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THE HONIARA CITY COUNCIL ACT 1999
(No. 2 of 1999)

THE HONIARA CITY COUNCIL (ELECTIONS)
REGULATIONS 1999.

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SCHEDULE

THE HONIARA CITY ACT 1999
(No. 2 of 1999)

THE HONIARA CITY COUNCIL (ELECTIONS)
REGULATIONS 1999

IN exercise of the powers conferred by section 18 of the Honiara City Act 1999, the Minister hereby makes the following regulations -

PART 1
PRELIMINARY

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| 1. | These Regulations may be cited as the Honiara City Council (Elections) Regulations 1999, and shall come into operation on the date of publication in the Gazette. | Citation |
| 2. | In these Regulations unless the context otherwise requires - | Interpretation |
| | “agent” means a polling agent or a counting agent appointed under the provisions of these Regulations; | |
| | “Assistant Returning Officer” means an Assistant Returning Officer appointed under the provisions of regulation 7; | |
| | “candidate” means a person nominated under regulation 8 whose nomination stands valid under regulation 10; | |
| | “City Council” means the Honiara City Council established under section 4 of the Act; | |
| | “election” means an election of a member under the provisions of these Regulations; | |
| | “member” means an elected member of the City Council; | |
| | “register of votes” means a register of voters prepared under the Local Government (Regulation of Voters) Regulations; | |
| | “Returning Officer” means a Returning Officer appointed under the provisions of regulation 6(b); | |
| | “voter” means any person entitled to vote at an election under these Regulations; | |

“ward” means an electoral ward of the City Council specified in Schedule 1 to the Act.

Register of voters 3. For the purposes of any election under these Regulations, the register of voters prepared under the Local Government (Registration of Voters) Regulations shall be the register of voters.

Right to vote 4. (1) No person shall be entitled to vote at an election unless he is registered as a voter under the Local Government (Registration of Voters) Regulations.

(2) No person shall be entitled to vote more than once at an election.

Non-compliance with Regulations 5. No election shall be invalid by reason of non-compliance with these Regulations if it appears that the election was conducted in accordance with the principles of these Regulations and that the non-compliance did not affect the result of the election.

PART II ELECTIONS

Minister to appoint date for election 6. Whenever an election for a member of the City Council becomes necessary the Minister shall be notice -

(a) appoint a convenient day or days for the holding of such election:

Provided that such day or the first of such days shall be not less than thirty-five days after the date of the publication of the notice as aforesaid;

(b) appoint a Returning Officer for the City Council area in respect of which the election is to be held; and

(c) require that nominations in respect of persons submitting themselves for election to the City Council be delivered to the Returning Officer for such Council area not later than four o'clock in the afternoon of such day (being not later than twenty-eight days before the date appointed for the election) as shall be specified.

Appointment of Assistant Returning Officers 7. The Returning Officer shall, in respect of each ward within the City Council area to which he is appointed under the provisions of regulation 6(b), appoint a fit and proper person to be an Assistant Returning Officer.

8. (1) Subject to this regulation and regulation 9, any person who - Nomination
of candidates

(a) is qualified under sections 11 and 12 of the Act; and

(b) wishes to stand as a candidate for election in a ward;

may be nominated as a candidate for that ward by at least three persons who are voters in the ward for which the candidate wishes to stand.

(2) The writing shall be subscribed by the candidate, and by the persons nominating him, in the form set forth in the Schedule to these Regulations and the nomination form shall contain the following particulars -

(a) the name, address and description of the candidate;

(b) the names, addresses and descriptions of the nominators of the candidate; and

(c) a certificate by the candidate that he is willing and qualified to stand for election.

(3) The Returning Officer shall provide nomination papers and shall at the request of any voter, the candidate and all his nominators being present, complete any such nomination paper on such voter's behalf.

(4) No voter shall nominate more than one candidate, and where any voter purports to nominate more than one candidate, only his subscription of the first nomination paper delivered in accordance with the provisions of this regulation and so subscribed shall, subject to the provisions of these Regulations, be valid and his subscription on every other nomination paper shall be null and void.

(5) Each candidate, or one of the persons nominating him, shall deliver his nomination paper subscribed as hereinafter provided to the Returning Officer not later than the time specified under regulation 6(c).

9. (1) A person shall not be validly nominated unless the sum of two hundred and fifty dollars is deposited by him or on his behalf with the Returning Officer within the time allowed for the delivery of nomination papers. Deposit to be
made on
nominations

(2) The deposit may be made either by the deposit of cash or by means of a banker's draft issued by any bank carrying on business in Solomon Islands.

(3) The deposit made under subsection (1) shall be forfeited and paid into the City Fund.

