



Candidate's Handbook

General Elections 2016

**Electoral Commission
Republic of Nauru**

Introduction

Purpose of this booklet

This information booklet is intended to assist candidates at General Elections for the Republic of Nauru to be held in 2016. This booklet is available from the Electoral Commission office in the Civic Centre, Aiwo or may be downloaded from our website at election.com.nr

For ease of reading, some sections of the *Electoral Act 2016* have been paraphrased. However, it is important to note that this booklet has **no legal status and should not be substituted for the Act itself**.

Unless otherwise specified, section references in subject headings are from the *Electoral Act 2016*.

Useful tips: Shaded boxes throughout the booklet highlight practical advice for candidates.

Role of the Electoral Commission

Candidates should be aware that the role of the Electoral Commission for Nauru is to conduct the election in accordance with the *Electoral Act 2016*. While interpretation of the Act forms part of the function of the Electoral Commission, it is not the Commission's role to provide legal advice to candidates.

It is in the best interests of candidates to obtain legal interpretations from their own legal advisers, should that be necessary.

Please note: The legislation relating to these elections can be found on the internet for viewing or download at http://ronlaw.gov.nr/nauru_lpms/index.php/act/view/1167

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Members of Parliament

Members of Parliament are elected from eight (8) constituencies.

Nineteen (19) members are elected at a general election.

Constituency	District or Districts in each Constituency	Number of members to be elected in each Constituency
Aiwo	Aiwo	2
Anabar	Anabar, Anibare, Ijuw	2
Anetan	Anetan, Ewa	2
Boe	Boe	2
Buada	Buada	2
Meneng	Meneng	3
Ubenide	Baiti, Denigomodu, Nibok Uaboe	4
Yaren	Yaren	2
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The Writ

Issue of the Writ

(section 56)

The Speaker of Parliament issues the writ to the Electoral Commissioner to hold an election.

Publication Of Notice

(section 56)

The particulars of the writ are published in the gazette. The following information is also published at that time.

- date and time of closure of the roll,
- date and time of close of nominations

For this election the times and dates are as follows.

A “day” includes weekends and public holidays.

Timeline of Election

ELECTORAL Act 2016	TIMELINE
56 (1) - Issue of writ – 4 weeks before polling day	Saturday 11 June 2016
51 (2) - At least 5 days after issue of writ – publish the roll in the Government Gazette.	Publish Roll by Wednesday 15 June 2016
50 (2) and 47(b) - close of roll 5 pm 21 days before polling day	Close of Roll 5pm Saturday 18 June 2016
57 (2) – nominations commence at 9 am the day after the roll closes and	Nominations Open 9am Sunday 19 June 2016
57 (2) – nominations close at 5pm 14 days before polling day	Nominations Close 5pm Saturday 25 June 2016
63(2) – all mobile polling stations published on nomination day or as soon as possible after	Publish Mobile Polling Places on or soon after Saturday 25 June 2016
58 - a candidate can withdraw no later than 12 pm, 8 days before polling day (sec 58 amended from 7 days)	Last day for candidate withdrawal 12pm Friday 1 July 2016
62 Publish candidate names and polling places on the day after the close of the withdrawal period. Sec(58) 12pm 8 days before polling day	Publish names of candidates Saturday 2 July
64 (1) – 12 pm 7 days prior to polling day – draw for positions	Draw for position on ballot paper 12pm Saturday 2 July 2016
Last day for Mobile Voting Applications	Wednesday 6 July 2016
Last day for Proxy Voting Applications	Thursday 7 July 2016
56(1) – Polling Day – not later than 4 weeks after the Writ is issued.	Polling Day – Saturday 9 July 2016

Role of Electoral Commission

(section 6&19)

The *Electoral Act 2016* provides that the Electoral Commissioner is the Returning officer is responsible for the supervision of parliamentary elections and for undertaking specific tasks.

These tasks include:

- registration and transfer of voters;
- receipt of the writ;
- conduct of the election
- the appointment of presiding officers and polling officials;
- monitoring and enforcing compliance of the Electoral Act;
- approval of forms and procedures;
- voter information and education programmes
- statutory advertising.
- Undertake boundary redistributions
- Promote fairness and prevent abuse in political advertising
- Make proposals for electoral law reform

The Electoral Commissioner can delegate some of the above tasks to the Deputy Electoral Commissioners. (section 20(2))

Roll of Voters

Maintaining the Roll

(section 37)

The Roll is kept by the Electoral Commissioner and is classified into Districts.

