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G.N.No. 854/2022

**ELECTORAL (PROXY VOTING) (AMENDMENT) REGULATIONS 2022**

**SL No. 28 of 2022**

Notified: 30<sup>th</sup> August, 2022

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The Cabinet makes these Regulations under Sections 78 and 136(e) of the *Electoral Act 2016*:

**1 Citation**

These Regulations may be cited as the *Electoral (Proxy Voting) (Amendment) Regulations 2022*.

**2 Commencement**

These Regulations commence on the day they are notified in the Gazette.

**3 Amendment to the Electoral (Proxy Voting) Regulations 2016**

These Regulations amend the *Electoral (Proxy Voting) Regulations 2016*.

**4 Amendment of Regulation 3**

Regulation 3 is amended by deleting ‘*In these Regulations, the Electoral Act 2016 is referred to as “the Act”, and a reference to “Returning Officer” includes “Electoral Commissioner”.*’ and substituting as follows:

‘*In these Regulations:*

‘**polling place**’ means a polling station notified under Section 62 or location for polling notified under Section 78A(6) of the Act; and

‘**Returning Officer**’ means an Electoral Commissioner serving as the Returning Officer under Section 19(3) of the Act.’.

**5 Amendment of Regulation 4**

Regulation 4 is deleted and substituted as follows:

**‘4 Application for proxy voting authorisation**

(1) A voter who is entitled to vote at a particular election but who will not be in the Republic on the polling day for the election may in accordance with Section 78(1) and (5) of the Act make an application to the Returning Officer for a proxy voting authorisation after the closing of the Roll under in Section 56(2) of the Act.

(2) The proxy nominated by the voter in the application shall:

(a) be entitled to vote;

(b) be enrolled on the same Roll as the voter;

(c) not be under a sentence, or subject to be sentenced, for an offence punishable by imprisonment for 3 years or more; and

(d) not be proxy for more than 4 voters.

(3) The application shall be received by the Returning Officer:

(a) at least 24 hours before the early voting commences where the proxy is to vote on the first day of the early voting;

(b) at least 24 hours before the proxy casts his or her vote during the early voting polling period; or

(c) at least 24 hours before the polling day.

(4) The application shall be in Form 1 in Schedule 1 and shall comply with the following:

(a) Part A shall be signed by the applicant, whose signature shall be witnessed by a person referred to under subregulation (5); and

(b) Part B shall be signed by the nominated proxy.

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(5) *The witness shall be one of the following:*

- (a) *Returning Officer;*
- (b) *Commissioner for Oaths;*
- (c) *Nauru Permanent Representative to the United Nations (New York);*
- (d) *Nauru Ambassador to Republic of China (Taiwan — Taipei);*
- (e) *Nauru High Commissioner to Fiji (Suva);*
- (f) *Nauru Consul General to Australia (Brisbane);*
- (g) *Nauru Consul General to Thailand (Bangkok);*
- (h) *Nauru Honorary Consul to India (New Delhi);*
- (i) *Nauru Honorary Consul to the United Kingdom (London);*
- (j) *Nauru Honorary Consul to Belgium (Brussels);*
- (k) *Nauru Honorary Consul to Israel (Jerusalem);*
- (l) *a person in a country other than the Republic who is a legal practitioner, notary public, commissioner of oaths or justice of the peace under the law of the country; or*
- (m) *any other person appointed by the Returning Officer to be a witness.*

(6) *Where the applicant is not in the Republic when the application is signed:*

- (a) *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;*
- (b) *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*
- (c) *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.*

(7) *For the purposes of subregulation (1), a voter is deemed as not being in the Republic on polling day where the voter:*

- (a) *has tested positive for Coronavirus (COVID-19); and*
- (b) *is subject to an order made under a written law to be in mandatory isolation.’.*

## **6 Insert new Regulation**

A new Regulation 4A

### ***‘4A. Written confirmation for application by person in mandatory isolation***

- (1) *For the purposes of Regulation 4(7), a voter making an application under Regulation 4(1), shall submit a:*
  - (a) *form required under Regulation 4(4);*
  - (b) *written confirmation by a registered health practitioner that the voter has tested positive for Coronavirus (COVID-19); and*
  - (c) *written confirmation from a registered health practitioner that the voter is required to or is under a mandatory isolation order.*
- (2) *Notwithstanding Regulation 4(3), an application made for the purposes of Regulation 4(7) shall be received by the Returning Officer before 1.00pm on polling day.*

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- (3) *For the purposes of allowing a person to vote through proxy voting under this Regulation, the witnessing of his or her application shall be conducted in accordance with Regulation 7 of the Electoral (Remote Witnessing) Regulations 2019.*

## **7 Amendment of Regulation 5**

Regulation 5 is amended:

- (a) in subregulation (1) by deleting 'and' at the end of paragraph (b)(i), by deleting and substituting the fullstop at the end of paragraph (b)(ii) with '; and' and by inserting a new subparagraph (iii) as follows:

*'(iii) the application by a voter submitted for the purposes of Regulation 4(7) is accompanied by a written confirmation required under Regulation 4A.'*; and

- (b) in subregulation (4) by deleting it and substituting as follows:

*'(4) Where the Returning Officer grants a proxy voting authorisation, the Returning Officer shall make the authorisation in Form 2 of Schedule 1 available for collection by the proxy:*

- (a) from the Electoral Commission's office; or  
(b) at a polling station.'*

## **8 Amendment of Regulation 7**

Regulation 7 is amended:

- (a) in subregulation (1) by deleting 'A' and substituting with '*Subject to subregulation (6), a*';
- (b) in subregulation (2) by deleting 'The' and substituting with '*Subject to subregulation (7), the*'; and
- (c) by inserting new subregulations (6) and (7) as follows:

*'(6) A voter who seeks to vote through a proxy, shall not be permitted to withdraw or change his or her proxy, after a duly appointed proxy has cast his or her vote.*

*(7) An application to withdraw or change a proxy:*

*(a) shall not be accepted for processing by the Returning Officer where the earlier nominated proxy has already cast the vote; and*

*(b) the Returning Officer shall inform the voter of the reason for not accepting any subsequent application or withdrawal or change of a proxy.'*

## **9 Amendment of Regulation 11**

Regulation 11(2) is amended by inserting '*before the proxy has cast the vote*' after '*withdrawn*'.

## **10 Amendment of Regulation 12**

Regulation 12(1) is amended by inserting '*before the proxy has cast the vote*' after '*withdrawn*'.