

THE ISLAND OF NAURU.

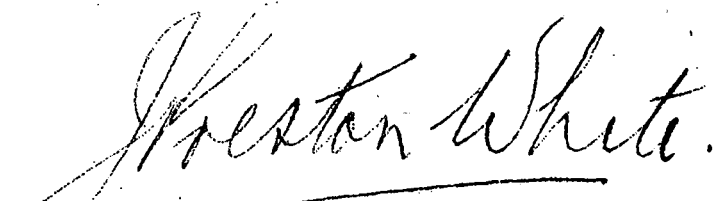
No. 5 of 1959.

A N O R D I N A N C E

To amend the Nauru Local Government Council Ordinance 1951-1956.

I, the Administrator of the Island of Nauru, in pursuance of the powers conferred by Article 1 of the Agreement dated the second day of July, 1919, between the Government of the United Kingdom, the Government of the Commonwealth of Australia and the Government of New Zealand, hereby make the following Ordinance.

Dated this thirtieth day of October, 1959.


Administrator of the Island of Nauru.

NAURU LOCAL GOVERNMENT COUNCIL ORDINANCE 1959.

Short title
and citation.

1.-(1.) This Ordinance may be cited as the Nauru Local Government Council Ordinance 1959.

(2.) The Nauru Local Government Council Ordinance 1951-1956 is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the Nauru Local Government Council Ordinance 1951-1959.

Parts.

2. Section two of the Principal Ordinance is amended by omitting the words -

"Division 2. - Election of Councillors (Sections 11-34)." and inserting in their stead the words -

"Division 2. - Election of Councillors (Sections 11-34).

Division 2A. - Court of Disputed Elections (Sections 34A-34Q).".

Definitions.

3. Section three of the Principal Ordinance is amended -

(a) by inserting before the definition of

"Councillor" the following definition :-

"'Candidate', in relation to an election under this Ordinance, means a person nominated as a candidate in the election in accordance with section twenty-one of this Ordinance;"

(b) by inserting after the definition of "the Head Chief" the following definition :-

"The Registrar" means the person appointed as Registrar under Section 14 of this Ordinance; and

(c) by omitting from the definition of "the Returning Officer" the words "the Administrator, or".

Registrar and
Deputy
Registrar.

4. Section 14 of the Principal Ordinance is repealed and the following Sections are inserted in its stead :-

"14.--(1.) For the purposes of this Ordinance there shall be a Registrar who shall be appointed by the Administrator.

(2.) The Administrator may appoint a person to be the Deputy Registrar, who, subject to the control of the Registrar, shall have and exercise all the powers and functions of the Registrar, under this Ordinance.

14A. The Registrar shall cause to be kept in respect of each District a roll of the names of all Nauruans entitled to have their names entered upon the roll for that District.

Claims for enrolment and transfer of enrolment.

5. Section 16 of the Principal Ordinance is amended -

- (a) by omitting the word "Administrator" in sub-section (4.) and inserting in its stead the word "Registrar"; and
- (b) omitting sub-section (5.) and inserting in its stead the following sub-sections :-

"(5.) Where the Registrar is satisfied that a Nauruan who has made application, whether during or after the close of the period referred to in the last preceding sub-section, to have his name placed on, or transferred to, the roll for a District is entitled to have his name placed on or transferred to, as the case may be, that roll, he shall -

- (a) cause the name of the Nauruan to be placed on, or transferred to, that roll accordingly; and
- (b) cause the Nauruan to be notified of the action so taken.

"(6.) Where the Registrar is not satisfied that a Nauruan referred to in the last preceding sub-section is entitled to have his name placed on or transferred to, as the case may be, the roll for the District specified in his application, he shall reject the application of the Nauruan and cause the Nauruan to be notified of the rejection.".

Alteration
of rolls.

6. Section 17 of the Principal Ordinance is amended -

(a) by omitting from sub-section (1.) the word "Administrator" and inserting in its stead the word "Registrar";

(b) by inserting after sub-section (1.) the following sub-section :-

"(1A.) Where the Registrar has caused to be struck off a roll the name of a Nauruan, he shall, unless the Nauruan is dead or has ceased to reside in Nauru, cause the Nauruan to be notified of the action so taken."; and

(c) by omitting from sub-section (2.) the word "Administrator" and inserting in its stead the word "Registrar".

7. After section seventeen of the Principal Ordinance the following section is inserted :-

"17A.-(1.) A person -

(a) whose application to the Registrar to have his name placed on, or transferred to, the roll for a District has been rejected under sub-section (6.) of section sixteen of this Ordinance; or

(b) whose name the Registrar has caused to be struck off the roll for a District under sub-section (1.) of the last preceding section,

may, within one month after the receipt of the notice of the rejection of his application or the notice that his name has been struck off, as the case may be, apply to the District Court for an

Appeal in
relation to
enrolment.

order directing that his name be placed on, transferred to or reinstated on, as the case may be, that roll.

"(2.) The Registrar shall be the respondent upon the application.