The Roll is updated from time to time following consultations between the Electoral Commissioner and the Registrar of Births, Deaths and Marriages.

Automatic Enrolment

(section 38 & 39)

A person will be automatically registered as a voter in the District for which they were registered at birth, if they have attained the age of twenty and are a Nauruan citizen.

A person who has been automatically enrolled as they were not on the previous electoral roll is exempt from paying the transfer fee. (amended section 39)

Applying to be on the Electoral Roll

(section 40)

Persons who have not been automatically enrolled can apply to be registered using Form 1, Application For Registration.

Transferring Enrolment to another District

(section 41)

A person who is already registered on the Electoral Roll can change their registration to another district no more than once every 6 months by completing Form 2, Application For Transfer Of Registration and paying a fee of \$150.00 AUD.

Entitlement for Registration

(section 42)

A person can be registered on the roll for the District in which they have lived for a at least 1 month.

If a person is living outside of Nauru, then they can register for the District in which they last lived for not less than 1 month.

If a person has been registered in that District on the Register of Births but not automatically registered.

A person may apply for registration even if they do not appear on the Register of Births, and the Electoral Commissioner certifies using Schedule 3 that the voter has a substantial connection with the District through:-

- a Nauruan custom, customary links and affiliation;
- b birth by either his or her parent in that District;
- c the registration for any electoral purposes of either his or her parent in that District;
- d his or her spouse being born in that District.

A person may also apply even if they have never lived in Nauru or in a District for 1 month and were not registered at birth nor do they have a certificate of birth.

In such circumstances the Electoral Commissioner may require the applicant to supply evidence of their entitlement and the Electoral Commissioner may make their own inquiries as to the merits of the application. (section 45(3))

Rejection of Application of Registration (section 48)

If the Electoral Commissioner rejects an application, he or she must as soon as possible, give the applicant a Schedule 4 notice.

Appeal by Voter (section 49)

A voter may appeal a notice of rejection or appeal if their name has been removed from the roll after a review. (section 51)

Publication of the Roll (section 51)

The Roll must be published in the Government Gazette at the following times:-

1. At least once a year
2. At least 5 days after the Writ for an election has been issued.

Sale of Electoral Rolls (section 51(3))

Any person may obtain a copy of the roll on payment of a fee of \$20 for a single District or \$50 for the National Roll. The purchased roll may only be used for purposes connected with the election, and penalties apply for misuse. (section 118(2))

Removal from the Roll (section 52 & 53)

The Electoral Commissioner may remove a name from the roll if the Registrar of Births, Deaths and Marriages advises that the person is deceased.

The Electoral Commissioner may also revise the Roll to correct any error or omission, or to remove from the roll the name of any person who is dead or has ceased to be a citizen of Nauru.

A voter may apply to have their name changed or other particulars entered on the Roll.

The Electoral Commissioner cannot alter the Roll after the Roll has closed.

A voter must be advised, unless they are deceased, within 48 hours that their name has been struck off the Roll.

Nomination

Nomination of a Candidate

(section 57)

Nominations can be lodged with the Electoral Commission the day after the Roll has been closed.

A person may be nominated if he or she are enrolled for the District within the Constituency for which they are being nominated.

Nominations can be received up until 5pm 14 days before polling day.

A candidate must be qualified to be elected to Parliament (section 57(2))

The Constitution of Nauru Section Article 31 states:-

NO PERSON IS QUALIFIED TO BE ELECTED A MEMBER OF PARLIAMENT IF HE:-

(a) is an undischarged bankrupt or insolvent who has been declared bankrupt or insolvent according to law;

(b) is a person certified to be insane or otherwise adjudged according to law to be mentally disordered;

(c) has been convicted and is under sentence or is subject to be sentenced for an offence punishable according to law by death or by imprisonment for 1 year or longer;

(d) does not possess such qualifications relating to residence or domicile in Nauru as are prescribed by law; or

(e) holds an office of profit in the service of Nauru or of a statutory corporation, being an office prescribed by law for the purposes of this paragraph.

