



Tonga

**NATIONAL RETIREMENT BENEFITS
SCHEME (ELECTION) REGULATIONS
2012**



NATIONAL RETIREMENT BENEFITS SCHEME (ELECTION) REGULATIONS 2012

Arrangement of Regulations

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NATIONAL RETIREMENT BENEFITS SCHEME (ELECTION) REGULATIONS 2012

NATIONAL RETIREMENT BENEFITS SCHEME ACT 2010

IN EXERCISE of the powers conferred by section 58 of the National Retirement Benefits Scheme Act 2010, the Minister for Finance with the consent of Cabinet makes the following Regulations -

30th January 2012

PART 1 -PRELIMINARY

1 Citation

These Regulations may be cited as the National Retirement Benefits Scheme (Election) Regulations 2012.

2 Definitions

In these Regulations unless the contrary intention appears:

“**Act**” means the National Retirement Benefit Scheme Act 2010;

“**candidate**” means a candidate for the election of employer or employee representatives;

“**election**” means an election of representatives of the registered employer and employee of the National Retirement Benefits Scheme Board;

“**Minister**” means the Minister of Finance;

“**registered employee**” means an employee who has registered under regulation 13 of the National Retirement Benefits Scheme (Administration) Regulations 2012;

“**registered employer**” means an employer who has registered under sub-regulation 12 of the National Retirement Benefits Scheme (Administration) Regulations 2012;

“**representative**” means either an employer representative or employee representative;

“**Scheme**” means the National Retirement Benefits Scheme; and

“**Supervisor of Elections**” means the Supervisor of Elections appointed under section 3(1) of the Electoral Act 1989.

PART 2 - CANDIDATE

3 Employer representative

A person may be eligible as a candidate for election as an employer representative, if he is:

- (a) a registered employer of the Scheme; and
- (b) nominated by at least five registered employers of the Scheme.

4 Employee representative

A person may be eligible as a candidate for election as an employee representative, if he is:

- (a) a registered employee of the Scheme;
- (b) a holder of an established post of a registered employer; and
- (c) nominated by at least thirty registered employees of the Scheme.

5 Term of office

- (1) The elected employer representatives and employee representatives shall hold office for a period of three years from the date of his election.
- (2) The term of office shall terminate earlier if a representative:
 - (a) ceases to be a registered employer;
 - (b) ceases to be a holder of an established post in a registered employer;

- (c) becomes an undischarged bankrupt;
- (d) is convicted of a criminal offence punishable by two years imprisonment or more;
- (e) resigns; or
- (f) dies.

6 Vacancies

If a vacancy occurs in the office of a representative, then:

- (a) the candidate who received the next highest number of votes in the last election, and who,
 - (i) is still eligible; and
 - (ii) consents to hold office;will be appointed to fill the vacancy until the expiry of the balance of the former representative's term; or
- (b) if no person qualifies or is available, then a bi-election shall be held to fill the vacancy.

7 Election Committee

- (1) There shall be an Election Committee which shall be responsible for the conduct and supervision of the election of Representatives.
- (2) The members of the Election Committee shall be the:
 - (a) Supervisor of Elections, who shall be the Chairman and Election Officer;
 - (b) Chief Executive Officer of the Public Service Commission, who shall be the Deputy Chairman;
 - (c) Solicitor General;
 - (d) Chief Executive Officer of the Organisation; and
 - (e) an officer from the Electoral Commission, who shall be the secretariat.

PART 3 - ELECTION

8 Timing of the Election

An election of the representatives shall take place not less than 30 days prior to the expiry of the term of office of the representatives.

9 Notice of Election

The Chief Election Officer shall give notice of the time that nominations are to be made for the election of representatives, and such notice shall include:

- (a) the date of the election;
- (b) the number of employer and employee representatives to be elected;
- (c) how nominations are to be made;
- (d) where to lodge nominations;
- (e) the time and date of acceptance of nominations will close;
- (f) the place of voting; and
- (g) the voting method to be used.

10 Chief election officer, election officers and assistant election officers

The Chief Election Officer, Election Officers and Assistant Election Officers designated under regulation 12, shall have the authority to carry out the election of employer and employee representatives.

11 Membership roll

A membership roll shall be maintained and distributed by the Chief Election Officer showing all registered employers and registered employees who are to be electors of the three Employer Representatives and three Employee Representatives to the Board.

12 Supervision

- (1) The election shall be supervised by the following.

(a)	Chief Election Officer		Chairman of the Election Committee
(b)	Election Officer	Tongatapu:	Senior Officer, Electoral Commission
		Vava'u:	Senior Officer, Governor's Office
		Ha'apai:	Senior Officer, Governor's Office
		'Eua, NF & NTT	Government Representatives

(c)	Assistant Election Officers		Officers recommended by the Election Officers and approved by the Chief Election Officer
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13 Nominations

- (1) Nominations must be called from registered employers and registered employees at a date determined by the Minister for the first election, and for any subsequent elections, by the Board.
- (2) Nomination for a candidate shall be made in the form approved by the Election Committee.

14 List of Candidates

The Chief Election Officer shall publish a list containing the names of candidates in the order of the dates on which their nomination was received.

15 Ballot Papers

- (1) The ballot papers and required forms for the election shall be approved by the Election Committee.
- (2) The electors shall be required to elect three candidates of their choice by placing a tick beside the names of the candidates they want elected in the spaces provided in the ballot paper.

16 Invalid Ballot Paper

Any ballot paper that does not comply with the requirements of regulation 15 shall be declared invalid.

17 Counting of votes

- (1) The Assistant Election Officer in charge of each polling station shall, after the time for voting has closed, cause the votes on the ballot papers to be counted and to report the total results to the appropriate Election Officer.
- (2) The Chief Election Officer shall ascertain the total number of votes received by each candidate throughout Tongatapu, Vava'u, Ha'apai, 'Eua, Niuatoputapu and Niuafu'ou.

- (3) If two or more candidates receive equal number of votes, the Chief Election Officer and those candidates shall approve an appropriate method based on chance to determine the winner.
- (4) The Election Officers and Assistant Election Officers shall ensure that all ballot papers are returned to the Chief Election Officer immediately after the election.

18 Announcement

- (1) The Chief Election Officer shall inform the Minister of the names of the three Employer Representatives and the three Employee Representatives that are elected.
- (2) The Chairman shall then declare the results of the election through public announcement in the manner approved by the Chief Executive Officer.

19 Election Appeal Committee

- (1) The Appeal Board of the National Retirement Benefits Scheme shall be the Election Appeal Committee to hear any appeal with regards to the conduct or results of the election.
- (2) Appeals are to be submitted to the Election Appeal Committee within one week of the declaration of the result of the election.
- (3) Appeals shall be heard within one month of receipt of the appeal.
- (4) The Election Appeal Committee shall determine its own rules of procedures for hearing appeals.
- (4) The Election Appeal Committee may make such decision as it thinks fit and its decision shall be final.

20 Election Expenses

All related expenses for the conduct of elections are to be borne by the Scheme.

Made at Nuku'alofa this 30th day of January 2012.

Hon. Sunia Fili
Minister of Finance