it cannot be conveniently or validly used as a ballot paper may, on giving it to the presiding officer, receive another ballot paper to replace it.

(2) The spoiled ballot paper must, in the presence of the voter, be cancelled by the presiding officer by writing or stamping the word

"cancelled" across its face, marking his or her initials on it and placing it in an enveloped marked "spoiled ballot paper" and sealing it.

(3) A voter may receive only one replacement ballot paper under subsection (1).

77 Assisted voting

(1) If any voter at a polling station is illiterate or is incapacitated by blindness or other physical reason and is unable to vote in the manner described in section 73 the voter may vote in accordance with the provisions of this section.

(2) Any voter referred to in subsection (1) may nominate a person, or if no person is so nominated, the presiding officer, who may accompany the voter into a polling booth, and the ballot paper may there be marked by the voter with the assistance of the person nominated or, as the case may be, of the presiding officer, or may be marked by the person nominated or, as the case may be, by an election official in accordance with the instructions of the voter.

(3) A voter to whom subsection (1) applies, whether or not he or she nominates a person for the purpose of subsection (2), may nominate a person, as the case may require, to inspect the ballot paper before it is deposited in the ballot box.

(4) The presiding officer must ensure that after the voter referred to in subsection (1) has voted that the voter's ballot paper is placed in the ballot box.

(5) The name and number of every assisted voter must be entered in the record book and the voter's name crossed off the voter list for the polling station.

(6) Except for cases of assisted voting under this section, it is prohibited for more than one person to be present in the polling booth at the same time and any person found to be in a booth without authorisation commits an offence under section 116.

78 Authorisation for proxy voting

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

(2) A proxy must cast his or her vote as a proxy of a voter at the same time as he or she casts his or her own vote as a voter.

(3) Where a proxy casts his or her vote as a voter, he or she must do so in accordance with the requirements specified in sections 71, 72, 73, and 74 of this Act.

(4) A proxy must cast his or her vote as a proxy of a voter in accordance with the Regulations relating to proxy voting made by the Electoral Commission as required under this section.

(5) An application made under subsection (1) must be made in accordance with the Regulations to be made by the Electoral Commission.

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

(7) The Electoral Commissioner must not grant to a voter more than 5 proxy voting authorisations.

(8) The Electoral Commission may make Regulations for the effective conduct of proxy voting including the:

(a) manner and form of application under subsection (1);

(b) withdrawal of the application;

(c) duties and obligations in relation to proxy voting;

(d) the manner a proxy is to exercise his or her proxy vote;

(e) polling day; and

(f) related matters.

79 Method of voting for mobile polling stations

(1) Where a mobile polling station has been published in accordance with section 63, the Electoral Commissioner must provide a sufficient number of polling booths for each polling station.

(2) Where a polling booth is provided, such booth may also be used as a mobile polling booth.

(3) A mobile polling station is used for the purposes of affording an opportunity to vote to every voter who:

(a) is for the time being resident in the hospital, care facility, detention centre or correctional centre in which the booth is situated; and

(b) by reason of illness or infirmity, or, in the case of a woman, by reason of approaching maternity, is unable to attend a polling station to record her vote.

(4) A voter who seeks to vote at a mobile polling station must:

(a) apply in writing to the Electoral Commissioner at least 48 hours before 9:00am on polling day; and

(b) state the reasons for the application and provide any information including documents that the Electoral Commissioner may require.

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

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

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

(8) On any visit conducted in accordance with subsection (6), the voter's vote must so far as is reasonably practicable be taken in all respects as if the vote were recorded in a polling station under usual circumstances.

(9) No visit may be made under this section, if such visit is prohibited, on medical grounds by a medical practitioner registered under the *Health Practitioners Act* 1999 or if the application made under subsection (4) was denied in accordance with subsection (5), as the visit would disrupt the voting at the polling station.

80 Persons authorised to remain in polling stations

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

(a) the Electoral Commissioner;

(b) Deputy Electoral Commissioners;

(c) the presiding officer for the polling station;

(d) the deputy or assistant presiding officer (if appointed);

(e) other appointed election officials;

(f) police officers on duty, if requested by the presiding officer or his or her representative for the sole purpose of restoring peace and order and only for the time necessary to do so;

(g) observers, not exceeding five in number or such other limit as the Electoral Commissioner may permit and who must remain in an area designated by the Electoral Commissioner; and

(h) any other person authorised by the Electoral Commissioner.