With regard to the Constitution 31(e) Schedule 10 from the Electoral Act sec 59, states the following with regard to Office Holders:-

- (1) An officer who holds an office under the Public Service Act 2016;
- (2) An officer who holds an office under the Nauru Police Force Act 1972;
- (3) An officer who holds an office under the Nauru Air Corporation Act 1995;
- (4) An officer who holds an office under the Nauru Rehabilitation Corporation Act 1997;
- (5) An officer who holds an office under the Nauru Utilities Corporation Act 2011;
- (6) An officer who holds an office under the Nauru Fisheries and Marine Resources Authority Act 1997;
- (7) An officer who holds an office under the Port Authority Act 2015;
- (8) An officer who holds an office under the RONPHOS Act 2005; and
- (9) Any other officer who holds an office in any instrumentality of the Republic.

It is also an offence to retain an office of profit if they intend being a candidate. Fine \$10,000 or 2 years imprisonment or both. (Section 135)

The Public Service Act 2016, section 84 states the following:-

Election Candidates – Resignation

(1) Any employee who intends to submit a nomination as a candidate in Nauru's general elections, must resign at least three months prior to submitting their nomination.

(2) In this section, 'employee' includes public service employees, contract employees who are eligible to stand for elections, temporary employees and heads of departments.

A person who is uncertain if they meet the above criteria to be able to be nominated as a candidate should seek their own legal advice.

Nomination forms can be found at the back of this handbook or can be downloaded from the Electoral Commission's website election.com.nr or can be collected from the Electoral Commission's office in Civic Centre, Aiwo.

The Nomination Form

(EA Schedule 9 and section 57)

A nomination form must be:

- signed by at least 2 voters who are registered in the Constituency for which the candidate is being nominated;
- signed by the candidate who is registered in the Constituency for which they are being nominated; and
- delivered to the office of the Electoral Commission, together with the non-refundable sum of \$500 AUD before the close of nominations.

Nominations close at 5pm sharp 14 days prior to polling day.

Late nominations cannot be accepted.

Acceptance Or Rejection Of Nomination

Nominations that comply with the above three dot points will be accepted.

Nominations that do not comply with the above three dot points will be rejected.

Withdrawal Of Nomination

(amended section 58)

You may withdraw your nomination for an election giving a notice in writing, signed by the candidate, to the Electoral Commissioner no later than 12.00pm 8 days before polling day. A form is provided at the end of this manual should you wish to withdraw.

Publicise Candidates and Polling Places

(section 62)

As soon as possible after the close of the withdrawal period the Electoral Commissioner must exhibit notices of the names of candidates and the voters by whom they have been nominated and the polling places for each contested Constituency.

Order Of Candidate Names on the Ballot Paper

(section 64)

At 12 pm on the day after withdrawal of nominations is completed, candidates or their representative should attend the Electoral Commission Offices to participate in the random draw for ballot paper position.

The same number of pieces of paper as there are candidates for a constituency are placed into an opaque container. Each piece of paper bears a consecutive number commencing with

the number one. Each candidate or their representative then withdraws a piece of paper. The number on the piece of paper represents the position on the ballot paper for that candidate.

Printing of Ballot Papers

(section 65)

The surname or family name appears first, and in a more conspicuous type, and then is followed by the candidate's other names on the ballot paper.

If there are names that the Electoral Commissioner considers so similar that they may cause confusion, then the Electoral Commissioner can include a description or addition to the names to enable them to be distinguished from each other.

The Poll

Polling Times

(section 66)

Voting commences at 9.00am on polling day and concludes at 6.00pm

Voting is compulsory for any person registered on the Roll

Immediately after the last person who was in the queue at 6.00pm the poll is closed for that polling place.

At 6.00pm the Presiding Officer will join the end of the queue (if necessary) and bring the queue inside the venue or prevent any other voters from joining the queue.

Identification of Voter

(section 71)

The voter must present one of the following forms of identification to the Presiding Officer prior to receiving a ballot paper.

Identification that the Electoral Commission has determined as suitable are:

- Passport
- Driving Licence
- Insurance policy
- Employment ID card
- Bank Card
- Birth certificate
- Student ID Card
- Baptism Certificate.

