

THE ISLAND OF NAURU.

NAURU LOCAL GOVERNMENT COUNCIL ORDINANCE 1951-1965.*

An Ordinance relating to the Nauru Local Government Council.

PART I.—PRELIMINARY

1. This Ordinance may be cited as the *Nauru Local Government Council Ordinance 1951-1965*.*

2. This Ordinance is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1-4).

Part II.—The Nauru Local Government Council.

Division 1.—Constitution and Meetings of the Council (Sections 5-10).

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

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

Division 3.—Tenure of Office of Head Chief and Councillors (Sections 35-39).

Short title
Short title
amended:
No. 6, 1965,
s. 4.
Parts.
Amended by
No. 5, 1959,
s. 2.

* The *Nauru Local Government Council Ordinance 1951-1965* comprises the *Nauru Local Government Council Ordinance 1951* as amended. Particulars of the Principal Ordinance and of the amending Ordinances are set out in the following table:—

Ordinance.	Year and Number.	Date made.	Date notified in <i>Nauru Government Gazette</i> .	Date of Commencement.
<i>Nauru Local Government Council Ordinance 1951</i>	1951, No. 2	20th August, 1951	..	20th August, 1951
<i>Nauru Local Government Council Ordinance 1954</i>	1954, No. 1	22nd February, 1954	..	22nd February, 1954
<i>Nauru Local Government Ordinance 1955†</i>	1955, No. 3	18th April, 1955	..	18th April, 1955
<i>Nauru Local Government Council Ordinance 1955</i>	1955, No. 4	11th June, 1955	..	11th June, 1955
<i>Nauru Local Government Council Ordinance 1956</i>	1956, No. 8	18th September, 1956	18th September, 1956	18th September, 1956
<i>Nauru Local Government Council Ordinance 1959</i>	1959, No. 5	30th October, 1959	31st October, 1959	31st October, 1959
<i>Nauru Local Government Council Ordinance 1963</i>	1963, No. 2	2nd October, 1963	4th October, 1963	4th October, 1963
<i>Nauru Local Government Council Ordinance (No. 2) 1963</i>	1963, No. 7	16th December, 1963	20th December, 1963	20th December, 1963
<i>Nauru Local Government Council Ordinance 1965</i>	1965, No. 5	24th December, 1965	24th December, 1965	24th December, 1965

† The *Nauru Local Government Ordinance 1955* (No. 3 of 1955) was repealed by section 2 of the *Nauru Local Government Council Ordinance 1955* (No. 4 of 1955).

Division 4.—Powers of the Council (Sections 40-45).

Part III.—Offences (Sections 46-49).

Part IV.—Miscellaneous (Sections 50-53).

3. In this Ordinance, unless the contrary intention appears—

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

“Councillor” means a Councillor of the Nauru Local Government Council;

“Districts” means the Districts of Aiwo, Boe, Yaren, Meneng, Buada, Anibare, Ijuw, Anabar, Anetan, Ewa, Baiti, Uaboe, Nibok and Denigomodu into which Nauru is divided by the customs of the Nauruans;

“elector” means any Nauruan whose name appears on a roll as an elector;

“Nauru” means the Island of Nauru;

“Nauru Gazette” means the *Government Gazette* published by the Administration of Nauru;

“nomination day” in relation to any election or by-election shall be the day fourteen days preceding the date of the election or by-election;

“roll” means a roll containing the names of Nauruans entitled to vote at elections of Councillors;

“the Administrator” means the Administrator of Nauru and includes any person authorised by the Administrator in writing to act as senior Administration Officer during any vacancy in the office of Administrator or when the Administrator is absent from Nauru or unable by reason of illness or incapacity to perform his duties;

“the Council” means the Nauru Local Government Council established by this Ordinance;

“the Head Chief” means the Councillor elected as Head Chief in accordance with this Ordinance;

“the Registrar” means the person appointed as Registrar under Section 14 of this Ordinance;

“the Returning Officer” means the person appointed by the Council to be the Returning Officer for the purposes of this Ordinance;

“the Schedule” means the Schedule to this Ordinance;

“the Secretary” means the Secretary to the Council appointed under section fifty-two of this Ordinance.