Validity of
nominations

10. (1) When any nomination paper is delivered to the Returning Officer the candidate shall be deemed to stand nominated unless and until the Returning Officer decides that the nomination paper is invalid or proof is given to the satisfaction of the Returning Officer of the death of the candidate or if the candidate withdraws in accordance with regulation 12.

(2) The Returning Officer shall not be entitled to hold the nomination paper invalid except on one or more of the following grounds -

(a) that the candidate is not qualified for election under section 11 of the Act; or

(b) that the candidate is disqualified for election under section 12 of the Act; or

(c) that it is not in the form in the Schedule to these Regulations or that such form has not been properly completed; or

(d) that the paper is not signed as required by law; or

(e) that the nominators of the candidate or one or any of them are not persons eligible to nominate under regulation 8; or

(f) that the candidate already stands nominated for another ward; or

(g) that no deposit has been made in accordance with the provisions of regulation 9; or

(h) that the paper has not been delivered in accordance with regulation 6(5).

(3) The Returning Officer's decision that the candidate has been validly nominated shall be final and shall not be questioned in any legal proceedings except on an election petition.

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(4) Whenever the Returning Officer decides that a candidate has not been validly nominated he shall endorse and sign on the nomination paper his decision and the reason therefor and such decision shall not be subject to review except on an election petition.

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(5) In any case where the Returning Officer holds a nomination paper to be invalid under these Regulations he shall as soon as practicable communicate his decision to the candidate or any of his nominators.

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(6) A candidate whose first nomination paper is or may be invalid shall be permitted to submit a second nomination paper within the time allowed for delivery of nomination papers under regulation 6(c).

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11. The Returning Officer, not later than twenty-one days before the date fixed for the election, shall cause to be published within each ward, in such manner as he may deem appropriate, a list containing the full names, addresses and descriptions of the candidates for that ward and of the persons by whom they were nominated.

List of candi-
dates to be
published

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12. Any candidate may withdraw his candidature by notice in writing and delivered by him to the Returning Officer not later than four o'clock in the afternoon of the fourteenth day before the day of election:

Withdrawal
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Provided that -

(a) such notices of withdrawal shall take effect in the order in which they are delivered; and

(b) no such notices of withdrawal shall have effect so as to reduce the number of candidates in any ward below one.

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13. Where there is only one candidate in any ward, the Assistant Returning Officer for that ward shall, on the day appointed for the election, declare such candidate to have been elected to the City Council and shall report the result of the election to the Returning Officer.

Unopposed
candidates

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14. (1) Where, after the expiration of the time allowed for the delivery of nomination papers by regulation 8(5), and before the commencement of the voting, a candidate dies, the Returning Officer shall, upon being satisfied of the fact of death, countermand the election in respect of the ward for which the deceased was a candidate, and report his action to the Minister.

Death of can-
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(2) Upon receipt of a report under the preceding paragraph, the Minister shall appoint some other convenient day or days for the election and the electoral procedure shall be commenced *de novo*:

Provided that no new nomination shall be required in respect of a candidate who, at the time of the countermand of the election, had been properly nominated in accordance with the provisions of regulation 8.

Notice of
election

15. In the case of a contested election, the Returning Officer shall on or before the seventh day before the day of the election give notice thereof in such manner as he may think fit, specifying -

(a) the day and the hours fixed under regulation 20 for the voting generally, or in respect of particular polling stations or wards;

(b) the full name, address and description of each candidate and the symbol allotted to him under regulation 16(g);

(c) the names, addresses and descriptions of the persons who nominated each candidate; and

(d) the situation of each polling station and statement of the persons entitled to vote thereat.

Arrange-
ments for
elections

16. The Returning Officer shall -

(a) provide a sufficient number of polling stations in each ward and, in accordance with the terms of any notice given under the provisions of regulation 15, allot the voters within the ward to the polling stations in such manner as seems to him most convenient;

(b) appoint, in respect of each ward, such persons as he may think fit to assist at the voting in the election, and such persons shall be known as polling assistants;

(c) appoint from amongst such polling assistants a person to be in charge of each polling station to be known as the presiding officer;

(d) furnish each polling station with a compartment in which the voters can, screened from observation, record their votes;

(e) provide each presiding officer with such number of ballot papers having counterfoils with corresponding numbers as in the opinion of the Returning Officer may be necessary;

(f) provide each polling station with instruments of making an official mark on the ballot papers, and with copies of the register of voters for the ward, or such part thereof as contains the names of the voters allotted to vote at the polling station;

(g) allot a symbol and colour to each candidate nominated in accordance with the provisions of these Regulations; and

(h) do such other acts and things as may be necessary for conducting the election in the manner provided in these Regulations.