If the voter does not have one of the above forms of identification then the voter will need to answer certain questions appropriately before being issued with a ballot paper. (section 72)

Marking the Finger with InkElectoral (Voters' Verification) Regulations 2016

Before the voter is issued with their ballot paper, they must have their left forefinger marked with indelible ink. There are provisions to mark other fingers if the left forefinger is missing.

Casting Of Vote

(section 74)

The voter must cast their vote by placing sequential numbers, beginning with the number one, in the squares beside the names of the candidates in their order of their preference for them.

Spoiled Ballot Paper

(section 76)

A voter may receive only one replacement ballot paper if they mark their ballot paper in such a way that they cannot correct it.

Assisted Voting

(section 75 & 77)

A Presiding Officer can take an unmarked ballot paper from the polling station to a voter who is unable to appear at the polling place due to illness or disability or any other reason approved by the Electoral Commissioner. The Presiding Officer must be accompanied by one other election official.

A person who is so incapacitated that they are unable to complete their ballot paper without assistance, may nominate a person to assist them. If no person is nominated then the Presiding Officer may mark the ballot paper in accordance to the voter's instructions. The voter may nominate a person to inspect the ballot paper before it is placed in the ballot box.

Secret Voting

(section 77(6))

Apart from assisted voting, it is prohibited for more than one person to be present in the polling booth.

Persons Who May Remain In A Polling Station

(Section 80)

The following people may remain in a polling place when they are not voting.

- (a) Electoral Commissioner;
- (b) Deputy Electoral Commissioners;
- (c) Election officials
- (d) police officers on duty, if requested
- (e) observers, and
- (f) any other person authorised by the Electoral Commissioner

Proxy Voting(Section 78) and (Electoral Regulation Proxy Voting 2016)

Proxy voting is where a voter in Nauru will vote in accordance with the directions of an overseas voter who cannot be in Nauru on Polling Day.

Overseas' voters may apply after the roll has closed to authorise a voter in Nauru to be their Proxy.

The voter in Nauru who has been asked to be the Proxy:-

- (a) must be entitled to vote; and
- (b) must be enrolled on the same District Roll as the voter; and
- (c) must not be under a sentence, or subject to be sentenced, for an offence punishable by imprisonment for 3 years or more; and
- (d) must not be a proxy voter, or have been nominated as proxy by more than 4 other voters.

On Polling Day the Proxy voter presents at the polling place and requests their own ballot and also provides the Proxy Voting Authorisation Form to the election official.

The Proxy voter will need to sign next to their own name on the roll and also next to the name of the voter for whom they are Proxy voting.

The Election Official will then issue the ballot papers to that voter. That is, the voter's own ballot paper and up to 5 other ballot papers depending on how many times they have been nominated as a Proxy voter.

Applications for proxy voting can only be made after the Close of the Roll up until 24 hours before polling commences.

An application form can be downloaded from the Electoral Commissions website, <http://election.com.nr> the day after the roll has closed.

Mobile Voting

(Section 63 and 79)

Mobile polling is to provide voting services for voters who are unable to attend a polling station by reason of being a resident in the hospital, care facility, detention centre or correctional centre or a woman approaching maternity.

Locations of mobile voting stations must be published on or soon after nomination day.

A voter who wants to vote at a mobile polling station must apply to the Electoral Commissioner by the Wednesday before polling day.

Mobile Voting – At Home

(Mobile voting regulations)

The Electoral Act provides for a mobile voting team to attend the home of a person who is of sound mind, but by reason of illness or infirmity or, in the case of a woman approaching maternity, cannot attend a polling place on polling day.

A voter who requests that a mobile polling team visit their home must apply to the Electoral Commissioner by the Wednesday before polling day.

A doctor's certificate must be supplied at the time of application to indicate that the voter is so unwell that they cannot attend a polling place.

Valid and Invalid Ballot Papers

Valid votes

(section 82)

For a vote to be formal, the elector must consecutively number his or her preferences, starting from the number 1 and then numbering all candidates on the ballot paper.

There is a savings provision (sec 82(3)). If a square on the ballot paper has been left unmarked and all preferences commencing from the number one are present, then the unmarked square will be taken as the next and last preference which will keep the ballot paper formal.