Definitions.
Amended by
No. 8, 1956,
s. 2; No. 5,
1959, s. 3; and
No. 2, 1963, s. 2.

4.—(1.) The Head Chief and District Chiefs holding office in accordance with the customs of the Nauruans at the date of this Ordinance shall continue in office under those customs until a Head Chief and Councillors are elected in accordance with the provisions of this Ordinance.

Continuance in office of Head Chief and District Chiefs.

(2.) So far as they are not inconsistent with the provisions of this Ordinance, any power or authority conferred upon the Head Chief, a District Chief or the Council of Chiefs, as such, immediately before the date of this Ordinance, by any law in force in Nauru or by the customs of the Nauruans, shall be deemed to have been conferred by this Ordinance upon the Head Chief, a Councillor and the Council respectively.

PART II.—THE NAURU LOCAL GOVERNMENT COUNCIL.

Division 1.—*Constitution and Meetings of the Council.*

5.—(1.) There shall be a Council to be known as the Nauru Local Government Council.

Constitution of Nauru Local Government Council.

(2.) The Council shall consist of the Head Chief and eight other Councillors elected in accordance with the provisions of this Ordinance.

(3.) The presence of the Head Chief and at least five other Councillors, or, in the absence of the Head Chief, at least six Councillors, shall be necessary to constitute a meeting of the Council for the despatch of business.

(4.) The proceedings of the Council shall not be invalid by reason only of there being a vacancy in the membership of the Council.

6. The Councillors shall elect one of their number to be Head Chief who shall, in addition to his duties as Head Chief, remain a Councillor for his District or group of Districts, as the case may be.

Election of Head Chief.

7. Where any vacancy occurs in the office of Head Chief, the Councillors shall elect one of their number to be Head Chief.

Filling of vacancy of Head Chief.

8.—(1.) The Head Chief shall, except as provided in sub-section (3.) of section nine of this Ordinance, preside at all meetings of the Council at which he is present.

President of Council.

(2.) In the absence of the Head Chief from any meeting of the Council and except as provided in sub-section (3.) of section nine of this Ordinance, the Councillors present shall elect one of their number to preside at that meeting.

9.—(1.) The first meeting of the Council after an election held in pursuance of section eleven of this Ordinance shall be convened by the Administrator, and shall be held within fourteen days after that election at a time and place fixed by the Administrator by notice in the *Nauru Gazette*. Meetings.

(2.) Subject to the next succeeding sub-section, all other meetings of the Council shall be held at such times and places and convened in such manner as the Council may decide.

(3.) At least once in every calendar month there shall be a meeting of the Council with the Administrator, at which the Administrator shall preside, to advise the Administrator upon any matter upon which the Administrator desires the advice of the Council and to discuss with the Administrator any matter that the Council desires to bring to the notice of the Administrator.

(4.) Nothing in the last preceding sub-section shall prevent the Administrator from referring any matter to the Council at any time or the Council from referring any matter to the Administrator at any time.

10.—(1.) The Head Chief, or a Councillor elected to preside at any meeting in pursuance of sub-section (2.) of section eight of this Ordinance, may, when presiding at a meeting of the Council, exercise his ordinary vote as a member of the Council, and, in addition, shall have a casting vote when the votes of those present are equally divided. Voting in Council.

(2.) At any meeting of the Council with the Administrator as provided by sub-section (3.) of section nine of this Ordinance, the Administrator shall not have any vote, and in the event of an equality of votes being cast for and against a proposal at any such meeting, the proposal shall be regarded as not carried.

Division 2.—Election of Councillors.

11.—(1.) Elections of Councillors shall be held at intervals not exceeding four years from the date of the first election. Election of Councillors.

(2.) The Council shall fix the date for the holding of each election, and shall cause notice of the date so fixed to be published in the *Nauru Gazette* not less than twenty-eight days before that date. Substituted by No. 2, 1963, s. 3.

