LAWS OF KIRIBATI
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CHAPTER 29B

ELECTIONS

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12 of 1977
24 of 1977
L.N. 5 | 8

An Ordinance to reform and consolidate the law relating to elections

Commencement: 6th December 1977

PART I

PRELIMINARY

Short title

1. This Ordinance may be cited as the Elections Ordinance.

Application of Ordinance

2. This Ordinance shall be read subject to the provisions of Part I of Chapter V of the Constitution.

Interpretation

3. (1) In this Ordinance, unless the context otherwise requires—

"candidate" means a person submitting himself, in accordance

with this Ordinance, for election as a member of the Maneaba ni Maungatabu or of a council;

"council" means a local government council established under the provisions of the Local Government Ordinance; Cap. 51

"Court" means the High Court;

"election" means an election of a member of the Maneaba ni Maungatabu or a member of a council, and includes a bye-election;

"election petition" means an application under section 60 of the Constitution or under section 34;

"elector" means a person who is entitled to vote—

(a) by virtue of section 64 or 118 of the Constitution—at an election of a member of the Maneaba ni Maungatabu; or

(b) by virtue of section 8 of this Ordinance—at an election of a member of a council,

as the case requires;

"electoral district" means an electoral district constituted by section 5;

"Electoral Officer" means an Electoral Officer or Assistant Electoral Officer appointed under section 4 for the electoral district and, where the Chief Electoral Officer performs, by virtue of subsection (2), a function of an Electoral Officer, includes, in relation to the performance of that function, the Chief Electoral Officer;

"register of electors" means a register compiled for a ward of an electoral district in accordance with regulations made hereunder;

"resident", in relation to an electoral district, means resident within that district for the purpose of section 64 of the Constitution;

"ward" means a ward of an electoral district constituted in accordance with section 6.

(2) Subject to any directions of the Electoral Commission under the powers conferred by section 63 (1) of the Constitution, the Chief Electoral Officer may, if he thinks it expedient to do so, perform any function under this Ordinance of an Electoral Officer in relation to the election of a member of the Maneaba ni Maungatabu.

Appointment of Electoral Officers

4. (1) There shall be a Chief Electoral Officer who shall be appointed, subject to section 99 of the Constitution, by the Minis-

ter by notice and who shall have and exercise, subject to any directions of the Electoral Commission under the powers conferred by section 63 (1) of the Constitution, the powers conferred on him by or under this Ordinance.

(2) Subject to section 99 of the Constitution, the Chief Electoral Officer shall appoint an Electoral Officer for each electoral district and the Chief Electoral Officer may, in respect of any electoral district, appoint fit and proper persons to be Assistant Electoral Officers and those persons shall, subject to the directions of the Electoral Officer, have all the powers and functions of the Electoral Officer.

Electoral districts and return of elected representatives to the Maneaba ni Maungatabu
Schedule 1

5. For the purposes of returning elected members to the Maneaba ni Maungatabu, Kiribati shall be divided into the 23 electoral districts specified in the first column of Schedule 1 and each electoral district shall consist of the area specified in relation to that electoral district in the second column of Schedule 1 and return the number of members specified in the third column of Schedule 1.

Wards

6. (1) The Chief Electoral Officer shall by notice divide an electoral district into such number of wards as appear to him expedient or declare the whole of any such district to be 1 ward, and he may assign such name as may be appropriate to any ward so constituted.

(2) The Chief Electoral Officer shall take into account such views on the boundaries of wards as may be expressed to him by the inhabitants of the electoral district, and where the area proposed to be warded is within the area of authority of a council that council.

(3) The Chief Electoral Officer shall publish the description of the area of wards constituted by him under this section in such manner as appears to him to be adequate for the purposes of bringing the description of the area of each ward to the attention of its inhabitants.

Number of members of councils to represent each ward

7. For the purposes of returning members of a council, the Chief Electoral Officer shall, where a ward comprises or forms part of the area of authority of a council, specify by notice the number of members of such council who shall represent that ward.

Qualifications for registration and voting

8. (1) A person who is entitled under section 64 of the Constitution to be registered as an elector in an electoral district is entitled to be registered in respect of the ward within which he is resident at the time of registration.

(2) A person who is registered as an elector is entitled—

(a) to vote at an election of a member of the Maneaba ni Maungatabu for the electoral district in which he is registered; and

(b) where the ward in respect of which he is registered comprises or forms part of the area of authority of a council—to vote at an election of a member of the council for that ward.

Register of electors for each ward

9. (1) There shall be a register of electors for each ward of an electoral district which shall be compiled in accordance with the provisions of regulations made hereunder.

(2) No person may be registered in more than 1 ward whether in the same electoral district or otherwise.

PART II

ELECTIONS

Notice of election in elections for the Maneaba ni Maungatabu

10. (1) Whenever an election of a member or members of the Maneaba ni Maungatabu becomes necessary the Electoral Commission shall issue a notice of election which notice shall specify—

(a) a day on which the Electoral Officer for the electoral district shall receive nominations of candidates for election, which day shall not be earlier than 7 days from the date of the notice; and

(b) a day on which the poll is to be taken in case the election is contested, which day shall not be earlier than 28 days from the date of the notice.

(2) The Electoral Officer shall, within 5 days of the publication of a notice under subsection (1), publish in an appropriate manner in each ward of the electoral district a notice stating—

(a) the date, place and time at which nomination papers are to be delivered to him; and

(b) the date on which the registers of electors for the wards in that electoral district will be closed; and

(c) the date on which the poll is to be taken in case the election is contested; and

(d) the number of members to be elected.

Notice of election in elections for members of a council

11. Subject to any directions given by the Chief Electoral Officer, whenever an election of a member of a council becomes necessary the Electoral Officer for the electoral district in which the ward lies shall by notice—

(a) appoint a convenient day or days for the holding of such election:

Provided that such day or the first of such days shall be not less than 35 days after the date of the publication of the notice as aforesaid; and

(b) require the nominations in respect of persons submitting themselves for election to the Council to be delivered to the Electoral Officer not later than 4 p.m. on such day (being not later than 28 days before the date appointed for the election) as shall be specified; and

(c) state the date on which the register of electors will be closed.