Invalid votes

A ballot paper will be treated as invalid if:-

- it is not authenticated by the initials of the Presiding Officer;
- no vote has been recorded on it;
- the vote is recorded on the ballot paper otherwise than in accordance with section 74; and
- it contains a mark or writing which will identify the voter;.

A ballot paper is not to be treated as informal if, in the opinion of the Electoral Commissioner that the voter's intention is clear.

The Count

Counting the Votes

(section 84 & 85)

Only valid votes can be included in the count.

Firstly total the number of first preference votes, then the second preference votes and then the third preference votes and so on for each candidate.

The total number of second preferences received by each candidate are divided by two.

The total number of third preferences received by each candidate are divided by three and so on.

The fractions created by the above calculations are then added to the number of the first preferences for that candidate and a total value of votes for each candidate is determined.

Results will be calculated to three decimal places.

Determining the Results

For constituencies returning 2 members, then the 2 candidates with the highest total value of votes will be elected.

For constituencies returning 3 members, then the 3 candidates with the highest total value of votes will be elected.

For constituencies returning 4 members, then the 4 candidates with the highest total value of votes will be elected.

If there is a tie between two candidates which prohibits the determining of the results then, the Electoral Commissioner must look back to see which candidate was winning in the prior count.

If at all points in the count the candidates were tied, then the Electoral Commissioner must draw by lot or by the toss of a coin. The Electoral Commissioner will announce which candidate has been excluded.

Drawing by lot or by the toss of a coin will be done in the presence of each of the relevant candidates and a police officer.

For 2016 the totals determined above will be entered into an excel spreadsheet that will undertake the above calculations.

The spreadsheets will be placed on the Electoral Commission's website at the conclusion of the election for examination by all.

Declaration of Results

(Section 89)

The results are declared as soon as practical after the counting process.

Request for Recount

(Section 90)

A candidate may request in writing to the Electoral Commissioner for a recount.

The candidate must state the reasons by which they are requesting a recount.

The request must be within 24 hours following the Declaration of Results.

Failure to Vote

(Section 54 & 55)

Voting is compulsory for all people registered on the roll and who are in Nauru on polling day.

Voters may not vote if they are ill or infirm or have another valid or sufficient reason for not voting on polling day.

Within 1 month after polling day the Electoral Commissioner will send a notice to each non-voter requesting that they either:-

- pay a fine for not voting, or
- provide a reason for not voting.

The Electoral Commissioner will then determine if that reason is valid and sufficient and respond to the person by either:

- accepting the reason and excusing the voter; or
- rejecting the reason and requesting payment of the fine.

Voters who do not respond or do not pay the fine may be taken to court where the maximum fine is \$200. Strict liability applies. (section 111 & 112)

Court of Disputed Returns

(Part 8)

Once a result is declared it can be challenged by petition to the Supreme Court by:-

- a candidate; or
- a voter who is registered the same district that is being challenged.

Until the determination of the petition, all candidates that were declared elected remain duly elected.

A petitioner must pay a fee of \$500 with the Registrar of the Supreme Court at the time of filing.

The decision of the Court is final and may not be questioned or appealed to any other Court.

Petitioners should refer to the Electoral Act 2016 Part 8 and seek their own legal advice when preparing a petition to the Court of Disputed Returns.

Electoral Offences

Candidates should familiarise themselves with offences of the Electoral Act 2016 (Part 10) in greater detail, however a summary is provided below.

Provision of Misleading Information

In all aspects of interaction with the Electoral Commission a person who deliberately provides the false or misleading information can be fined up to \$5,000 or given a prison sentence of up to 1 year. (Section 113)

Offences in relation to ballot papers.

It is an offence to remove unmarked ballot papers from a polling place. \$5,000 or 2 years imprisonment. (Section 115)

It is an offence to mark a ballot paper if you are not a registered voter in a polling booth. \$1,000. (Section 114)

It is an offence to place in a ballot box any ballot paper that has not been lawfully issued to a voter. Fine \$5,000 or 1 year imprisonment or both. (Sec 130)

Secret Voting

Voting is secret. It is an offence for more than one person to be present at a polling booth unless assisting a voter under the provisions of Sec 77. \$100. (Section 116)

Voter's List

A person who possesses, or manipulates the voter's list electronically or by other means are liable to a fine of \$5,000 or imprisonment of up to 1 year, or both. (Section 118)

Note: A person may possess the roll if they have purchased it from the Electoral Commission under Sec (51)(3).

