



REPUBLIC OF NAURU

ELECTORAL (AMENDMENT) BILL 2019

No. of 2019

A Bill for an Act to amend the *Electoral Act 2016*

Certified: []

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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 2019*.

2 Commencement

This Act commences upon 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 in alphabetical order:

'early voting' refers to the provision of facilities to allow those voters who, due to specific circumstances prescribed by the Commission, cannot attend a polling station on polling day to vote prior to polling day;

5 Amendment of section 39

Section 39(2) is repealed and replaced as follows:

'(2) Every person is entitled to have his or her name in the Roll for the District for which he or she is registered under section 9 of the *Births Deaths and Marriages Registration Act 2017*.'

6 Amendment of section 42

Section 42 is amended:

(a) in subsection (1) (c) by deleting 'section 6(1) of the Births, Deaths and Marriages Act 1957' and substituting 'section 9 of the *Births Deaths and Marriages Registration Act 2017*;

(b) in subsection (1) (d) by deleting 'section 6(3) of the Births, Deaths and Marriages Act 1957' and substituting 'section 8 of the *Births Deaths and Marriages Registration Act 2017*;

(c) in subsection (2) (b)(ii) by deleting 'section 6(3) of the Births, Deaths and Marriages Act 1957' and substituting 'section 8 of the *Births Deaths and Marriages Registration Act 2017*;

(d) insert new subsection (3):

'(3) For the purposes of this section, a reference to '*Nauruan custom or customary links and affiliation*' refers to *customary adoptions, de facto relations or land ownership*.'

7 Amendment of section 56

A new subsection (3) is inserted:

‘(3) The Speaker shall issue a writ of election for the purposes of this Act and where required by the Constitution.’

8 Amendment of section 58

Section 58 is amended by:

(a) deleting the words ‘no later than 12:00pm 8 days before polling day’ where they appear and substituting ‘within 72 hours after the close of nominations’;

(b) renumbering the clause into 2 subclauses; and

(c) inserting a new subclause (2) as follows:

‘(2) A candidate for election as a member may have his or her nomination withdrawn if it is determined by the Electoral Commissioner that the candidate is not qualified to be a Member of Parliament under Articles 30 and 31 of the Constitution.’

The clause now reads:

58 Withdrawal of candidature from election

(1) A person who has been nominated as a candidate for election as a member may, by notice in writing given to the Electoral Commissioner within 72 hours after the close of nominations, withdraw his or her candidature for that election.

(2) A candidate for election as a member may have his or her nomination withdrawn if it is determined by the Electoral Commissioner that the candidate is not qualified to be a Member of Parliament under Articles 30 and 31 of the Constitution.

9 Amendment of section 59

Section 59(3) is repealed and replaced as follows:

‘(3) The holder of an office of profit in the service of Nauru as prescribed under subsection (1), shall:

(a) in the case of a by-election;

(b) in the case of a supplementary election; or

- (c) where Parliament is dissolved less than 3 years from the date of its first sitting under Article 41(7) of the Constitution and elections are held following that dissolution, -

resign within 5 days from the date the writ of election is published under section 56.'

10 Repeal and replace section 60

Section 60 is repealed and replaced as follows:

'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 within 72 hours after the close of nominations, a candidate dies.
- (2) Where an election for one or more of the constituencies 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 the respective constituency or constituencies.
- (3) Where an election for a constituency fails in consequence of the death of a candidate, the supplementary election must be held on the Roll prepared for the purpose of the failed election.
- (4) For the purpose of issuing a new writ under subsection (2), the Speaker continues to hold the authority to issue the new writ until such time a new Speaker is elected.
- (5) For the avoidance of any doubt, where a new Speaker is elected, he or she shall issue the new writ for the purposes of subsection (2).
- (6) In the absence of the Speaker or where the Speaker is unable to perform the function under subsection (4), the Deputy Speaker shall perform such function.'