Nomination of candidates

12. (1) Every person submitting himself for election shall be nominated by 3 electors in the electoral district or ward, as the case may be, for which he is a candidate, and no candidate may be nominated for more than 1 electoral district or ward, as the case may be.

Schedule 2

(2) The nomination shall be in the form set out in Schedule 2 and the nomination paper shall contain the following particulars—

(a) the full name, and the address and description of the candidate; and

(b) the full names, and the addresses and descriptions of the nominators of the candidate; and

(c) a certification by the candidate that he is willing and qualified to stand for election,

and shall be signed by the candidate.

(3) The Electoral Officer for the electoral district in which the election is to be held shall—

(a) provide nomination papers; and

(b) at the request of the candidate, complete a nomination paper on behalf of a candidate.

(4) In addition, the Chief Electoral Officer may provide nomination papers for an election of a member of the Maneaba ni Maungatabu.

(5) No elector shall nominate more than 1 candidate, and where any nomination paper contains the name of an elector

whose name appears on another nomination form as nominator of another candidate only the first nomination paper delivered in accordance with this section shall, subject to the provisions of this Ordinance, be valid and every other nomination paper containing the elector's name shall be null and void.

(6) Each candidate shall deliver his nomination paper signed as hereinbefore provided to the Electoral Officer not later than the time specified under section 10 (2) *(a)* or 11 *(b)*, as the case may be:

Provided that in the case of elections for the Maneaba ni Maungatabu nomination papers may be delivered to the Chief Electoral Officer not later than the time specified under section 10 (2) *(a)*.

Validity of nomination

13. (1) When any nomination paper is delivered to the Chief Electoral Officer or an Electoral Officer in accordance with section 12 (6), the candidate shall be deemed to stand nominated unless and until the Chief Electoral Officer or the Electoral Officer, as the case may be, decides that the nomination paper is invalid or proof is given to the satisfaction of the Chief Electoral Officer or the Electoral Officer, as the case may be, of the death of the candidate or the candidate withdraws in accordance with section 15.

(2) The Chief Electoral Officer or an Electoral Officer shall not be entitled to hold the nomination paper invalid except on 1 or more of the following grounds—

(a) that it is not in the form in Schedule 2 or that such form has not been properly completed; or

(b) that it is null and void by virtue of section 12 (4); or

(c) that the paper is not signed as required by law; or

(d) that he is not satisfied that 1 or more of the electors stated on the paper to be the candidate's nominators have consented to the nomination of the candidate; or

(e) that the nominators of the candidate or any of them are not persons whose names appear on the registers of electors in respect of 1 of the wards of the appropriate electoral district or the register of electors in respect of the appropriate ward, as the case may be; or

(f) that the candidate already stands nominated for another electoral district or ward, as the case may be; or

(g) that the candidate is not qualified to be a member of the Maneaba ni Maungatabu or of the council for which he is proposing to stand.

List of candidates to be published

14. (1) In the case of an election of a member of the Maneaba ni Maungatabu, the Electoral Officer shall within 48 hours of the expiry of the time allowed for the delivery of nomination papers under section 10 (2) *(a)* cause to be published at such places within the electoral district as he considers expedient, including the place of which notice has been given under section 10 (2) *(a)*, and in such manner as he may deem appropriate, a list containing the full names and addresses and descriptions of the candidates for that electoral district and the persons by whom they were nominated.

(2) In the case of an election of a member of a council, the Electoral Officer, not later than 21 days before the date fixed for the election, shall cause to be published within the ward, in such manner as he may deem appropriate, a list containing the full names, addresses and descriptions of the candidates for that ward and the persons by whom they were nominated.

Withdrawal of candidature

15. Any candidate may withdraw his candidature by notice in writing signed and delivered by him to the Electoral Officer not later than 4 p.m. on the day next before the day of election.

Unopposed candidates

16. Where, as a result of withdrawals in pursuance of section 15 or otherwise, there are the same number, or less than the number of candidates as there are members to be elected in any electoral district or ward, as the case may be, the Electoral Officer shall, at the close of the nomination period or on the last of the withdrawals, as the case may be, declare the candidate or candidates to be duly elected and shall report the names of the persons so elected to the Electoral Commission, in the case of an election of a member of the Maneaba ni Maungatabu, or the Chief Electoral Officer, in the case of an election to a council.

Death of candidates

17. (1) Where, after the expiration of the time allowed for the delivery of nomination papers by section 10 (2) *(a)*, but before the day of the poll, a candidate in an election of a member of the Maneaba ni Maungatabu dies, the Electoral Officer shall, upon being satisfied of the fact of death, countermand the election in respect of the electoral district for which the deceased was a candidate, and report his action to the Electoral Commission.

(2) Upon receipt of a report under subsection (1), the Electoral Commission shall in respect only of the electoral district so affected issue a notice of election in terms of section 10 (1) and the electoral procedure shall in respect of that electoral district be commenced *de novo*:

Provided that no new nomination shall be required in respect

of a candidate who, at the time of the countermand of the election, had been properly nominated in accordance with section 12.

(3) Where, after the expiration of the time allowed for the delivery of nomination papers by section 11 *(b)* but before the day of the poll, a candidate in an election of a member of a council dies, the Electoral Officer shall, upon being satisfied of the fact of death, countermand the election in respect of the ward for which the deceased was a candidate and shall appoint some other convenient day or days for the election and the election procedure shall commence *de novo*:

Provided that no new nomination shall be required in respect of a candidate, who, at the time of the countermand of the election, had been properly nominated in accordance with section 12.

Election procedure

18. (1) The poll at an election shall be taken and votes shall be cast and counted in accordance with regulations made hereunder.