* * * * *

12. Councillors shall be elected for the respective Districts or groups of Districts as follows:— Sub-section (3.) omitted by No. 2, 1963, s. 3.
District representation.

(a) One Councillor for each of the Districts of Aiwo, Boe, Yaren, Meneng and Buada;

- (b) One Councillor for the group of Districts comprising the Districts of Anibare, Ijuw and Anabar;
- (c) One Councillor for the group of Districts comprising the Districts of Anetan and Ewa; and
- (d) Two Councillors for the group of Districts comprising the Districts of Baiti, Uaboe, Nibok and Denigomodu.

13. Any Nauruan who is entitled to vote at an election of a Councillor or Councillors for any District or group of Districts shall be eligible for election as a Councillor for that District or group of Districts.

Qualifications of Councillors.

14.—(1.) For the purposes of this Ordinance there shall be a Registrar who shall be appointed by the Council.

Registrar and Deputy Registrar.

Substituted by No. 5, 1959, s. 4. Sub-section (1.) amended by No. 2, 1963, s. 4.

Amended by No. 2, 1963, s. 4.

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

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

Rolls.

Inserted by No. 5, 1959, s. 4.

15.—(1.) Subject to the next succeeding sub-section, every Nauruan resident in Nauru, whether male or female, who is over the age of twenty-one years, shall be entitled to enrolment.

Qualifications for enrolment.

(2.) A Nauruan who has been convicted and is under sentence or subject to be sentenced for an offence punishable under any law in force in Nauru by imprisonment for one year or longer shall not be entitled to enrolment.

16.—(1.) Any Nauruan entitled to enrolment, who lives in a District shall be entitled to have his name placed on the roll for that District:

Claims for enrolment and transfer of enrolment.

Sub-section (1.) amended by No. 5, 1965, s. 2.

Provided that, for the purposes of the first election of Councillors, any Nauruan entitled to enrolment shall be entitled to have his name placed on the roll for the District in which he was living at the date of this Ordinance.

(2.) Any elector whose name is on the roll for any District and who lives in any other District shall be entitled to have his name transferred to the roll for the District in which he lives.

Amended by No. 5, 1965, s. 2.

(3.) A Nauruan shall not be entitled to have his name placed on more than one roll.

(4.) Every Nauruan who is entitled to have his name placed on, or transferred to, the roll for any District, and whose name is not on that roll shall, within one month after he becomes so entitled, apply in writing to the Registrar to have his name placed on, or transferred to, that roll.

Amended by
No. 5, 1959,
s. 5.

Penalty: One pound.

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

Substituted by
No. 5, 1959,
s. 5.

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

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

Inserted by
No. 5, 1959,
s. 5.

17.—(1.) The Registrar shall cause to be struck off any roll the name of any Nauruan who—

- (a) is dead;
- (b) has ceased to reside in Nauru; or
- (c) is for any other reason not entitled to enrolment.

Alteration of
rolls.
Sub-section (1.)
amended by
No. 5, 1959,
s. 6.

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

Inserted by
No. 5, 1959,
s. 6.

(2.) The Registrar shall cause to be made such alterations in the entries on any roll as are required as a result of—

- (a) any change in the place of living of an elector; or
- (b) any alteration in the boundaries of any District.

Amended by
No. 5, 1959,
s. 6.

17A.—(1.) A person—

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

Appeal in
relation to
enrolment.
Inserted by
No. 5, 1959,
s. 7.

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

may, within one month after the receipt of the notice of the rejection of his application or the notice that his name has been struck off, as the case may be, apply to the District Court for an order directing that his name be placed on, transferred to or reinstated on, as the case may be, that roll.

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

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

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

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

18.—(1.) Any Nauruan whose name is entered upon the roll for any District shall be entitled to vote at elections of a Councillor or Councillors for that District or the group of Districts in which that District is included, as the case may be. Electors.