A person who uses the information on the Voter's List for commercial purposes or any other purpose unrelated to an election can be sentenced for up to 2 years. (Section 118)

Campaigning

A person destroying campaign material could be fined \$5,000 or 1 year imprisonment or both. (Section 119)

Campaign material cannot be displayed within 200 meters of a polling station on polling day. Fine \$5,000 or 1 year imprisonment or both. (Section 120)

On polling day it is an offence to hold or take part in a meeting, demonstration or procession within 200 meters of a polling station with the intention of:

- Canvassing or soliciting the vote of a voter;
- Inducing the voter to vote for or to not vote for a particular candidate; or
- Finding out who a voter intends to or has already voted for.

Fine \$5,000 or 1 year imprisonment or both. (Section 122)

Police are not permitted to influence a voter. Fine \$10,000 or 2 years imprisonment or both. (Section 123)

It is an offence to bribe a person for their vote. Fine \$10,000 or 2 years imprisonment or both. (Section 124)

It is an offence to threaten or intimidate a person to vote for a candidate or to refrain from voting. Fine \$5,000 or 1 year imprisonment or both. (Section 127)

It is an offence to interfere or hinder in any way with the free exercise of a person in to carry out any duty that is relevant to an election. Fine \$5,000 or 1 year imprisonment or both. (Section 133)

It is an offence to corruptly influence by "Treating" voters with cash, food, entertainment etc as detailed in (Section 129). Fine \$5,000 or 1 year imprisonment or both.

It is an offence to obstruct a voter from casting their vote. Fine \$10,000 or 2 years imprisonment or both. (Section 132)

Disruption or Disobedience

It is an offence to intrude into a polling place when not entitled to be in it and to wilfully interrupt, obstruct or disturb the proceedings of an election. A person may be arrested by a police officer. Fine \$10,000 or 2 years imprisonment or both. (Section 133)

A person who fails to obey the lawful directions of employee of the Electoral Commission, may be removed from the polling station. Any person who has been removed is subject to a fine of Fine \$5,000 or 1 year imprisonment or both. (Section 134)

It is an offence to apply for a ballot paper in the name of another person that is not their own unless under the provisions of Sec (78). Fine \$5,000 or 1 year imprisonment or both. Nor can a person impersonate an election official. (Section 125)

A person must not vote more than once at an election. Fine \$5,000 or 1 year imprisonment or both. (Section 126)

A person must not use a camera, phone or other device while in a polling booth. Fine \$5,000 or 1 year imprisonment or both. (Section 131)

To Refuse Inspection Or Refuse To Allow Inking Of Finger

A voter who refuses to allow his or her left forefinger to be inspected or to be marked commits an offence and is liable to a fine of not more than \$5,000 or imprisonment for 1 year or to both such fine and imprisonment. (Electoral (Voters' Verification) Regulations 2016)



WITHDRAWAL OF CANDIDATURE FROM ELECTION

(Section 58)

I,

Insert the full name of the candidate – Please write clearly

of.....

Insert name of Constituency in which the candidate is nominated

have decided to withdraw as a candidate from this election.

Signed..... Date...../...../2016
(Signature of Candidate)

Received by Date...../...../2016
(Signature of Electoral Commission Staff)

Office Use only

Date received in office/...../ 2016

Time received:.....

Removed from ballot draw for position

Removed from Ballot Paper

Returning Officer Date...../...../2016
RO Signature

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NOMINATION OF CANDIDATE FOR ELECTION AS A MEMBER OF PARLIAMENT

We nominate.....

Insert the full name of the candidate – Please write clearly

of.....

Insert name of Constituency in which the candidate is registered

to be a candidate for election as a Member of Parliament for the Constituency of:

.....

Insert name of Constituency for which the candidate is being nominated

Dated...../...../2016

.....

Name of Voter 1

.....

Name of Voter 2

.....

Signature of Voter 1

.....

Signature of Voter 2