(2) An elector shall not vote for more candidates than there are members to be elected nor record more than 1 vote in favour of any candidate at any 1 election.

PART III

ELECTION OFFENCES

Corrupt practices

19. (1) No election shall be valid if any corrupt or illegal practice is committed in connection therewith by the candidate elected.

(2) Where on an election petition it is shown that corrupt or illegal practices or illegal payments committed or made in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supported to have affected the result, the Court may declare his election, if he has been elected, to be void and he shall be incapable of being elected to fill the vacancy for which the election was held.

Penalty for false answer

20. Every person who falsely states to an officer appointed as a presiding officer for the purposes of regulations made hereunder that he is a person whose name appears in the register of electors or that he has not already voted at the election in question, knowing the statement to be false or not believing it to be true, shall be liable on conviction to a fine of $50 and to imprisonment for 3 months.

Offences in respect of nomination papers, etc.

21. (1) Every person who—

(a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to any person or authority to whom nomination papers are required by this Ordinance to be delivered any nomination paper knowing the same to be forged; or

(b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper provided in accordance with regulations made hereunder; or

(c) without due authority, supplies any ballot paper to any person; or

(d) fraudulently takes out of any polling station any ballot paper; or

(e) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of an election,

shall be liable on conviction to a fine of $100 and to imprisonment for 6 months.

(2) In any prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, counterfoils, and other things in use at an election, the property in such papers, boxes and things may be stated to be in the Electoral Officer at such election.

Infringement of secrecy

22. (1) The members of the Electoral Commission, the Chief Electoral Officer and every Electoral Officer, Assistant Electoral Officer, presiding officer, polling or other assistant appointed for the purposes of regulations made hereunder, candidate and agent shall maintain and aid in maintaining the secrecy of the voting in an election and shall not communicate, except for some purpose authorised by law, before the election is closed to any person any information as to the name or number on a register of electors of any elector who has or has not applied for a ballot paper or voted.

(2) No person shall interfere with or attempt to interfere with an elector when casting his vote, or otherwise attempt to obtain information as to the candidate for whom any elector is about to vote or has voted, or communicate at any time to any person information obtained during any election as to the candidate for whom any elector is about to vote, or has voted, or as to the number on the ballot paper given to any elector:

Provided always that this subsection shall not prohibit, limit or qualify any procedure prescribed by regulations made hereunder for recording the vote of any elector who is unable to read or is

incapacitated by blindness or other disability from casting his vote himself.

(3) A person to whom subsection (1) applies in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper.

(4) Every person who acts in contravention of this section shall be liable on conviction to a fine of $50 and to imprisonment for 3 months.

Penalty for bribery, treating and undue influence

23. Every person who is guilty of bribery, treating or undue influence shall be guilty of a corrupt practice and shall be liable on conviction to a fine of $100 and to imprisonment for 6 months.

Persons to be deemed guilty of bribery

24. The following persons shall be deemed to be guilty of bribery within the meaning of this Part—

(a) every person who directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure any money or valuable consideration to or for any elector or to or for any person on behalf of any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at any election; and

(b) every person who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure or to endeavour to procure, any office, place or employment to or for any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any elector having voted or refrained from voting at any election; and

(c) every person who directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person, in order to induce such person to procure, or to endeavour to procure, the return of any person or the vote of any elector at any election; and

(d) every person, who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures, or engages, promises or endeavours to procure, the

return of any person or the vote of any elector at any election; and

(e) every person who advances or pays, or causes to be paid, any money to or for the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who knowingly pays, or causes to be paid, any money to any person, in discharge or repayment of any money wholly or in part expended in bribery at any election; and

(f) every elector, who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees to receive, or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting, at any election; and

(g) every person who, after any election, directly or indirectly by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election:

Provided that this section shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bona fide* incurred at or concerning any election.

Persons to be deemed guilty of treating

25. The following persons shall be deemed to be guilty of treating within the meaning of this Part—

(a) every person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives, provides or pays, or promises to give, provide or pay, wholly or in part, the expense of giving or providing any food, drink, entertainment or provision to or for any person, for the purposes of corruptly influencing that person or any other person to vote or refrain from voting at such election, or on account of that person or any other person having voted or refrained from voting at such election; and

(b) every elector who corruptly accepts or takes any such food, drink, entertainment, or provision.

Persons to be deemed guilty of undue influence

26. Every person who directly or indirectly, by himself or by any other person on his behalf, makes use, or threatens to make use, of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any injury, damage, harm or loss, upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting, at any election, or who, by abduction, duress or any fraudulent means, impedes or prevents the free use of the vote by any elector and thereby compels, induces or prevails upon any elector either to give or refrain from giving his vote at any election shall be guilty of undue influence within the meaning of this Part.

Penalty for personation

27. Every person who is guilty of personation, or of aiding, abetting, counselling or procuring the commission of the offence of personation, shall be guilty of a corrupt practice and liable on conviction to a fine of $50 and to imprisonment for 3 months.

Persons to be deemed guilty of personation

28. Every person who at any election applies for a ballot paper in the name of another person or tenders a vote in the name of another person whether that name is the name of a person living or dead or of a fictitious person, or who, having voted once at any election, applies for a ballot paper or tenders a vote at the same election, in his own name, which he is not entitled to tender under regulations made hereunder, shall be guilty of personation within the meaning of this Part.

Incapacity entailed by conviction for corrupt practice

29. Every person who is convicted of a corrupt practice shall, in addition to any other punishment, be incapable, during a period of 5 years from the date of his conviction—

(a) of being registered as an elector or of voting at any election; and

(b) of being elected as a member of the Maneaba ni Maungatabu or a council, or, if elected before his conviction, of retaining his seat as such member.