(2.) Every elector shall vote at each election of a Councillor or Councillors for the District or group of Districts in respect of which he is an elector, unless—

(a) he is absent from Nauru on the date on which the election is held;

(b) he is seriously ill or infirm and by reason of that illness or infirmity is precluded from attending at any polling place to vote; or

(c) in the case of a woman, she is precluded by approaching maternity from attending at any polling place to vote.

Penalty: One pound.

(3.) The Returning Officer shall, at the close of each election, prepare a list of the names and descriptions of the electors who have not voted at the election, and shall certify the list by writing under his hand.

(4.) The list so certified shall in all proceedings be *prima facie* evidence of the contents thereof and of the fact that the electors whose names appear therein did not vote at the election.

19.—(1.) A notice in accordance with Form A in the Schedule, shall, within one month after the date of each election, be sent to each elector whose name appears on the list of electors who did not vote at the election.

Notice to electors who fail to vote and reply by elector.

(2.) An elector to whom a notice has been sent in pursuance of the last preceding sub-section, shall, within the time specified in the notice (not being less than fourteen days from the date on which the notice is sent) complete, sign in the presence of a witness who is an elector or a person qualified to be an elector, and return to the Returning Officer a reply in accordance with Form B of the Schedule.

Penalty: One pound.

(3.) If the elector to whom a notice under this section is addressed is unable, by reason of absence from his place of living or physical incapacity, to complete, sign and return the reply as required by this section, any other elector having personal knowledge of the facts may complete, sign and return the form on behalf of the absent or incapacitated elector.

(4.) An elector who states in a reply returned in pursuance of this section a false reason for his failure to vote, or, if he is making the reply on behalf of another elector, states a false reason for the failure of that other elector to vote, shall be guilty of an offence.

Penalty: One pound.

20.—(1.) Where the reply under the last preceding section states a reason for the failure of an elector to vote which, in the opinion of the Returning Officer, is not a valid and sufficient reason for that failure, the Returning Officer shall submit the facts to the Council.

Action where reason considered insufficient.

Sub-section (1.) amended by No. 2, 1963, s. 5.

(2.) Proceedings for an offence against section eighteen of this Ordinance shall not be instituted except by or with the written authority of the Council.

Amended by No. 2, 1963, s. 5.

21. The nomination of a candidate for Councillor in respect of a District or group of Districts shall be effected by delivering to the Returning Officer, not later than noon on nomination day, a paper in accordance with Form C in the Schedule, signed by two or more electors of that District or group of Districts and by the candidate.

Nomination of candidates.

22.—(1.) The Returning Officer shall, at noon on nomination day, read out in public at the Domaneab, the names of the candidates and their nominators.

Public declaration of nomination.

(2.) If the number of candidates in respect of a District or group of Districts is not greater than the number of Councillors to be elected for that District or group of Districts, the Returning Officer shall then and there declare those candidates to be elected.

(3.) If the number of candidates in respect of any District or group of Districts is greater than the number of Councillors to be elected for that District or group of Districts, the Returning Officer shall direct that a poll shall be taken on the day appointed pursuant to section eleven of this Ordinance and shall forthwith cause to be publicly exhibited and kept so exhibited until after the poll, in some conspicuous place on or near to the Domaneab, a notice to that effect, setting out the names of the candidates and their nominators.

23.—(1.) Subject to the last preceding section, every election shall be by ballot and the voting shall commence at one o'clock in the afternoon of polling day and shall close at six o'clock in the afternoon of the same day.

Election to be by ballot.

(2.) The poll shall be taken at such place or places in each District as the Council appoints.

Amended by No. 2, 1963, s. 6.

(3.) The Returning Officer shall appoint a person to act as Presiding Officer at each polling place.

(4.) The Presiding Officers shall have the assistance of the police and of such persons as are appointed by the Returning Officer in that behalf to carry out the details of the polling and to keep order within, and at, the approaches to the polling places.

24.—(1.) At each polling place there shall be one or more separate voting compartments.

Compartments for voting.

(2.) A person who is not an elector about to mark his ballot-paper shall not enter any such compartment during the poll.

Penalty: Five shillings.