17. (1) Each candidate may, in respect of each polling station within the ward for which he is a candidate, appoint two persons, hereinafter referred to as "polling agents", to attend at that polling station for the purpose of detecting personation. Polling agents

(2) Notice in writing of the appointments, stating the names and addresses of the polling agents, together with the polling stations to which they have been assigned, shall be given by the candidate to the Returning Officer not later than four days before the day fixed for the election.

(3) If any polling agent dies or becomes incapable of acting as such, the candidate may appoint another polling agent in his place, and shall forthwith give the Returning Officer notice in writing of the name and address of the polling agent so appointed.

18. The presiding officer shall, at a convenient time on the day of the election but before the commencement of voting, summon a meeting of all voters at the polling station to which such voters, in accordance with the provisions of regulation 16(a), have been allotted and shall - Voters to meet for election

(a) explain to such meeting the method of voting, in accordance with the provisions of these Regulations, to be followed;

(b) declare the symbols and colours allotted to each candidate under the provisions of regulation 16(g); and

(c) explain the colours of ordinary and tendered ballot papers.

Symbols and colours to be marked on ballot boxes

19. (1) The presiding officer shall cause to be placed in the polling station ballot boxes equivalent in number to the persons nominated for election. Each such ballot box shall be clearly marked with the candidate's name and with the symbol and colour allotted in accordance with regulation 16(g) and shall be shown to the meeting of voters to be so marked before being placed in the polling station and before any voting commences. When in use for voting the ballot boxes shall be screened from observation by all persons other than the voter casting his vote and shall be so constructed that the ballot papers can be put therein by the voter but cannot by him be withdrawn.

(2) Immediately before the commencement of the voting, the presiding officer at the polling station shall show the ballot boxes empty to the meeting of voters so that they may see that they are empty and shall then close and seal the boxes in such manner as to prevent them being opened without breaking the seal.

Hours of voting

20. The hours of voting shall be fixed by the Returning Officer generally or in respect of particular wards or polling stations, and shall be not less than eight consecutive hours between seven o'clock in the forenoon and five o'clock in the afternoon.

Method of voting

21. The voting at an election shall be conducted in the following manner -

(a) every voter desiring to record his vote shall present himself to a polling assistant at the polling station at which he is entitled to vote, and the polling assistant, after satisfying himself that the name of such voter appears on the copy of the register of voters, or part thereof provided for that polling station and that he has not already voted, shall deliver to him a ballot paper;

(b) immediately before the polling assistant delivers a ballot paper to a voter -

(i) the ballot paper shall be marked with an official mark;

- (ii) the number, name, address and description of the voter as stated in the copy of the register of voters, or part thereof, shall be called out;
- (iii) the number of the voter in the register of voters shall be marked on the counterfoil; and
- (iv) a mark shall be placed against the number of the voter in the copy of the register of voters, or part thereof, to denote that a ballot paper has been received, but without showing the number of the ballot paper which has been received;

(c) a polling assistant may, and if required by a candidate or a polling agent shall put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions or either of them -

- (i) are you the person whose name is on the register of electors as follows (reading the copy of the entry in the register)?
- (ii) have you already voted at the present election at this or any other polling station?

(d) a voter on receiving a ballot paper, shall go immediately into the screened compartment in the polling station, and shall there secretly record his vote by placing his ballot paper in the ballot box of his choice;

(e) a voter shall not vote for more candidates than one or record more than one vote in favour of any candidate nor place on the ballot paper any writing or mark by which he may be identified.

(f) a voter who has accidentally dealt with his ballot paper in such a manner that it cannot be conveniently used as a valid ballot paper may, on delivering such ballot paper to the presiding officer and after satisfying the presiding officer that the ballot paper has been spoiled by accident, obtain another ballot paper in the place of the paper so delivered up, and the spoiled ballot paper shall be immediately cancelled.

(g) if a voter, by reason of blindness or other physical disability, is unable to cast his vote, he shall call the presiding officer aside and tell him, no other person being present or within hearing, the name of the candidate for whom he wishes to vote and the presiding officer shall record the voter's vote by placing the voter's ballot paper in the ballot box of the candidate for whom the voter wishes to vote.

Admission of
person to
polling
station

22. (1) No person shall be permitted to vote at any polling station other than the one allotted to him under the provisions of regulation 16(a).

(2) The presiding officer shall regulate the admission of voters to the polling station, and shall exclude all other persons except candidates, polling agents, polling assistants, police officers on duty, and any other person who in his opinion has lawful reason to be admitted.