"(3.) The District Court has jurisdiction to hear and determine an application under this section and to make such order in the matter as it thinks fit.

"(4.) A judgment of the District Court given on an application under this section is final.

"(5.) The Registrar of the District Court shall send to the Registrar a certified copy of the order of the District Court and it shall be the duty of the Registrar to cause such entries (if any) to be made upon the rolls kept in accordance with section fourteen of this Ordinance as are necessary to give effect to the order."

8. After Division 2 of Part II. of the Principal Ordinance the following Division is inserted :-

"Division 2A. - Court of Disputed Elections.

Definitions.

"34A. In this Division, unless the contrary intention appears -

'declaration of election' means a declaration made under section thirty-three of this Ordinance;

'petition' means a petition made under the next succeeding section.

Method of
disputing
elections,
etc.

"34B. The validity of an election or a declaration of election may be disputed by petition addressed to the Court of Disputed Elections and not otherwise.

The Court
of Disputed
Elections.

"34C.-(1.) The Central Court is the Court of Disputed Elections and has jurisdiction to try a petition.

"(2.) The jurisdiction of the Central Court sitting as a Court of Disputed Elections may be exercised by a judge or by magistrates of the Central Court in accordance with the provisions of Section 19 sub-section (2.) of the Judiciary Ordinance 1957.

Requisites
of petition.

"34D. A petition disputing an election or a declaration of election shall -

- (a) set out the facts relied on to invalidate the election or declaration of election;
- (b) contain a prayer asking for the relief the petitioner claims to be entitled to;
- (c) be signed by a candidate at the election or by a person who was qualified to vote at the election;
- (d) be attested by two witnesses; and
- (e) be filed in the registry of the Central Court within forty days after the making of the declaration relating to the election or the declaration of election, as the case may be.

Deposit as
security
for costs.

"34E. At the time of filing the petition, the petitioner shall deposit with the Registrar of the Central Court an amount of Ten pounds as security for costs.

No proceedings
unless
requisites
complied with.

"34F. A petition shall not be proceeded with unless the requirements of the last two preceding sections are complied with.

Returning
Officer
entitled to
enter
appearance.

"34G.--(1.) The Returning Officer is entitled, by leave of the Court of Disputed Elections, to enter an appearance in any proceedings before the Court relating to a petition and to be represented and heard in those proceedings.

"(2.) Where the Returning Officer enters an appearance in proceedings relating to a petition, he shall be deemed to be a party respondent to the petition.

Powers of
Court.

"34H.--(1.) The Court of Disputed Elections shall sit as an open court and its powers shall include the following :-

- (a) to adjourn;
- (b) to compel the attendance of witnesses and the production of documents;
- (c) to grant to a party to a petition leave to inspect, in the presence of a person appointed for the purpose by the Administrator, the rolls and other documents (except ballot-papers) used at or in connexion with an election and to take, in the presence of a person appointed for the purpose by the Administrator, extracts from those rolls and other documents;
- (d) to examine witnesses on oath;
- (e) to declare that a person who has been declared to be elected under section thirty-three of this Ordinance was not duly elected;
- (f) to declare a candidate duly elected who has not been declared to be elected under section thirty-three of this Ordinance;
- (g) to declare an election absolutely void;

- (h) to dismiss or uphold a petition in whole or in part;
- (i) to award costs; and
- (j) to punish any contempt of its authority by fine or imprisonment.

"(2.) The Court of Disputed Elections may exercise all or any of its powers under this section on such grounds as the Court in its discretion thinks just and sufficient.

**Inquiries
by Court.**

"34J. The Court of Disputed Elections shall not inquire into the correctness of a roll kept in accordance with section fourteen of this Ordinance.

**Real justice
to be
observed.**

"34K. The Court of Disputed Elections shall be guided by the substantial merits and good conscience of each case without regard to legal forms or technicalities or whether the evidence before it is in accordance with the law of evidence or not.

**Decisions to
be final.**

"34L. All decisions of the Court of Disputed Elections shall be final and conclusive and shall not be questioned in any way.

Costs.

"34M. The Court of Disputed Elections may award costs against an unsuccessful party to a petition.

**Deposit
applicable
for costs.**

"34N. If costs are awarded to a party against a petitioner, the deposit made by the petitioner under section thirty-four E of this Ordinance shall be applicable in payment of the sum ordered, but otherwise the deposit shall be repaid to the petitioner.

Other costs.

"34P. All other costs awarded by the Court of Disputed Elections, including the balance above the deposit payable by a petitioner, shall be recoverable as if the order of the Court of Disputed Elections were a judgment of the Central Court.

Effect of
decision
of Court.

"34Q. Effect shall be given to a decision of the Court of Disputed Elections, as follows :-

- (a) if a person who has been declared to be elected under section thirty-three of this Ordinance is declared not to have been duly elected, he ceases to be a Councillor;
- (b) if a person who has not been declared to be elected under section thirty-three of this Ordinance is declared to have been duly elected, he becomes a Councillor accordingly; and
- (c) if an election is declared absolutely void, a new election shall be held."