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Electoral (Proxy Voting) Regulations 2016

SL No 9 of 2016

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Electoral (Proxy Voting) Regulations 2016

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The Electoral Commission makes the following regulations under the *Electoral Act 2016*

IN ACCORDANCE with Sections 78 and 136(e) of the Electoral Act 2016 the Electoral Commission makes the following regulations:

PART 1 — PRELIMINARY MATTERS

Citation

These Regulations may be cited as the *Electoral (Proxy Voting) Regulations 2016*

Commencement

These Regulations commence on the day after the day on which they are published in the Gazette.

Interpretation

In these Regulations the Electoral Act 2016 is referred to as “the Act”, and a reference to “Returning Officer” includes “Electoral Commissioner”.

PART 2-APPLICATION FOR PROXY VOTING AUTHORISATION AND DETERMINATION OF APPLICATION

4. Application for proxy voting authorisation
1. An voter who is entitled to vote at a particular election but who will not be in Nauru on the polling day for the election may (in line with subsections (1) and (5) of Section 78 of the Act) make an application to the Returning Officer for a proxy voting authorisation after the closing of the Roll specified in Section 52(2) of the Act.
2. The proxy nominated by the voter in the application:

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1. must be entitled to vote; and
2. must be enrolled on the same Roll as the voter; and
3. must not be under a sentence, or subject to be sentenced, for an offence punishable by imprisonment for 3 years or more; and
4. must not be proxy, or have been nominated as proxy, for more than 4 other voters.
- (3) The application must be received by the Returning Officer at least 24 hours before polling commences.
- (4) The application must be in the form of Form 1 in Schedule 1 and must comply with the following:
 - (a) Part A must be signed by the applicant whose signature must be witnessed in line with subregulation (5); and
 - (b) Part B must be signed by the nominated proxy.
- (5) The witness must be 1 of the following:
 1. Returning Officer;
 2. Commissioner for Oaths;
 3. Nauru Permanent Representative to the United Nations (New York);
 4. Nauru Ambassador to Republic of China (Taiwan— Taipei);
 5. Nauru High Commissioner to Fiji (Suva);
 6. Nauru Consul General to Australia (Brisbane);
 7. Nauru Consul General to Thailand (Bangkok);
 8. Nauru Honorary Consul to India (New Delhi);
 9. Nauru Honorary Consul to the United Kingdom (London);
 10. Nauru Honorary Consul to Belgium (Brussels);
 11. Nauru Honorary Consul to Israel (Jerusalem);
 12. a person in a country other than Nauru who is a legal practitioner, notary public, commissioner of oaths or justice of the peace under the law of the country ; or
 13. any other person appointed by the Returning Officer to be a witness.
- (6) If the applicant is not in Nauru when the application is signed:

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1. a paper copy of the application may be signed by the applicant and attested by the witness and then scanned and emailed to the email address provided by the Returning Officer; and
 2. the nominated proxy may either sign the paper copy before it is scanned and emailed or add his or her signature to a paper copy of the emailed application; and
 3. the application will be taken to have been delivered to the Returning Officer when a copy is received by the Returning Officer bearing the signature or a scanned copy of the signature of the applicant, witness and nominated proxy as set out above.
- 5) **Determination of application for proxy voting authorisation**
- (1) Subject to subregulations (2) and (3), the Returning Officer must, on application, grant a proxy voting authorisation if:
 1. the application complies with regulation 4 ; and
 2. the Returning Officer is satisfied that:
 1. the applicant is entitled to vote at the election; and
 2. the nominated proxy is eligible to act as proxy for the applicant, that is, the person has satisfied the requirements set out in regulation 4 (2)(a) to (d) above.
 - (2) The Returning Officer may refuse to grant a proxy voting authorisation if the Returning Officer is not satisfied of any of the following:
 1. the applicant has exercised free will in deciding to make the application for the authorisation;
 2. the applicant will be outside Nauru on polling day;
 3. the nominated proxy has exercised free will in consenting to be proxy;
 4. the nominated proxy understands the responsibilities of a proxy;
 5. the nominated proxy will vote in accordance with the instructions of the applicant.
 - (3) The Returning Officer may refuse to grant a proxy voting authorisation if the Returning Officer has reasonable grounds to believe that the applicant has been induced by another, whether by threats or promises or otherwise, to vote by proxy.
 - (4) If the Returning Officer grants a proxy voting authorisation, the Returning Officer must make the authorisation in the form of Form 2 set out in Schedule 1 available for collection by the proxy before polling day or at the polling place on polling day.