Personation

23. (1) If at the time a person applies for a ballot paper, or after he has so applied and before he has left the polling station, a polling agent declares to the presiding officer that he has reasonable cause to believe that the applicant has committed the offence of personation and undertakes to substantiate the charge in a court of law, the presiding officer may order a police officer to arrest such person, and the order of the presiding officer shall be sufficient authority for the police officer so to do.

(2) A person in respect of whom a polling agent makes a declaration in accordance with the provisions of paragraph (1) of this regulation shall not, by reason thereof, be prevented from voting, but the presiding officer shall cause the words "protested against for personation" to be placed against his name in the marked copy of the register of voters or portion thereof and shall record the fact on a list to be called the protested votes list:

Provided that where a person in respect of whom such declaration is made, admits to the presiding officer that he is not the person he held himself out to be, he shall be permitted to vote if he has not already done so, and if he has already voted the presiding officer shall make a note of the number of the ballot paper

delivered to him, and, upon the count being taken, such ballot paper shall be invalid and the presiding officer shall record the fact and the number of the ballot paper on a list to be called the invalidated votes list, and such list shall be admissible in any legal proceedings arising out of the election.

(3) A person arrested under the provisions of this regulation shall be dealt with in accordance with the provisions of the Criminal Procedure Code relating to the arrest and taking into custody of persons, without a warrant.

Cap. 7

24. If a person representing himself to be a voter named in the register of voters applies for a ballot paper after another person has voted as such voter, the applicant shall, upon giving satisfactory answers to the questions set out in regulation 21(c), be entitled to receive a ballot paper in the same manner as any other voter but such ballot paper, hereafter called a tendered ballot paper, shall be of a colour different from the ordinary ballot papers, and instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of voters, and set aside in a separate packet, and shall not be counted by the Assistant Returning Officer as hereafter provided; and the name of the voter and his number on the register of voters shall be entered on a list to be called the tendered votes list, and this list shall be admissible in any legal proceedings arising out of the election.

Tendered
ballot papers

25. (1) The presiding officer shall keep order at the polling station.

Conduct in
polling
stations

(2) If any person misconducts himself in a polling station, or fails to obey any lawful order of the presiding officer, he may, by order of the presiding officer, be removed from the polling station by any police officer, or any person authorised by the presiding officer in that behalf; and the person so removed shall not, without the permission of the presiding officer, again enter the polling station during the day of the election:

Provided that the provisions of this regulation shall not be exercised so as to prevent any voter who is otherwise entitled to vote at any polling station from having an opportunity of so voting.

(3) Any offence against these Regulations which is committed within a polling station shall be deemed to be a cognisable offence within the meaning and for all the purposes of the Criminal Procedure Code.

Presiding
officer's
duties at
close of
voting

26. (1) As soon as practicable after the termination of the voting the presiding officer shall, in the presence of the polling agents, make up into separate packets, each sealed with his own seal -

- (a) each ballot box in the use at his polling station, unopened and sealed so as to prevent the introduction of additional ballot papers;
- (b) unused and spoiled ballot papers, placed together;
- (c) used and unused tendered ballot papers;
- (d) the marked copies of the register of voters;
- (e) the counterfoils of the used ballot papers;
- (f) the tendered votes list;
- (g) the protested votes list; and
- (h) the invalidated votes list,

and shall deliver the packets to the Assistant Returning Officer for the appropriate ward.

(2) The packets shall be accompanied by a statement to be called the ballot papers account, prepared by the presiding officer, showing the number of ballot papers entrusted to him and accounting for them under the following heads -

- (a) the number of spoiled ballot papers; and
- (b) number of unused ballot papers; and
- (c) number of tendered ballot papers.

Counting
agents

27. (1) Each candidate may appoint one person, hereinafter referred to as a counting agent, to attend at the counting of votes.

(2) Notice in writing of the appointment, stating the name and address of the counting agent, shall be given by the candidate to the Returning Officer not later than two days before the day of the election and the Assistant Returning Officer may refuse to admit to the place where the votes are counted any person purporting to be a counting agent in respect of whom such notice has not been given.

(3) If a counting agent dies or becomes incapable of acting as such, the candidate may appoint another counting agent in his place, and shall immediately give to the Returning Officer notice in writing of the name and address of the counting agent so appointed.

28. The Assistant Returning Officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after termination of the voting and shall, so far as is practicable, proceed continuously with the counting, allowing only reasonable time for refreshment, until it is complete.

Counting of votes

29. Except with the consent of the Assistant Returning Officer, no person other than the Returning Officer, the Assistant Returning Officer, his assistants, the candidates and their counting agents may be present at the counting of voters.