Penalty for person guilty of certain illegal practices

30. Every person who—

(a) votes, or induces, or procures any other person to vote, at any election knowing that he or such other person is prohibited or is disqualified by the Constitution, this Ordinance or any other law for the time being in force from voting at such election; or

(b) before or during an election knowingly publishes any false statement of the withdrawal of a candidate at such election

for the purpose of promoting or procuring the election of another candidate,

shall be guilty of an illegal practice and shall be liable on conviction to a fine of $50 and to imprisonment for 3 months, and shall be incapable, during a period of 3 years from the date of his conviction, of voting at any election.

Interference with lawful public meeting to be an illegal practice

31. Any person who at a lawful public meeting, held in connection with any election between the date of publication of a notice issued under section 10 or 11 and the date on which the result of the election is published, acts or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice and shall be liable on conviction to a fine of $50 and to imprisonment for 3 months, and shall be incapable, during a period of 3 years from the date of his conviction, of voting at any election.

Display of emblems in vicinity of place of voting prohibited

32. (1) No person other than a candidate shall, within any building where voting in an election is in progress, or on any public way within a distance of 50 yards of any entrance to such building, wear or display any card, symbol, favour or other emblem indicating support for a particular candidate or political party, and no person shall within 200 yards of any such building make any public address indicating support for a particular candidate or political party.

(2) Any person acting in contravention of this section shall be liable on conviction to a fine of $25.

(3) For the purpose of this section, "public way" includes any highway, market place, square, street, causeway or other way which is lawfully used by the public.

Saving of offences under Cap. 67

33. Nothing in this Part shall be construed or deemed in any way to prejudice, derogate from or affect any of the provisions of the Penal Code as to offences relating to public offices or officers.

Questions as to elected members to be determined by Court

34. (1) All questions which may arise from any election as to the right of any person to be or remain an elected member of the Maneaba ni Maungatabu, or, as the case may be, of a council, shall be referred to and determined by the Court—

(a) in the case of a question relating to the Maneaba—on application in accordance with section 60 of the Constitution; and

(b) in the case of a question relating to a council—on application by the Attorney-General or an elector,

in accordance with the procedure prescribed by sections 35 and 36 for the presentation and hearing of an election petition, and the decision of the Court on any such petition shall be final and shall not be questioned in any other proceedings.

(2) Where the question to be decided concerns the right of any person to remain a member of the Maneaba ni Maungatabu or of a council, as the case may be, the Court shall certify its decision in writing to the Chief Electoral Officer, and where the Court has decided that any person is not entitled to remain a member such person shall thereupon cease to be a member.

Election petitions

35. For the purposes of section 60 of the Constitution and of section 34, an election petition may, within 1 month after the date of publication of the result of the election, be presented to the Court—

(a) in the case of an election of a member of the Maneaba ni Maungatabu—in accordance with section 60 of the Constitution; and

(b) in the case of an election of a member of a council—by—

(i) a person who had a right to vote at the election; or

(ii) a person who claims to have had a right to be returned or elected at the election; or

(iii) a person who claims that he was a candidate at the election.

Hearing of election petition

36. (1) Every election petition shall be heard by the Court in open court.

(2) During such hearing the Court may order—

(a) the opening of any sealed packet of counterfoils of used ballot papers; or

(b) the inspection of any counted ballot papers; or

(c) the inspection and production of tendered ballot papers and the tendered votes list; or

(d) the inspection and production of any rejected ballot papers:

Provided that in making and carrying into effect the order care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved that his vote was given and the vote has been declared by the Court to be invalid.

(3) At the conclusion of the hearing, the Court shall determine whether the member whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void, and shall certify such determination to the Electoral Commission, in the case of a petition relating to the Maneaba ni Maungatabu, or to the Chief Electoral Officer, in the case of a petition relating to a council, and, upon such certificate being given, such determination shall be final and shall not be questioned in any proceedings; and the election shall be confirmed, or a new election shall be held, as the case may require, in accordance with such certificate:

Provided that where the Court finds that any candidate who has been declared to be elected was not qualified or was disqualified at the time of his election, the Court shall determine the election to be void.

Procedure at hearing of election petition

37. Subject to this Ordinance, and without prejudice to any power to make rules under the Constitution, the Chief Justice may from time to time make rules for regulating the practice and procedure to be observed in relation to election petitions, and subject to such rules the procedure at the hearing of an election petition shall, as near as circumstances will admit, be the same, and the Court shall have the same powers, jurisdiction, and authority, as if the Court were hearing a civil action; and witnesses may be subpoenaed and sworn in the same manner, as near as circumstances will admit, as in the hearing of a civil action in the Court, and shall be subject to the same penalties for perjury.

PART IV

MISCELLANEOUS

Power to defer part of an election

38. (1) Notwithstanding anything to the contrary contained in this Ordinance, where the Electoral Commission, in the case of an election to the Maneaba ni Maungatabu, or the Chief Electoral Officer, in the case of an election to a council, is satisfied that by reason of storm or any other cause whatsoever, whether of the like nature or otherwise, it has not been or will not be possible to carry out any part of any election or to comply with any of the provisions of this Ordinance or of the regulations made hereunder relating to time, throughout the electoral district concerned or ward as the case may be, it or he may, within 14 days of the date originally appointed for that part, by notice appoint or direct the Electoral Officer to appoint a new date for such part and for any subsequent part of the election as may be necessary.

(2) Every date appointed under subsection (1) shall be deemed to have been appointed under the appropriate provisions of Part II or the regulations made hereunder, as the case may be, and shall afford all persons not less notice than is provided for in those provisions.

(3) In exercising its or his power under subsection (1), the Electoral Commission or the Chief Electoral Officer, as the case may be, may give such directions as it or he may consider necessary as to the deferment or suspension of the counting of votes pending receipt of the ballot boxes, papers and lists relating to any part of any election for which a new date is appointed, and for the safe custody of all ballot boxes, papers and lists already received.

(4) In subsection (1), "part", in relation to an election, includes any stage of an election and any act, matter or thing required to be done by any provision of this Ordinance or of regulations made hereunder.

