



REPUBLIC OF NAURU

ELECTORAL (AMENDMENT) ACT 2021

No. 18 of 2021

An Act to amend the *Electoral Act 2016*.

Certified: 14th September 2021

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Electoral (Amendment) Act 2021*.

2 Commencement

This Act commences on certification by the Speaker.

3 Amendment of the Electoral Act 2016

The *Electoral Act 2016* is amended by the provisions of this Act.

4 Amendment of Section 3

Section 3 is amended by inserting the following term and its definition in alphabetical order:

“Registrar” means the Registrar of the Electoral Commission appointed under Section 24;’

5 Amendment of Section 4

Section 4 is amended by deleting and substituting subsections (2) and (3) as follows:

‘(2) The composition of the Electoral Commission shall consist of 3 Electoral Commissioners appointed under Section 14.

(3) The Electoral Commissioners shall swear an oath of office before a Judge of the Supreme Court as provided in Schedule 1.’

6 Amendment of Section 7

Section 7 is amended by:

(a) deleting ‘No member, officer, staff or agent of the Electoral Commission, shall’ at the beginning of the provision and substituting with ‘The Office of the Electoral Commission, Electoral Commissioners, Registrar, presiding officers and other election officials and staff shall not’; and

(b) deleting ‘in the Electoral Commission, Electoral Commissioner, Deputy Electoral Commissioners, presiding officers and other election officials’.

7 Amendment of Section 8

Section 8 is deleted and substituted as follows:

‘8 Meetings of the Electoral Commission

(1) The Electoral Commission shall meet as and when required to for the purposes of carrying out its functions or exercising its powers in accordance with this Act.

- (2) The quorum for a meeting of the Electoral Commission shall not be less than 2 Electoral Commissioners at any given time.
- (3) The decision of the majority of the Electoral Commissioners present at the meeting shall be the decision of the Electoral Commission.
- (4) Where in a meeting of the Electoral Commission, only 2 Electoral Commissioners are present and a majority decision is not reached, the Electoral Commission shall re-constitute with the 3 Electoral Commissioners to reconsider its decision.
- (5) The secretary shall attend all meetings of the Electoral Commission and in his or her absence from the Republic, the Registrar shall in consultation with the Electoral Commissioners, nominate a senior staff of the Electoral Commission to attend and perform the secretary's functions in such meetings.
- (6) The secretary shall keep minutes of the meetings of the Electoral Commission as records of the Electoral Commission.
- (7) The minutes of the meetings with any amendment shall be adopted by the Electoral Commission in a subsequent meeting, which shall be executed by the secretary, as the record of the meeting.
- (8) The Electoral Commission shall determine its own procedure for its meetings.'

8 Amendment of Section 15

Section 15 is amended by deleting subsection (3).

9 Amendment of Section 16

Section 16 is amended as follows:

- (a) by renumbering the current provision as subsection (1);
- (b) in the renumbered subsection (1) by:
 - (i) deleting 'No' and substituting with 'A';
 - (ii) inserting the word 'not' before 'qualified'; and
 - (iii) deleting 'as the' before Electoral Commissioner and substituting with 'or hold the office of an'; and
- (c) by inserting new subsections (2) and (3) as follows:
 - '(2) An Electoral Commissioner shall be deemed to be disqualified from holding office as an Electoral Commissioner and that office becomes immediately vacant, where he or she:
 - (a) intends to be a candidate in an election; or

- (b) has actual or constructive knowledge that his or her parent, spouse, son, daughter, brother or sister intends to be a candidate in an election.
- (3) Where an Electoral Commissioner knowingly continues to hold office as an Electoral Commissioner with actual or constructive knowledge of the matters contained in subsection (2), he or she:
 - (a) is not qualified to contest an election; and
 - (b) commits an offence of abuse of public office under the *Crimes Act 2016*.’

10 Amendment of Section 20

Section 20(2) is amended by:

- (a) deleting the word ‘the’ after ‘Section 19,’ and substituting with ‘an’; and
- (b) deleting ‘Deputy Electoral Commissioners’ and substituting with ‘Registrar’.

11 Amendment of Section 23

Section 23 is deleted and substituted as follows:

‘23 Removal of Electoral Commissioner

- (1) An Electoral Commissioner may not be removed from office on the grounds of incapacity, negligence, incompetence or misconduct except by a resolution of Parliament approved by not less than two-thirds of the total number of members of Parliament.
- (2) This Section does not apply to an Electoral Commissioner who is not qualified to hold the office of an Electoral Commissioner under Section 16.’

12 Amendment of Section 24

Section 24 is deleted and substituted as follows:

‘24 Registrar of the Electoral Commission

- (1) There shall be a Registrar of the Electoral Commission, who shall be:
 - (a) the administrative head of the Electoral Commission; and
 - (b) the secretary to the Electoral Commission.
- (2) The Registrar shall be appointed by the President acting on the advice of the Cabinet.
- (3) The Registrar shall be appointed for a period of 4 years on terms and conditions approved by the Cabinet.