Persons who may be present

30. The Assistant Returning Officer shall, in the presence of the counting agents, open each ballot box and, taking out the ballot papers, shall count and record the number thereof cast in favour to each candidate.

Method of counting votes

31. The Assistant Returning Officer, while counting and recording the number of ballot papers, shall keep the ballot papers with faces downwards and take precautions for preventing any person from seeing the number printed on the fronts of the papers.

Handling of ballot papers

32. Any ballot paper -

(a) which does not bear an official mark; or

(b) on which anything is written or marked by which a voter can be identified other than the printed number,

Votes not to be counted

shall not be counted.

33. (1) The Assistant Returning Officer shall endorse the word "rejected" on any ballot paper which, under the provisions of regulation 32, is not to be counted.

Endorsement by Assistant Returning Officer

(2) The Assistant Returning Officer shall in either case add to the endorsement the words "rejection objected to" if an objection to his decision is made by any counting agent.

Rejected
ballot papers

34. The Assistant Returning Officer shall prepare a statement showing the number of ballot papers rejected under the following heads -

(a) want of official mark;

(b) writing or mark by which the voter could be identified,

and shall on request allow any counting agent to copy the statement.

Assistant
Returning
Officer's
decision final

35. The decision of the Assistant Returning Officer as to any question arising in respect of any ballot paper shall be final, and shall be subject to review only on an election petition questioning the election.

Assistant
Returning
Officer's
duties at
conclusion of
counting

36. Upon the conclusion of the counting of the votes the Assistant Returning Officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or the sealed packet containing the marked copy of the register of voters or the sealed packet containing the counterfoils of used ballot papers but shall proceed, in the presence of the counting agents, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded in accordance with regulation 30, the unused and spoilt papers in his possession and the tendered votes list, and shall seal each packet after examination. The Assistant Returning Officer shall prepare a statement as to the result of the verification and shall on request allow any counting agent to copy such statement.

Declaration
of result

37. When the result of the election has been ascertained, the Assistant Returning Officer shall -

(a) forthwith declare to be elected the candidate for whom the majority of votes has been cast;

(b) report the result of the election to the Returning Officer;

(c) deliver all documents specified in regulation 36 to the Returning Officer.

Equality of
votes

38. Where an equality of votes is found to exist between any candidates so that an addition of a vote would entitle any of them to be declared elected, the Assistant Returning Officer shall make a recount of the votes cast. If there is again an equality of votes as ascertained by such recount, the Assistant

Returning Officer shall report the fact to the Returning Officer. The Returning Officer shall transmit such report to the Minister who shall order that another election shall be held for that ward on such day as he shall determine.

39. Upon the receipt of the results of the elections in respect of all the wards within the City Council area, in which elections are being held, and after taking such steps as seem to him proper to verify such results, the Returning Officer shall.

Notification to successful candidates and publication of results

(a) send notification of election in writing to the successful candidates:

(b) inform the Minister of -

(i) the name of every person elected to be a member of the City Council;

(ii) the term of office of such person; and

(iii) the ward for which such person was elected; and

(c) cause such information to be published at the City Council's headquarters and in some prominent place in each ward.

40. (1) The Returning Officer shall ensure the safe custody of all documents relating to the conduct of the election.

Custody of documents

(2) The Returning Officer shall cause all such documents to be destroyed after the expiration of six months from the date of the election unless otherwise directed by an order of the Court arising from proceedings relating to the election.

41. A polling assistant may be authorised by the presiding officer to do any act which the presiding officer is required or authorised to do at a polling station by these Regulations, except that he may not order the arrest of any person, or the exclusion or removal of any person from the polling station.

Powers of polling assistants

42. A candidate may do any act or thing which his agent would have been authorised or required to do, and may assist his agent in the doing of any act or thing.

Candidate has power of his agent

Non-attendance of agents not to invalidate proceedings

43 Where in these Regulations any act or thing is required or authorised to be done in the presence of the agents of the candidates, the non-attendance of any agent or agents at the time and place appointed for the purpose shall not, if any act or thing is otherwise properly done, invalidate the act or thing done.

Election expenses of candidates

44. (1) Each candidate shall submit to the Returning Officer or Assistant Returning Officer within one month of the declaration of the results of the election a statement of account specifying all expenses incurred by him in his election campaign.

(2) Any candidate who fails to comply with paragraph (1) of this regulation is guilty of an offence and liable to a fine of one hundred dollars or to imprisonment for three months or to both such fine and imprisonment.

(3) Any candidate who incurs more than one thousand dollars in his election campaign is guilty of an offence and liable to a fine of one hundred dollars or to imprisonment for three months or to both such fine and imprisonment.