Regulations

39. Subject, in the case of regulations relating to elections of members of the Maneaba ni Maungatabu, to Part I of Chapter V, and to sections 118 and 131 (1), of the Constitution, the Beretitenti, acting in accordance with the advice of the Cabinet, may make regulations for the election of members of the Maneaba ni Maungatabu and of councils including, without prejudice to the generality of the foregoing, regulations making provision in relation to—

(a) the registration of electors and the revision of registers of electors; and

(b) the holding of elections and the method of voting and of counting of votes; and

(c) determining how the result of an election shall be ascertained and the circumstances in which a further election shall be held.

Transitional provisions

40. (1) Any notice in force when this Ordinance shall come into operation and made under either regulation 3 or 4 of the Local Government (Election) Regulations shall be deemed to have been made under either section 6 or 7 of this Ordinance as the case may be, and shall remain in force until revoked by notice by the Chief Electoral Officer.

L.N. 9/66

(2) Any division of an electoral district into wards made in pursuance of regulation 12 of the Electoral Provisions (Legislative Council) Regulations 1971 shall be deemed to have been

L.N. 1/71

made under section 6 of this Ordinance and shall remain in force until revoked by notice by the Chief Electoral Officer.

SCHEDULE 1

(Section 5)

Electoral District	*Area*	*No. of Members*
1. Makin	The island of Makin	1
2. Butaritari	The island of Butaritari	2
3. Marakei	The island of Marakei	2
4. Abaiang	The island of Abaiang	2
5. Betio	The islet of Betio	3
6. Tarawa Teinainano	The area of authority of Teinainano Urban Council together with the islet of Tanaea	3
7. Rural Tarawa	The part of Tarawa Atoll not included in the Electoral Districts of Betio and Tarawa Teinainano	2
8. Banaba	Banaba	1
9. Maiana	The island of Maiana	1
10. Abemama	The island of Abemama	2
11. Aranuka	The island of Aranuka	1
12. Kuria	The island of Kuria	1
13. Nonouti	The island of Nonouti	2
14. North Tabiteuea	That part of Tabiteuea Atoll extending from the northern-most point to and including the islet of Nauketai	2
15. South Tabiteuea	That part of Tabiteuea Atoll not included in the North Tabiteuea Electoral District	1
* 16. Onotoa	The island of Onotoa	1
17. Beru	The island of Beru	2
18. Nikunau	The island of Nikunau	1
19. Tamana	The island of Tamana	1
20. Arorae	The island of Arorae	1
21. Washington	Washington Island	1
22. Fanning	Fanning Island	1
23. Kiritimati	Kiritimati	1

* As from dissolution of House after 21/8/80 Onotoa is to have 2 seats - see G.N. 3/81.

SCHEDULE 2

(Section 12)

NOMINATION PAPER

Electoral District/Ward for which the candidate seeks election .....
Date of election .....

1. I, the undersigned, am the candidate to whom this nomination paper refers, and I hereby state that I am willing to stand for election to the Maneaba

ni Maungatabu/ .....Council as a member for the .....
Electoral District/ as a member for the .....ward.

2. I also hereby state that I am qualified, and not disqualified, for election to the Maneaba ni Maungatabu/ .....Council in accordance with the law now in force.

Full name .....

Address .....

Description or occupation .....

The following persons have nominated me and are electors for the Electoral District/Ward for which I seek election.

1. Full Name .....
   Address .....
   Description or occupation .....
2. Full Name .....
   Address .....
   Description or occupation .....
3. Full Name .....
   Address .....
   Description or occupation .....

Signature of candidate .....

Date .....

Regulations under section 38

SUBSIDIARY LEGISLATION [Subsidiary]

ELECTIONS REGULATIONS L.N. 145/77
L.N. 18/78

Commencement: 6th December 1977

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the Elections Regulations.

PART II

REGISTER OF ELECTORS

Preparation of registers and publication

2. (1) Subject to any directions of the Electoral Commission under the powers conferred by section 63 (1) of the Constitution, the Electoral Officer for every electoral district shall compile and keep as provided herein a register of electors for each ward of the electoral district in the form set out in the Schedule.

(2) The register of electors shall be available for inspection by the public at the office of the Electoral Officer during normal office hours.

(3) The Chief Electoral Officer, with the approval of the Electoral Commission, may, in his discretion, direct, either generally or in respect of a particular electoral district or ward, that a new register or registers of electors shall be

[Subsidiary]

compiled and kept and, when he makes such a direction, the existing register or registers of electors shall be void and of no effect from the date specified in the direction.

Application to enter name in register

3. (1) Every person who desires and is entitled to be registered as an elector in any ward may make application in person to the Electoral Officer for the electoral district who shall, if he is satisfied that the applicant is entitled to be registered as an elector for that ward and is not registered as an elector in another ward, whether in that electoral district or elsewhere, enter the applicant's name and the date in the register of electors for that ward.

(2) When the Electoral Officer has entered the applicant's name in the register of electors in pursuance of subregulation (1), the applicant shall place his signature alongside the entry and the Electoral Officer shall allocate to the entry a number.

Removal of names

4. (1) An Electoral Officer shall strike off from a register of electors the name of every person appearing thereon where he is satisfied the person—

(a) has died; or

(b) has become disqualified or is no longer qualified to be registered as an elector for that electoral district; or

(c) is no longer resident within the electoral district:

Provided that at least 7 days before taking action to strike off the name of a person pursuant to paragraph *(b)* the Electoral Officer shall take such steps as he considers reasonable to inform that person of the action he proposes to take.

(2) An Electoral Officer shall strike off from a register of electors the name of a person where he is satisfied that that person's name appears in the register of electors for another ward, whether in that electoral district or elsewhere, and an Electoral Officer who enters the name of any applicant in a register of electors shall enquire of the applicant whether his name appears in the register of electors for another ward and, if the applicant answers in the affirmative, the Electoral Officer shall give notice to the Electoral Officer responsible for the compilation of the register of electors for that ward, who shall strike off the applicant's name from that register.

