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**ELECTORAL (REMOTE WITNESS) REGULATIONS 2019**

SL No. 21 of 2019

Notified: 4<sup>th</sup> August 2019

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The Electoral Commission makes the following Regulations under sections 78 and 136(a), (e), (f) and (i) of the *Electoral Act 2016*:

## **PART 1 - PRELIMINARY**

### **1. Citation**

These Regulations may be cited as the *Electoral (Remote Witness) Regulations 2019*.

### **2. Commencement**

These Regulations come into effect on the day they are notified in the Gazette.

## **PART 2 – REMOTE WITNESSING**

### **3. Remote witnessing**

- (1) For the purposes of sections 136(a), (e), (f) and (i) of the Act, these Regulations apply to voters in locations that do not have access to an approved witness.
- (2) A voter under subregulation (1) may use the remote witnessing system to apply for registration, transfer or proxy voting authorisations.

### **4. Approved witnesses**

- (2) The following persons may witness applications for registration and transfer of voters under section 43(3) of the Act:
  - (a) a Barrister;
  - (b) a Solicitor;
  - (c) a Pleader;
  - (d) a Commissioner for Oaths;
  - (e) a Notary Public; or
  - (f) other persons nominated by the Electoral Commissioner.
- (3) The following person may witness applications for proxy votes:
  - (a) Returning Officer;

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- (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 legal practitioner, notary public, commissioner of oaths or justice of the peace duly appointed under the law of the respective country where the application is being witnessed; or
- (m) any other person appointed by the Returning Officer to be a witness.

#### **5. Conditions required for remote witnessing**

- (1) An approved witness may witness a signature of a voter or a prospective voter where:
  - (a) the witness receives a request for support by email from the prospective applicant;
  - (b) the applicant informs the Electoral Commission of the unavailability of witnesses identified under Regulation (4) prior to requesting under subparagraph (a);
  - (c) the witness is capable of:
    - (i) identifying that the applicant is the person in the application;
    - (ii) ascertaining that the applicant is a registered voter unless the application is for registration;
    - (iii) ascertaining that the information contained in the application is accurate in all material particulars.

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- (2) In confirming that the prospective applicant is the person to be listed in the application to be processed, the Electoral Commissioner or his or her delegate shall make reasonable inquiry into the applicant's identity and may make his or her own investigation in respect of the claim of lack of approved witnesses in that location.
- (3) The Electoral Commissioner shall revoke a remotely witnessed application which is not issued under the requirements of these Regulations.
- (4) The Electoral Commissioner may revoke an application which is remotely witnessed, where a scanned copy of the application is not received by him or her within 3 working days.
- (5) The Electoral Commission shall give notice of the decision of revocation to the applicant as soon as practicable.
- (6) The requirements of this Regulation shall not be waived or disclaimed by the witness, an applicant or both.

## **6. Restrictions on use**

Remote witnessing by video connection shall only be used for the purposes of witnessing signatures on the following forms:

- (a) application for Proxy Voting Authorisation - Proxy Form 1;
- (b) application for Registration - Registration Form 1; and
- (c) overseas Application for Transfer of Registration - Registration Form 4.

## **7. Video link**

Where the Electoral Commissioner determines the remote location and the unavailability of witnesses:

- (a) a video link shall be established directly with the appointed witness in Nauru;
- (b) the application form must be completed on video, before sending an electronic image; and
- (c) the conduct of the two-way remote video communication must be under the conditions provided in Regulations 8 and 9.

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**8. Knowledge-based authentication**

- (1) The witness shall establish the identification of a person accessing the video link or remote witnessing services as he or she deems fit.
- (2) The Electoral Commission may provide written guidance for the purposes of identifying the applicant.

**9. Process for witnessing signature**

- (1) The witness shall require the applicant to sign the form in a way that is visible to the witness.
- (2) On signing the form the applicant shall hold up the form to the camera with the face of the applicant and a screen shot be taken and saved in electronic form.
- (3) A record of the witnessing event will be kept on a form set out in the Schedule.