Remuneration of Returning Officer, Assistant Returning Officers and polling assistants

45. The Returning Officer, Assistant Returning Officers and the polling assistant shall receive such reasonable remuneration for their services as the Minister shall see fit to authorise.

Expenses of election

46. (1) All expenses properly incurred by the Returning Officer in the conduct of the election, the remuneration of the officers specified in regulation 45 and, except where the proceedings result from the act or omission of the Returning Officer done otherwise than in the bona fide performance of his duty under these Regulations, any expenses incurred by the Returning officer in any legal proceedings arising in connection with an election held under the provisions of these Regulations, shall be a charge upon the general revenue of the City Council.

(2) Upon the determination of any legal proceedings arising in connection with an election under the provisions of these Regulations, the Court shall, if a Returning Officer is a party thereto, certify whether or not such proceedings result from

an act or omission of the Returning Officer done otherwise than in the bona fide performance of this duty under these Regulations.

PART III

SPECIAL PROVISION TO PREVENT THE FRUSTRATION OF ELECTIONS.

47. (1) Notwithstanding anything to the contrary contained in these Regulations, where the Minister in his discretion is satisfied that by reason of flood or storm or any other cause whatsoever, whether of the like nature or otherwise, it has not been or will not be possible to carry out any part of any election or to comply in relation thereto with any of the provisions of these Regulations relating to time, throughout the ward or in relation to any polling station, he may in his discretion, within fourteen days of the date originally appointed for that part, by notice, appoint or direct the Returning Officer to appoint a new date for such part and for any subsequent part of the election as may be necessary.

Power to
defer part of
an election

(2) Every date appointed under the preceding paragraph of this regulation shall be deemed to have been appointed under the appropriate provisions of Part III of these Regulations, and shall afford all persons not less notice than is provided for in those provisions.

(3) In exercising his powers under paragraph (1) of this regulation, the Minister may in his discretion give such directions as he may consider necessary as to the deferment or suspension of the counting of votes pending receipt of the ballot boxes, papers and lists relating to any part of any election for which a new date is appointed, and for the safe custody of all ballot boxes papers and lists already received.

(4) In paragraph (1) of this regulation "part" in relation to an election includes any stage of an election and any act, matter or thing required to be done by any of the provisions of these Regulations.

PART IV

ELECTION OFFENCES.

Corrupt
practice

48. (1) No election shall be valid if any corrupt or illegal practice is committed in connection therewith by the candidate elected or his agent.

(2) Where on an election petition it is shown that corrupt or illegal practices or illegal payments, employments or hirings committed in reference to the election for the purpose or promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, his election, if he has been elected, shall be void and he shall be incapable of being elected to fill the vacancy for which the election was held.

Penalty for
false answer

49. Every person who makes a false answer to either of the questions prescribed in regulation 21 (c), knowing it to be false or not believing it to be true, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

Offences in
respect of
nomination
papers, etc

50. (1) Every person who -

(a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers, to any person or authority to whom nomination papers are required by these Regulations to be delivered, any nomination paper knowing the same to be forged; or

(b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(c) without due authority, supplies any ballot paper to any person; or

(d) fraudulently takes out of any polling station, place of voting or place of election any ballot paper; or

(e) without due authority, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election.

shall guilty of an offence, and shall be liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(2) In any prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, counterfoils, marking instruments and other things in use at an election, the property in such papers, boxes, instruments and things may be stated to be in the Returning Officer at such election.

51. (1) Every Returning Officer, Assistant Returning Officer, polling assistant, and agent shall maintain and aid in maintaining the secrecy of the voting in an election and shall not communicate, except for some purpose authorised by law, before the election is closed to any person any information as to the name or number on a register of voters of any voter who has or has not applied for a ballot paper or voted, or as to the official mark.

Infringement
of secrecy

(2) No such Officer, polling assistant or agent, and no person whatsoever shall interfere with or attempt to interfere with a voter when casting his vote, or otherwise attempts to obtain information as to the candidate for whom any voter is about to vote or has voted, or communicate at any time to any person information obtained during any election as to the candidate for whom any voter is about to vote, or has voted, or as to the number on the ballot paper given to any voter:

Provided always that the provisions of this paragraph of this regulation shall not prohibit, limit or qualify any procedure prescribed under these Regulations for recording the vote of any voter who is unable to read or incapacitated by blindness or other physical causes from casting his vote himself.

(3) Every such Officer, polling assistant, candidate, or agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not communicate any information obtained at such counting as to the candidate for whom any vote is given by any particular ballot paper.

(4) Every person who acts in contravention of the provisions of this regulation shall be liable to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding two months or to both such fine such imprisonment.