PART 7 – THE COUNT

81 Scrutiny of ballot papers

(1) As soon as practicable after the close of the poll, the presiding officer at each polling station must bring the locked ballot box from that polling station to the Electoral Commissioner, who must, in the presence of the presiding officer:

(a) open the ballot box;

(b) identify and reject all invalid ballot papers;

(c) record the number of invalid ballot papers and valid ballot papers respectively; and

(d) place in a separate parcel all ballot papers that have been rejected as invalid.

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

82 Invalid ballot papers

(1) Subject to subsection (2), a ballot paper is invalid if:

(a) it is not authenticated by the initials of the presiding officer in accordance with section 70(1);

(b) it has no vote indicated on it or it does not indicate the voter's first preference for one candidate and his contingent votes for all the remaining candidates; or

(c) it has on it any mark or writing (not authorised by this Act to be put on it) by which, in the opinion of the Electoral Commissioner, the voter can be identified.

(2) If there are 2 names specified on a ballot paper and a voter has indicated his or her vote on the ballot paper by placing the number '1' in the square opposite to the name of one candidate and has left the other square blank, the ballot paper is not invalid by reason only of subsection (1)(b).

(3) A voter is taken to have indicated that the voter's preference for a candidate (the **'remaining candidate'**) is the voter's last preference if:

(a) there are more than 2 names specified on a ballot paper; and

(b) the voter has indicated on the ballot paper his or her first preference for one candidate and his or her contingent votes for each other candidate except the remaining candidate; and

(c) the square opposite the remaining candidate has been left blank.

(4) Despite subsection (1)(c), a ballot paper is not invalid by reason only of the fact that a mark or writing has been placed on it by the Electoral Commissioner.

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

83 Persons authorised to be present at scrutiny and count

(1) Only the following people are authorised to be present at the opening of the ballot boxes and during the counting process:

(a) the Electoral Commissioner or Deputy Electoral Commissioners;

(b) the presiding officer or other election official for the polling station;

(c) the persons appointed under section 81(2)to assist in the conduct of the scrutiny of votes;

(d) police officers who have been requested by the Electoral Commissioner or his or her representative for the sole purpose of restoring peace and order and only for the time necessary;

(e) observers, not exceeding five in number or such other limit as the Electoral Commissioner may permit and who must remain in an area designated by the Electoral Commissioner; and

(f) any other person authorised by the Electoral Commissioner.

(2) The Electoral Commissioner may, if he or she considers necessary, remove any person from the place of the scrutiny and count.

84 Counting of votes in election

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

(2) For each constituency the Electoral Commissioner 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 a unit to each first preference vote, one half to each second preference vote, and so on, the value of each preference vote being the reciprocal of the number of the preference indicated by the voter; and

(c) add the value of the votes for each candidate and make out and sign a statement specifying the total value of the preference votes for the candidate.

85 Determination of result of election

(1) In a constituency returning 2 members, the 2 candidates receiving the highest total value of votes calculated under section 84 are elected.

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

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

(4) If 2 or more candidates receive an equal value of votes and one or more of the candidates must be excluded, the Electoral Commissioner must determine under section 87 the candidate or candidates to be excluded.

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

(1) In respect of votes marked on valid ballot papers in a by-election, the Electoral Commissioner:

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

(b) must 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, 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 constituency for which he was a candidate for election.

(3) If no candidate has received an absolute majority of first preference votes, the Electoral Commissioner must proceed with the scrutiny and counting of votes as follows:

(a) a second count of the ballot papers must be made;

(b) on the second count the candidate who has received the fewest first preference votes is excluded, and each ballot paper counted to him must be counted to the candidate next in order of the voter's preference;

(c) if a candidate then has an absolute majority of votes he or she is 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 voter's preference must 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 is elected for that constituency.

(4) If on any count two or more candidates have an equal number of votes and one of them has to be excluded, the Electoral Commissioner must determine under section 87 the candidate to be excluded.

87 Determination of exclusion of candidate

(1) In this section:

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

(2) If the Electoral Commissioner is required, under section 85(4) or 86(4), to determine a candidate or candidates to be excluded, the Electoral Commissioner 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 Electoral Commissioner 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 Electoral Commissioner 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 matter that the Electoral Commissioner 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 and a police officer.

88 Declaration of results

The Electoral Commissioner must, as soon as the results of an election are ascertained:

(a) publicly declare those candidates elected as members of Parliament; and

(b) publish by notice exhibited in a conspicuous place at or near the Government Offices, Yaren, and by notice in the Government Gazette:

(i) the results of the election;

(ii) the names of the candidates elected for each constituency;

(iii) the number of valid votes cast; and

(iv) the number of invalid votes.