Closing of registers

5. (1) Whenever an election becomes necessary, the Electoral Officer shall close the registers of electors for every ward in which a poll is to be taken on the 14th day before such poll is taken and shall not re-open the said registers until the day after the poll has been taken or when a further election is to be held pursuant to regulation 26, until the day after the poll has been taken in that further election:

Provided that the Electoral Officer, if instructed by the Chief Electoral Officer, shall re-open the relevant register on any day before the poll and register as an elector any person who has satisfied the Chief Electoral Officer that he was unable to register before the closing of the register by reason of storm or any other unforeseeable cause whatsoever, whether of the like nature or otherwise.

(2) When a register of electors is closed in pursuance of subregulation (1), no addition or alteration thereto shall be made save to make an addition or alteration in pursuance of an application made under regulation 6 or to correct an error or omission or to strike off the name of a person appearing where the Electoral Officer is satisfied that that person's name also appears in the register of electors for another ward, whether in that electoral district or elsewhere.

Procedure as to objections

6. (1) Any person who has applied in pursuance of regulation 3 to be registered as an elector in any ward and whose name has not been entered in the

register of electors for that ward and any person whose name has been struck off from a register of electors in pursuance of regulation 4 may, provided that register has not been closed in pursuance of regulation 5, lodge a claim in writing with the Electoral Officer for that ward for his name to be entered or re-entered in the register of electors.

(2) Upon receiving a claim under subregulation (1), the Electoral Officer shall make such inquiry as he may deem advisable and after consideration of the claim and all evidence available thereon he shall, within a period of 7 days from receipt of the claim, either inform the claimant he has dismissed the claim or enter the name of the claimant in the register of electors for the ward.

(3) Where a claimant's name has been inserted in pursuance of subregulation (2), the Electoral Officer shall cause the claimant to place his signature alongside the entry and allocate to the entry a number.

Effect of registration

7. A register of electors shall be *prima facie* evidence for the purpose of determining whether or not a person is entitled to vote at an election:

Provided that nothing in this regulation shall entitle any person to vote at any election if he is not qualified or is disqualified from so voting by any law for the time being in force, or prevent an Electoral Officer from striking off from a register of electors the name of any person in pursuance of regulation 4 or of correcting an error or omission.

PART III

ELECTIONS

Notice of election

8. Whenever an election is to be contested, the Electoral Officer shall, at least 7 clear days before the day on which the poll is to be taken or, in the case of a further election held pursuant to regulation 26, at least 2 clear days before the day in which that poll is to be taken, issue a notice in such manner as he may think fit specifying—

(a) the day and the hours fixed for voting; and

(b) the full name, and the address and description of each candidate; and

(c) the full names, and the addresses and descriptions, of the persons who nominated each candidate; and

(d) the situation of each polling station and a statement of the persons entitled to vote thereat; and

(e) the number of persons to be elected.

Arrangements for elections

9. The Electoral Officer shall—

(a) provide 1 polling station for each ward; and

(b) appoint a person to be known as the presiding officer to be in charge of each polling station and such persons as may be necessary to assist the presiding officer, such persons to be known as polling assistants; and

(c) furnish each polling station in such a way that electors can, screened from observation, mark their votes; and

(d) provide each presiding officer with numbered ballot papers—

(i) containing the names of the nominated candidates (or in the case of a further election held pursuant to regulation 26 such nominated candidates as are entitled by virtue of regulation 26 (2) to be candidates at such further election, with the names of the other nominated candidates deleted) in alphabetical order and a deli-

mited space against each name where the elector may mark a cross in accordance with regulation 12 *(d)*; and

(ii) having counterfoils attached bearing a number that corresponds to the number on the ballot paper; and

(e) furnish each presiding officer with the register of electors for the ward; and

(f) do such other acts and things as may be necessary for conducting the poll in the manner provided in these regulations.

Ballot boxes

10. (1) The presiding officer shall cause to be placed in the polling station of which he is in charge 1 ballot box.

(2) Every ballot box shall be so constructed that a ballot paper can be placed inside it by an elector but cannot be taken out by him.

(3) Immediately before voting begins the presiding officer shall show the ballot box empty to any electors present so that they may see that it is empty and shall then lock and seal the box in such manner as to prevent the box being opened without breaking its seal.

PART IV

THE POLL

Hours of voting

11. Subject to any direction given by the Chief Electoral Officer in any particular case, the hours of voting shall be from 7 a.m. until 6 p.m.:

Provided that where the Electoral Officer is satisfied that by reason of storm or any other cause whatsoever, whether of the like nature or otherwise, the hours in which votes can be cast have been shortened, he may extend the hours of voting.

Method of voting

12. The voting at an election shall be conducted in the following manner—

(a) every elector desiring to record his vote shall present himself to the presiding officer at the polling station at which he is entitled to vote and shall identify himself to the presiding officer by such means as shall satisfy the presiding officer and the presiding officer, after satisfying himself that the name and signature of such elector appears on the register of electors and that he has not already voted, shall deliver to him a ballot paper; and

(b) immediately before the presiding officer delivers a ballot paper to an elector—

(i) the number of the elector in the register of electors shall be marked on the counterfoil; and

(ii) a mark shall be placed against the entry of the elector in the register of electors to denote that a ballot paper has been received, but without showing the number of the ballot paper which has been received; and

(c) the presiding officer may, and if required by a candidate or his agent shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions or any of them in the vernacular—

(i) Are you the person whose name is on the register of electors as follows *(reading the entry in the register)*?

(ii) Is this your signature *(indicating the signature which appears alongside the entry in the register)*?