Penalty for bribery, treating, etc

52. Every person who is guilty of bribery, treating or undue influence shall be guilty of a corrupt practice and liable to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

Persons to be deemed guilty of bribery

53. The following persons shall be deemed to be guilty of bribery within the meaning of these Regulations -

(a) every person who directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers, promises, or promises to procure or to endeavour to procure, any money or valuable consideration to or for any voter or to or for any person on behalf of any voter, or to or for any person, in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at any election;

(b) every person who directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure or to endeavour to procure, any office, place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting,

or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at any election;

(c) every person who directly or indirectly, by himself or by any other person on his behalf, makes any such gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person, in order to induce such person to procure, or to endeavour to procure, the return of any person as a member of the City Council or the vote of any voter at any election;

(d) every person who, upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any person as a member of the City Council or the vote of any voter at any election;

(e) every person who advances or pays, or causes to be paid, any money to or for the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who knowingly pays or causes to be paid, any money to any person, in discharge or repayment of any money wholly or in part expended in bribery at any election;

(f) every voter, who, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees to receive, or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election; and

(g) every person who, after any election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having, induced any other person to vote or refrain from voting at any election:

Provided always that the provisions of this regulation shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses bona fide incurred at or concerning any election.

Persons to be
deemed
guilty of
treating

54. (1) The following persons shall be deemed to be guilty of treating within the meaning of these Regulations -

(a) every person who corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives, or provides, or pays, or promises to give, provide or pay, wholly or in part, the expenses of giving or providing any food, drink, entertainment or provision to or for any person, for the purpose of corruptly influencing that person, or any other person, to vote or refrain from voting at such election, or on account of that person or any other person having voted or refrained from voting at such election; and

(b) every voter who corruptly accepts or takes any such food, drink, entertainment, or provision.

(2) For the avoidance of doubt, it is hereby declared that the provision of any feast or other entertainment in accordance with established custom shall not be treating for the purposes of this section if the provision of that feast or entertainment is not for the purpose of corruptly influencing any person.

Persons to be
deemed
guilty of
undue influ-
ence

55. Every person who directly or indirectly, by himself or by any other person on his behalf, makes use of, or threatens to make use of, any force, violence, or restraint, or inflicts or threatens to inflict by himself or by any other person, any injury, damage, harm or loss, upon or against any person, in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election, or who, by abduction, duress, or any fraudulent contrivance, impedes or prevents the free use of the vote by any voter or thereby compels, induces or prevails upon any voter either to give or refrain from giving his vote at any election shall be guilty of undue influence within the meaning of these Regulations.

56. Every person who is guilty of personation or of aiding, abetting, counselling or procuring the commission of the offence of personation, shall be guilty of a corrupt practice and liable to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding two months or to both such fine and such imprisonment.

Penalty of personation

57. Every person who at any election applies for a ballot paper in the name of another person or tenders a vote in the name of another person whether that name is the name of a person living or dead or of a fictitious person, or who having voted once at any election, applies for a ballot paper or tenders a vote at the same election, in his own name, which he is not entitled to tender under the provisions of these Regulations, shall be guilty of personation within the meaning of these Regulations.

Persons to be deemed guilty of personation

58. Every person who is convicted of a corrupt practice shall (in addition to any other punishment), be disqualified, during a period of four years from the date of his conviction -

Incapacity entailed by conviction for corrupt practice

(a) from being registered as a voter or of voting at any election; and

(b) from being elected as a member of the City Council, or, if elected before his conviction, or retaining his seat as such member.

59. Every person who -

Penalty for persons guilty of certain illegal practices

(a) votes, or induces, or procures any other person to vote, at any election, knowing that he or such other person is prohibited by any provision of these Regulations or of the Act or any other Act from voting at such election; or

(b) before or during an election knowingly publishes any false statement of the withdrawal of a candidate at such election for the purposes of promoting or procuring the election of another candidate,

shall be guilty of an illegal practice and shall be liable to a fine not exceeding fifty dollars or to imprisonment for a term not

exceeding two months or to both such fine and such imprisonment, and shall be disqualified during a period of three years from the date of his conviction from voting at any election.

Interference with lawful public meeting to be an illegal practice

60. Any person who at a lawful public meeting, held in connection with the election of any person to the City Council, between the date of publication of a notice issued under the provisions of regulation 6 appointing a day for the holding of an election is published, acts or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice and shall be liable to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding two months or to both such fine and such imprisonment, and shall be disqualified during a period of three years from the date of his conviction, from voting at any election.