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

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

90 Request for recount of results

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

(2) The Electoral Commissioner must immediately respond to the request of recount under subsection (1).

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

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

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

(a) decide the correct figures and results if errors were made in the initial results; and

(b) confirm if the initial results are the correct results; or

(c) cancel the incorrect results and enter the new results.

(6) If the Electoral Commissioner makes a decision under subsection (5) (b), the Commissioner must make a declaration and post the new results in the same manner as provided in section 88.

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

91 Election material

(1) After an election, the Electoral Commissioner must keep all relevant election material, including unused ballot papers, used ballot papers (valid, invalid, spoiled), signed voter lists, copies of complaints and appeals, any official stamp, results, and any record books in safe custody and must not allow any person to have access unless ordered to by a court.

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

92 Power to destroy records

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

PART 8 – COURT OF DISPUTED RETURNS

93 Election petitions

(1) No results of an election published under section 88 may be challenged except by election petition:

(a) by a candidate; or

(b) a person who was qualified to vote in the election the subject of the petition.

(2) A petition must be presented in accordance with the provisions of this Part.

94 Status of persons elected

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

95 The Court of Disputed Returns

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

96 Contents of petition

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

(a) set out the facts relied on to invalidate the election or the declaration of the election;

(b) contain a prayer asking for relief to which the petitioner claims to be entitled;

(c) be signed by a candidate at the election or by a person who was qualified to vote at the election;

(d) be attested by two witnesses; and

(e) be filed in the registry of the Supreme Court within 30 days after the publication in the Government Gazette of the notice in relation to the election in accordance with section 88.

97 Deposit as security for costs

At the time of filing the petition, the petitioner must deposit with the Registrar of the Supreme Court $500 as security for costs.

98 Proceedings may be stayed unless contents complied with

The Court of Disputed Returns may, on the application of a respondent to a petition, order a stay of proceedings if the petitioner has failed to comply with section 96 or section 97.

99 Electoral Commissioner entitled to enter appearance

(1) The Electoral Commissioner is entitled, by leave of the Court of Disputed Returns, 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 Electoral Commissioner enters an appearance in accordance with the last preceding subsection, the Electoral Commissioner is deemed to be a respondent to the petition.

100 Power of the Court

(1) The Court of Disputed Returns sits as an open Court and its powers include the following:

(a) to adjourn;

(b) to compel the attendance of witnesses and the production of documents;

(c) to grant to a party to a petition, leave to inspect, in the presence of the Registrar of the Supreme Court and the Electoral Commissioner, the Roll and other documents used at or in connection with an election and to take, in the presence of the Electoral Commissioner, extracts from those Rolls and other documents;

(d) to examine witnesses on oath;

(e) order the Electoral Commissioner to recount the ballot papers of one or more constituencies;

(f) to declare that a candidate who has been declared to be elected under section 88 was not duly elected;

(g) to declare that a candidate who has not been declared to be elected under section 88, duly elected;

(h) to declare an election for a constituency absolutely void;

(i) to dismiss or uphold a petition in whole or in part; and

(j) to award costs.

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

101 Real justice to be observed

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

102 Decisions to be final

The decisions of the Court of Disputed Returns are final and conclusive and may not be questioned or appealed to any other Court.

103 Costs

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

104 Deposit applicable for costs

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

105 Other costs

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

106 Effect of decision of Court

(1) Where the Court of Disputed Returns declares that a person who has been declared to be elected under section 88 was not duly elected, he or she must be deemed not to have been elected.

(2) Where the Court of Disputed Returns declares a candidate duly elected who has not been declared to be elected under section 88, he or she must be deemed to have been elected.

(3) Where the Court of Disputed Returns declares an election for a constituency void, the election for that constituency must be deemed to have failed.

107 Court Rules

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

PART 9 – SPECIAL PROVISIONS APPLYING TO REFERENDUM

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

(1) In the event that a referendum is held for the purpose of Article 84 of the Constitution, in parallel with a general election, a person is qualified to vote at the referendum, and no other person is so entitled, if at the time the referendum is held that person is qualified to vote at an election of members of Parliament.

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

PART 10 – CORRUPT PRACTICES AND ELECTORAL OFFENCES

109 Accomplices

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

110 Failure to vote at election

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

111 Failure to respond to notice

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

112 Reasons for failure to vote considered insufficient

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

113 Offence to provide false or misleading information

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

(a) the person makes an application or provides information; and

(b) the information is false or misleading; and

(c) the person:

(i) knows the information is false or misleading; or

(ii) is reckless about whether the information is false or misleading.