(iii) Have you already voted at the present election at this or any other polling station? and

(d) an elector, on receiving a ballot paper, shall go immediately to the place provided under regulation 9 *(c)* for the marking of votes screened from observation and shall there secretly record his vote by marking a cross on his ballot paper in the delimited space provided for that purpose against the name of such number of candidates as correspond to the number of persons to be elected, and shall then place the ballot paper so marked in the ballot box:

Provided that the elector may if he so wishes mark a cross against the name of a lesser number of candidates than there are persons to be elected; and

(e) an elector shall not place on the ballot paper any writing or mark by which he may be identified; and

(f) an elector who has accidentally dealt with his ballot paper in such a manner that it cannot be used as a valid ballot paper may, on delivering such ballot paper to the presiding officer and after satisfying the presiding officer that the ballot paper has been spoilt by accident, obtain another ballot paper in the place of the paper so delivered up, (referred to hereinafter as a "spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled; and

(g) if an elector by reason of illiteracy, or of blindness or other physical disability, is unable to cast his vote, he shall call the presiding officer aside and tell him, no other person being present or within hearing, the name of the candidate or candidates for whom he wishes to vote, and the presiding officer shall record the elector's vote by marking the elector's ballot paper in accordance with the elector's wishes and placing the ballot paper so marked in the ballot box.

Admission of persons to polling station

13. (1) No person shall be permitted to vote at any polling station other than the one to which he has been allotted under regulation 8 *(d)*.

(2) The presiding officer shall regulate the admission of electors to the polling station, and shall exclude all other persons except candidates and any agents appointed in writing by them (being not more than 2 in number for each candidate in respect of each ward), polling assistants, police officers on duty, and any other person who in his opinion has lawful reason to be admitted.

Tendered ballot papers

14. (1) If a person representing himself to be an elector named in the register of electors applies for a ballot paper after another person has voted as such elector, the applicant shall, upon giving satisfactory answers to the questions set out in regulation 12 *(c)*, be entitled to receive a ballot paper in the same manner as any other elector but such ballot paper (hereinafter called a "tendered ballot paper") shall be of a colour different from the ordinary ballot papers, and shall be endorsed by the presiding officer with the name of the elector and his number in the register of electors and the elector shall when he has recorded his vote in accordance with regulation 12 *(d)* or *(g)* instead of putting the ballot paper in the ballot box return it to the presiding officer who shall set it aside in a separate packet, and such tendered paper shall not be counted by the Electoral Officer as hereinafter provided.

(2) The name of an elector who received a tendered ballot paper and his number on the register of electors shall be entered on a list to be called the tendered votes list, and this list shall be admissible in any legal proceedings arising out of the election.

[Subsidiary]

Conduct in polling

15. (1) The presiding officer shall keep order at the polling station.

(2) If any person misconducts himself in a polling station, or fails to obey any lawful order of the presiding officer, he may, by order of the presiding officer, be removed from the polling station by any police officer, or by any other person authorised by the presiding officer in that behalf, and a person so removed shall not, without the permission of the presiding officer, again enter the polling station during the day of the poll:

Provided that the powers conferred by this regulation shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of so voting.

Presiding officer's duties

16. (1) As soon as practicable after the termination of the voting the presiding officer shall make up into separate packets, and seal—

(a) the ballot box in use at the polling station, locked and sealed so as to prevent the introduction of additional ballot papers but with the key attached; and

(b) the unused and spoilt ballot papers, placed together; and

(c) the tendered ballot papers; and

(d) the counterfoils of the used ballot papers; and

(e) the tendered votes list,

and shall deliver the packets to the Electoral Officer together with the register of electors as marked.

(2) The packets shall be accompanied by a statement to be called the ballot papers account, prepared by the presiding officer, showing the number of ballot papers entrusted to him and accounting for them under the following heads—

(a) number of ballot papers in the ballot box; and

(b) number of spoilt ballot papers; and

(c) number of unused ballot papers; and

(d) number of tendered ballot papers.

PART V

THE COUNT

Counting of votes

17. The Electoral Officer shall make arrangements for counting the votes in the presence of the candidates, or agents appointed in writing by them (being not more than 1 in respect of each candidate), as soon as practicable after termination of the voting and shall, so far as is practicable, proceed continuously with the counting, allowing only reasonable time for refreshment, until it is complete.

Persons who may be present

18. Except with the consent of the Electoral Officer no person other than a member of the Electoral Commission, the Chief Electoral Officer, the Electoral Officer, and Assistant Electoral Officer, the candidates and their agents, and persons appointed as counters in accordance with arrangements made under regulation 17, may be present at the counting of votes.

Method of counting votes

19. The Electoral Officer shall open each ballot box and, taking out the ballot papers, shall, with the assistance of the counters, count and record the number of ballot papers in the ballot box and the number of votes marked thereon in favour of each candidate.

Votes not to be counted

20. (1) A ballot paper—

(a) on which anything is written or marked by which an elector can be identified other than the number imprinted thereon pursuant to regulation 9 *(d)*; or

(b) on which votes are given for more candidates than the elector is entitled to vote for; or

(c) which is unmarked or, subject to subregulations (2), (3) and (4) is marked otherwise than as required or permitted by regulation 12 *(d)*,

shall be void and shall not be counted.

(2) A ballot paper on which a vote is marked—

(a) elsewhere than in the proper place; or

(b) otherwise than by means of a cross; or

(c) by more than 1 mark,

shall not by reason thereof be deemed to be void if an intention that the vote shall be for 1 or other of the candidates clearly appears.

(3) Where, in respect of an election in which an elector is entitled to vote for more than 1 candidate, a ballot paper is marked with the correct or a lesser number of crosses and more than 1 cross appears in the same delimited space against the name of a candidate the paper shall not be deemed to be void, and the crosses appearing in the same delimited space shall be deemed to be 1 vote.

(4) Where an elector is entitled to vote for more than 1 candidate, a ballot paper shall not be deemed to be void by virtue of subregulation (1) *(c)* as respects any vote as to which no uncertainty arises, and that vote shall be counted.

Endorsement by Electoral Officer

21. The Electoral Officer shall endorse the word "rejected" on any ballot paper which pursuant to regulation 20 is not to be counted and, in the case of a ballot paper on which any vote is counted under regulation 20 (4), the words "rejected in part" and a note specifying the votes counted, and shall add to the endorsement the words "rejection objected to" if an objection is made by a candidate or agent to his decision.