Display of emblems in vicinity of place of voting prohibited

61. (1) No person other than a candidate shall within any building where voting for the election of a member of the City Council is in progress, or on any public way within a distance of fifty yards of any entrance to such building, wear or display any card, symbol, favour or other emblem indicating support for a particular candidate or political party and no person shall within two hundred yards of any such building make any public address indicating support for a particular candidate or political party.

(2) Any person acting in contravention of this regulation shall be guilty of an offence and shall be liable to a fine of twenty dollars.

(3) For the purpose of this regulation, "public way" includes any highway, market place, square, street, bridge or other way which is lawfully used by the public.

Saving for offences under Penal Code Cap 26

62. Nothing in these Regulations shall be construed or deemed in any way to prejudice, derogate from or affect any of the provisions of the Penal Code as to the offences relating to public offices or officers.

PART V
ELECTION PETITIONS AND CIVIL PROCEEDURES

63. (1) All questions which may arise from any election as to the right of any person to be or remain an elected member shall be referred to and determined by the High Court on a petition presented by the Attorney-General or by a voter, in accordance with the procedure prescribed by regulations 64 and 65 for the trial of an election petition, and the decision of the High Court on any such petition shall be final.

Questions as to elected members to be determined by High Court

(2) Where the question to be decided concerns the right of any person to remain a member, the Court shall certify its decision in writing to the Minister; and where the Court has decided that any person is not entitled to remain a member, such person shall thereupon cease to be a member.

64. A petition complaining of an undue return or undue election of a member, hereinafter called an election petition, may one month from the date of the publication, in pursuance of regulation 38(c), of the result of the election; be presented to the High Court in its civil jurisdiction by any one or more of the following persons, that is to say -

Presentation of election petition

(a) some person who voted or had a right to vote at the election to which the petition relates; or

(b) some person who claims to have had a right to be returned or elected at such election; or

(c) some person who alleges himself to have been a candidate at such election.

65. (1) Every election petition shall be heard by the High Court, in open court.

Hearing of election petition

(2) During such hearing the Court may order -

(a) the inspection and production of any rejected ballot papers; or

(b) the opening of any sealed packet of counterfoils of used ballot papers; or

(c) the inspection of any counted ballot papers; or

(d) the inspection and production of tendered ballot papers and the tendered votes list:

Provided that in making and carrying into effect the order, care shall be taken that the way in which the vote of any particular voter has been given shall not be disclosed until it has been proved that his vote was given and the vote has been declared by the Court to be invalid.

(3) At the conclusion of the hearing, the Court shall determine whether the member whose return or election is complained of, or any other and what person, was duly returned or elected, or whether the election was void, and shall certify such determination to the Minister; and, upon such certificate being given, such certificate being given, such determination shall be final and shall not be questioned in, nor shall any appeal lie therefrom to, any Court; and the election shall be confirmed, or a new election shall be held, as the case may require, in accordance with such certificate;

Provided that where the Court finds that any candidate who has been declared to be elected was not qualified or was disqualified at the time of his election, the Court shall determine the election to be void

Procedure at
hearing of
election petition

66. Subject to the provisions of these Regulations, the Chief Justice may from time to time make rules for regulating the practice and procedure to be observed in relation to election petitions, and subject to such rules, the procedure at the hearing or an election petition shall, as near as circumstances will admit, be the same, and the Court shall have the same powers, jurisdiction, and authority, as if it were hearing a civil action; and witnesses may be subpoenaed and sworn in the same manner, as near as circumstances will admit, as in the hearing of a civil action in the High Court, and shall be subject to the same penalties for perjury.

PART VI
TRANSITIONAL

67. Until such time that rules are made under regulation 66 as to the questioning of elections held under these regulations, the Local Government (Election Petition) Rules shall apply to election petitions in respect of such elections and the said rules shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with these Regulations.

Local
Government
(Election
Petition)
Rules

SCHEDULE

NOMINATION PAPER

(Regulation 8)

Ward for which candidate seeks election
Date of election

1. I, the undersigned, am the candidate to whom this nomination paper refers, and I hereby state I am willing to stand for election to the Honiara City Council as a member for the ward.

2. I also hereby state that I am qualified, and not disqualified, for election to the Honiara City Council in accordance with the Honiara City Act 1999, and all Regulations made thereunder.

Name
Address
Description
Date
Signature

We, the undersigned, are the nominators of the above candidate, and are voters of the ward for which this candidate seeks election

Name
Address
Description
Date
Signature

Name
Address
Description
Date
Signature

Name
Address
Description
Date
Signature

Dated at Honiara this first day of November 1999.

REV. LESLIE BOSETO
Minister of Home and Cultural Affairs