114 Entering polling booth and marking ballot paper

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

115 Offence to remove unmarked ballot papers from polling station

Any person who removes unmarked ballots papers from any polling station and is not covered by any exception under section 75(1), commits an offence and is liable upon conviction to a fine not exceeding $5000 or imprisonment for a period not exceeding 2 years or both.

116 Offence to have more than one person in polling booth

(1) Subject to the exceptions in section 77, it is an offence under this Act for more than one person to be present in the polling booth at the same time.

(2) A person who is found to be present in a polling booth and not covered by any exception under section 77 commits an offence and is liable to a fine not exceeding $100.

117 Unauthorised persons

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

118 Offence in relation to electoral information

(1) Any person, other than the Electoral Commissioner or a person authorised by the Electoral Commissioner, who possesses, manipulates or changes by electronic, mechanical or other means, any information contained in the Roll or voter list commits an offence

and is liable upon conviction to a fine not exceeding $5,000 or a term of imprisonment for a term not exceeding 1 year or to both.

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

119 Destruction of campaign material

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

120 Campaigning material at polling stations

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

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

(1) It is unlawful for any employee of the public service or instrumentality of the Republic to campaign in support of a candidate for an election.

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

(3) It is unlawful for any employee of the public service or instrumentality of the Republic to use any Government resources to support a candidate for an election.

(4) It is unlawful for any person to coerce, pressure or intimidate an employee of the public service or instrumentality of the Republic to carry out any of the acts prohibited in subsections (1), (2) and (3) above.

(5) Any person who is in breach of any of the above subsections commits an offence and is liable upon conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 1 year or to both.

122 Campaigning on polling day

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

person on polling day holds or takes part in any meeting, demonstration or procession at a polling station or within 200 meters of a polling station with the intention of:

(a) canvassing votes;

(b) soliciting the vote of a voter;

(c) inducing a voter not to vote for a particular candidate;

(d) inducing a voter not to vote at the election; or

(e) ascertaining who a voter intends to vote for or has voted for.

123 Police officers influencing voters

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

124 Bribery

(1) It is an offence for any person to offer their vote or support to a candidate for an election in exchange for any property or benefit.

(2) A person who commits an offence under subsection (1) is liable upon conviction to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 2 years or to both.

125 Personation

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

(a) applies for a ballot paper in the name of:

(i) another person, whether the name is that of a person living or dead; or

(ii) a fictitious person,

(b) knowingly and wilfully impersonates an election official.

126 Double voting

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

127 Intimidation

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

(a) by himself or herself, or with the assistance of another, uses or threatens to use of any force, violence, or restraint or inflicts or threatens any injury, damage, harm, loss; or

(b) in any other manner intimidates a person in order to induce or compel that person to vote or refrain from voting at any election.

128 Undue influence

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

129 Electoral treating

(1) A person commits an offence and is liable upon conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 1 year or to both, if with the intent to corruptly influence a voter at an election, that person:

(a) offers cash or promises or supplies food, drink or entertainment;

(b) offers or promises to give cash or to pay for food, drink or entertainment;

(c) offers or provides transport to or from polling stations;

(d) offers, promises or gives a gift, donation or prize, including cash, to or for any person, club or association.

(2) For the purposes of subsection (1), it is immaterial:

(a) whether or not the offer was accepted before, on or after polling day; and

(b) whether or not a promise if fulfilled before, on or after polling day.

(3) It is on the person making the offer or promise to prove that the offer or promise was made under a customary obligation.

130 Offence of stuffing ballot boxes

Any person who knowingly places or is privy to the placing, in a ballot box any ballot paper which has not been lawfully issued to a voter, and

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

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

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

132 Obstruction or prevention of a voter from voting

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

133 Interference at elections

(1) A person commits an offence and is liable to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 2 years or to both if the person:

(a) intrudes into a polling booth and is not lawfully entitled to be in it; or

(b) wilfully interrupts, obstructs or disturbs any proceedings at an election.

(2) A person found to be in contravention of subsection (1) may be arrested without warrant by a police officer or in the absence of one, by a presiding officer or other election official.

134 Disobeying lawful directions

(1) Any person who, during the hours fixed for the poll at any polling station fails to obey the lawful directions of the Electoral Commissioner, Deputy Electoral Commissioner, presiding officer or other election official may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised to do so by the presiding officer.