Rejected ballot papers

22. The Electoral Officer shall prepare a statement showing the number of ballot papers rejected under the following heads—

(a) writing or mark by which the elector could be identified; and

(b) voting for more candidates than elector is entitled to; and

(c) void by virtue of regulation 20 (1) *(c)*; and

(d) rejected in part,

and shall on request allow any candidate or his agent a copy of the statement.

Electoral Officer's decision final

23. The decision of the Electoral Officer as to any question arising in respect of any ballot paper shall be final, and shall be subject to review only on an election petition questioning the election.

Electoral Officer's duties at conclusion of counting

24. Upon the conclusion of the counting of votes, the Electoral Officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packets of tendered ballot papers or the sealed packet containing the counterfoils of used ballot papers but shall proceed, in the presence of the candidates or their agents, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers from the corresponding ballot box recorded in accordance with regulation 19, the unused

[Subsidiary]

and spoilt papers in his possession and the tendered votes list, and shall reseal each packet after examination. The Electoral Officer shall prepare a statement as to the result of the verification and shall, on request, allow any candidate or his agent to copy such statement and send a copy to the Chief Electoral Officer.

PART VI

THE RESULT

Declaration of result

25. When the result of the poll has been ascertained, the Electoral Officer shall forthwith declare to be elected the candidate, or in the case of an election for which 2 or 3 members are to be elected, the 2 or 3 candidates as the case may be, for whom the greatest number of votes have been cast, and shall also declare the number of votes for each and every candidate, whether elected or not:

Provided that the Electoral Officer shall not declare any candidate to be elected unless the number of votes cast in favour of that candidate is in excess of one-half of the total number of ballot papers counted in accordance with regulation 19.

Further election in certain circumstances

26. (1) If, by virtue of the operation of the proviso to regulation 25, a vacancy or vacancies remain to be filled after the result of the poll has been ascertained or an equality of votes is found to exist between any candidates so that (by virtue of the provisions of regulation 25 or subregulation (3)) an addition of a vote would entitle either one of them but not the other to be declared elected, the Electoral Officer shall report the fact to the Electoral Commission, in the case of an election of a member of the Maneaba ni Maungatabu, or the Chief Electoral Officer, in the case of an election of a member of a council, who shall order that another election shall be held and a poll taken on such day as it or he shall specify for the purpose of determining which of the candidates who failed to secure a number of votes in excess of one-half of the total number of ballot papers counted, or between whom the equality of votes was found to exist, shall fill the vacancy or vacancies in question. At such election only the candidates who failed to secure a number of votes in excess of one-half of the total number of ballot papers counted and who qualify under subregulation (2), or between whom the equality of votes was found to exist, shall be entitled to be candidates and no new nominations shall be required in respect of any of them.

(2) Where another election is to be held by virtue of the operation of the proviso to regulation 25, of the candidates who failed to secure a number of votes in excess of one-half of the total number of ballot papers counted, the following shall be entitled to be candidates at such election—

(a) where 1 vacancy remains to be filled, the 3 candidates for whom the greatest number of votes were cast in the 1st election;

(b) where 2 vacancies remain to be filled, the 4 candidates for whom the greatest number of votes were cast in the 1st election;

(c) where 3 vacancies remain to be filled, the 5 candidates for whom the greatest number of votes were cast in the 1st election,

and in ascertaining the candidates for whom the greatest number of votes were cast for the purpose of this paragraph, a candidate who received a number of votes in excess of one-half of the total number of ballot papers counted and thereby was declared to be elected in the 1st election shall be ignored, and where there is an equality of votes between candidates such that a determination of the correct number of candidates for whom the greatest number of votes were cast is not possible, all of the candidates between whom there was the equality of votes shall be candidates.

(3) When the result of the poll at such further election has been ascertained the Electoral Officer shall declare to be elected the candidate, or if there are 2 or

3 vacancies remaining to be filled the 2 or 3 candidates, for whom the greatest number of votes have been cast at such further election, and shall also declare the number of votes for each and every candidate at that election whether elected or not.

Notification to successful candidates and publication of result

27. At the conclusion of an election the Electoral Officer shall—

(a) notify the successful candidates in writing; and

(b) notify the Chief Electoral Officer of the result; and

(c) cause the result to be published locally in such manner as to him may seem appropriate.

PART VII

MISCELLANEOUS

Custody of documents, etc.

28. (1) The Electoral Officer shall ensure the safe custody of all documents relating to the conduct of the election.

(2) The Electoral Officer shall cause all such documents to be destroyed after the expiration of 6 months from the date of the poll unless otherwise directed by an order of the Court:

Provided that the register of electors shall not be destroyed.

Powers of polling assistants

29. A polling assistant may be authorised by a presiding officer to do any act which the presiding officer is required or authorised to do at a polling station by these regulations, except that he may not order the arrest of any person, or the exclusion or removal of any person from the polling station.

Non-attendance of agents not to invalidate proceedings

30. Where in these regulations any act or thing is required or authorised to be done in the presence of the candidates or agents appointed by them, the non-attendance of any candidate or agent at the time and place appointed for the purpose shall not, if that act or thing is otherwise properly done, invalidate the act or thing done.

Non-compliance with regulations

31. No election shall be invalid by reason of non-compliance with these regulations (or any regulations amending or replacing these regulations), if it appears that the election was conducted in accordance with the principles laid down in any such regulations, or that such non-compliance did not affect the result of the election.

SCHEDULE

(Regulation 2)

ELECTIONS REGULATIONS

REGISTER OF ELECTORS

Electoral District ..... Ward .....

DECLARATION OF WARDING UNDER SECTION 6

L.N. 148/77

Each of the following electoral districts has been declared to be 1 ward for the purposes of the Ordinance, the ward comprising the whole of the area of the electoral district—

Banaba, Washington Island, Fanning Island, Kiritimati.