(2) A person who has been removed under subsection (1) is liable upon conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 1 year or to both.

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

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

PART 11 – REGULATIONS, REPEAL AND TRANSITIONAL PROVISIONS

136 Regulations

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

(a) registration of voters;

(b) registration of political parties;

(c) nomination of candidates;

(d) conduct of polling, counting and tabulation of results;

(e) proxy voting;

(f) voting by people who are unable to attend a polling station;

(g) filing and adjudication of complaints and appeals;

(h) the fees for applications or services provided under this Act; or

(i) any matter necessary or convenient for giving effect to this Act.

137 Repeal

(1) The *Electoral Act* 1965 is repealed by this Act.

(2) The Electoral Regulations 2013 are repealed by this Act.

138 Effect of repeal on existing registration

(1) A person whose name was entered on a Roll prior to the commencement of this Act will continue to have his or her name entered on that Roll.

(2) Upon the commencement of this Act, any application for registration or transfer of registration must be made under this Act.

139 Transitional and savings provisions

Despite section 137:

(a) any appointments made under the repealed Act before the commencement of this Act continues until the appointment or delegation is revoked under this Act;

(b) any proceedings instituted or action begun in any court under the repealed Act before the commencement of this Act and which has not been determined before the commencement of this Act continues until determined under the repealed Act;

(c) any fee paid under the repealed Act is taken to have been made or authorised under this Act;

(d) any authorisation granted under the repealed Act is taken to have been granted under a corresponding provision in this Act;

(e) any application made under the repealed Act is taken to have been made under a corresponding provision under this Act.

SCHEDULE 1

OATH OF OFFICE

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

*State only relevant title/position

SCHEDULE 2

FORM 1 – APPLICATION FOR REGISTRATION

NAME (in full): ……

DATE OF BIRTH: .....

ANY NAME PREVIOUSLY USED: .....

TO THE ELECTORAL COMMISSIONER:

1. I am a Nauruan citizen.

2. My place of birth was registered as the District of.....

3. My name is at present not entered on any roll.

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

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

Tick only one box

☐ Aiwo	☐ Denigomodu	☐ Anabar	☐ Ewa
☐ Anibare	☐ Ijuw	☐ Anetan	☐ Meneng
☐ Baiti	☐ Nibok	☐ Boe	☐ Uaboe
☐ Buada	☐ Yaren		

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

Tick one only of the following boxes:

☐ The District is registered as my place of birth in the Register of Births.

☐ I am living in the District now and have been living in the District for more than 1 month.

☐ I am living outside of Nauru and immediately before I ceased to live in Nauru I had been living the District for more than 1 month.

☐ My birth is not registered in the Register of Births and I have never lived in Nauru. *

☐ My birth is not registered in the Register of Births and I have never lived in 1 District for more than 1 month. *

☐ I have connection to that District through:

- ☐ Nauru custom, customary links and affiliation;
- ☐ My father/mother was born in that District;
- ☐ My father/mother is registered to vote in that District;
- ☐ It is the District of birth of my spouse.

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

DECLARED at Yaren District, Nauru

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

Signed:_____

Date:_____

Before me*:

……

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

FORM 2 – APPLICATION FOR TRANSFER OF REGISTRATION

NAME (in full): ……

DATE AND YEAR OF BIRTH: .....

ANY NAME FORMERLY USED: .....

TO THE ELECTORAL COMMISSIONER:

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

Tick only one box

☐ My name is at present not entered on any roll.

My name is registered on the Roll for:

Tick only one box

☐ Aiwo	☐ Denigomodu	☐ Anabar	☐ Ewa
☐ Anibare	☐ Ijuw	☐ Anetan	☐ Meneng
☐ Baiti	☐ Nibok	☐ Boe	☐ Uaboe
☐ Buada	☐ Yaren		

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

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

Tick only one box

☐ Aiwo	☐ Denigomodu	☐ Anabar	☐ Ewa
☐ Anibare	☐ Ijuw	☐ Anetan	☐ Meneng
☐ Baiti	☐ Nibok	☐ Boe	☐ Uaboe
☐ Buada	☐ Yaren		

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

Tick one only of the following boxes:

☐ The District is registered as my place of birth in the Register of Births.

☐ I am living in the District now and have been living in the District for more than 1 month.

☐ I am living outside of Nauru and immediately before I ceased to live in Nauru I had been living the District for more than 1 month.

☐ I have connection to that District through:

- ☐ Nauru custom, customary links and affiliation;
- ☐ My father/mother was born in that District;
- ☐ My father/mother is registered to vote in that District;
- ☐ It is the District of birth of my spouse.

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

DECLARED at Yaren District, Nauru

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

Signed:_____

Date:_____

Before me *:

……

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

Section 43(2)

FORM 3
DECLARATION IN SUPPORT OF APPLICATION FOR REGISTRATION OR TRANSFER OF REGISTRATION

I (name)…..... of (address)…....,

(occupation)…..... do solemnly and sincerely declare that:

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

2. I have known the applicant for (time)……..

I can attest from my own personal knowledge that the applicant:

(tick only one box)

☐ *lives in …..... District, and that the applicant has lived there for at least 1 month /immediately before the applicant ceased to live in Nauru, he or she had been living in …..... District for at least 1 month]; or

☐ has connection to that District through:

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

Signed:

Declared at …..... this ……. day of …....., ……..

Before me: (Signature and Date)

(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.

Section 42(1)(e)

SCHEDULE 3

CERTIFICATE BY ELECTORAL COMMISSIONER

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

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

Signed:

Electoral
Commissioner (Date)

SCHEDULE 4

NOTICE OF REASONS FOR REJECTION OF APPLICATION

TO: (name of applicant)

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

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

……

……..

……..

……..

……..

……..

……..

……..

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

Signed:

Electoral Commissioner
(Date)

Section 53(2)

SCHEDULE 5

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 seven (7) days after receiving this notice.

Signed:

Electoral Commissioner
(Date)

Section 55(1)

SCHEDULE 6

NOTICE TO A VOTER WHO FAILED TO VOTE

District of……..

Number on Roll…….

TO: (Name)……...

(Address)…….

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

You are required to:

(a) state, in the form attached, the reason why you failed to vote;

(b) complete and personally sign the form, and have it witnessed by a person registered as a voter; and

(c) return the form to reach me on or before (date) …..... .

NOTE:

1. A voter who:

   (a) fails to vote at an election without a valid and sufficient reason for that failure; or

   (b) on receipt of this notice, fails to complete, sign and return within the time specified in the notice, the form (duly witnessed) attached to it; or

   (c) states in that form a false reason for not having voted or, in the case of an voter completing the form on behalf of any other voter, states in that form a false reason why that other voter did not vote,

is guilty of an offence and is, on conviction, liable to a penalty not exceeding $100.

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

Signed:
Electoral Commissioner
(Date)

Section 55(2) and (3)

SCHEDULE 7

FORM OF DECLARATION TO BE COMPLETED AND RETURNED TO THE ELECTORAL COMMISSIONER

District of :……

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

……

…….....

.....

.....

.....

.....

.....

.....

.

……..
(signature of Voter)

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

(*Signature of Witness)*……

(Occupation)……

(Address)……

Date……
…

---

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

Section 56

SCHEDULE 8

FORM A

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

To the Electoral Commissioner

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

Given under my hand at Nauru, this (date) ……

Speaker of Parliament

FORM B

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

To the Electoral Commissioner

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

GIVEN under my hand at Nauru, this (date) ….....

Speaker of Parliament

_____

Section 60

FORM C

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

To the Electoral Commissioner

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

GIVEN under my hand at Nauru, this (date) .....

Speaker of Parliament

Section 57(a)

SCHEDULE 9

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 Voter)

.....
(name and signature of Voter)

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 registered.

SCHEDULE 10

OFFICE HOLDERS PRESCRIBED UNDER SECTION 59

(1) An officer who holds an office under the *Public Service Act* 2016;

(2) An officer who holds an office under the *Nauru Police Force Act* 1972;

(3) An officer who holds an office under the *Nauru Air Corporation Act 1995;*

(4) An officer who holds an office under the *Nauru Rehabilitation Corporation Act 1997;*

(5) An officer who holds an office under the *Nauru Utilities Corporation Act 2011;*

(6) An officer who holds an office under the *Nauru Fisheries and Marine Resources Authority Act* 1997;

(7) An officer who holds an office under the *Port Authority Act 2015;*

(8) An officer who holds an office under the *RONPHOS Act 2005;* and

(9) Any other officer who holds an office in any instrumentality of the Republic.

Section 70(1)

SCHEDULE 11

BALLOT-PAPER

Constituency of ……

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

CANDIDATES

☐ ……

☐ ……

☐ ……

☐ ……

☐ ……

DIRECTIONS TO VOTERS

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