25.—(1.) Each Presiding Officer shall be provided with a sufficient number of ballot-papers in accordance with Form D in the Schedule, and shall initial those ballot-papers on the back before delivering them to electors voting at the polling place at which he presides.

Ballot-papers and ballot-boxes.

(2.) The Presiding Officer shall also be provided with a ballot-box, in the top of which there shall be an opening sufficiently large to receive a folded ballot-paper.

(3.) The box shall be locked throughout the polling and the key shall be retained by the Presiding Officer.

26. The Returning Officer may appoint any person to act as Poll Clerk to assist the Presiding Officer in the conduct of the poll. Poll clerks.

27.—(1.) Subject to this Ordinance, an elector shall vote only at a polling place in the District in respect of which he is enrolled. Method of voting.

(2.) Subject to section twenty-nine of this Ordinance, the Presiding Officer shall deliver to each elector a ballot-paper initialled in accordance with section twenty-five of this Ordinance.

(3.) The elector shall enter a voting compartment and, without leaving the same, may mark his vote on the ballot-paper in the manner indicated on the ballot-paper and shall then fold the ballot-paper so as to conceal the interior and shall openly, in the presence of the Presiding Officer, place the ballot-paper in the ballot-box.

(4.) If an elector cannot read or his sight is so impaired that he cannot vote without assistance, the Presiding Officer may, at the request of the elector, mark in accordance with the wishes of the elector, fold and deposit the elector's ballot-paper for him.

28.—(1.) A ballot-paper shall be informal if—

(a) it is not authenticated by the initials of the proper officer in accordance with section twenty-five of this Ordinance; Informal ballot-papers.

(b) it has no vote indicated on it or it does not indicate the elector's first preference for one candidate and his contingent votes for all the remaining candidates:

Provided that—

(i) when the elector has indicated his first preference for one candidate and his contingent votes for all the remaining candidates except one and the square opposite the name of that candidate has been left blank, it shall be deemed that the elector's preference for that candidate shall be his last and that accordingly he has indicated the order of his preference for all the candidates; and

(ii) when there are two candidates only and the elector has indicated his vote by placing the figure "1" in the

square opposite the name of one candidate and has left the other square blank, the elector shall be deemed to have indicated the order of his preference for all the candidates; or

- (c) it has upon it any mark or writing (not authorized by this Ordinance to be put upon it) by which, in the opinion of the Returning Officer, the elector can be identified:

Provided that a ballot-paper shall not be informal by reason of any mark or writing having been placed upon it by the Returning Officer, notwithstanding that the placing of the mark or writing upon the ballot-paper is a contravention of this Ordinance.

(2.) A ballot-paper shall not be informal for any reason other than the reasons specified in this section, but shall be given effect according to the elector's intention so far as that intention is clear.

29.—(1.) The Presiding Officer may ask the elector the following questions:—

Questions which may be asked.

(a) Are you the person whose name appears as (*the name of elector*) in the roll of persons entitled to vote at an election of Councillors for (*the name of the District or group of Districts*)?

(b) Are you qualified to vote at this election for the (*the name of the District or group of Districts*)?

(c) Have you already voted at this election?

(2.) The Presiding Officer shall not ask the elector any other questions.

(3.) Any person who refuses to answer any question, or who fails to answer questions (a) and (b) in the affirmative and question (c) in the negative, shall not be permitted to vote.

(4.) Any person who makes any false answer to any of the questions referred to in sub-section (1.) of this section shall be guilty of an offence.

Penalty: Five pounds or imprisonment for one month, or both.

30.—(1.) The result of the polling shall be ascertained by The Scrutiny. scrutiny.

(2.) The Returning Officer may appoint any Presiding Officer or Officers to assist in the conduct of the scrutiny.

31.—(1.) Immediately after the close of the poll, the Presiding Officer at each polling place shall bring the ballot-box unopened to the Returning Officer, who shall, in the presence of the Presiding Officer—

Scrutiny of
ballot-papers.

- (a) open the ballot-box;
- (b) reject all informal ballot-papers and arrange the unrejected ballot-papers under the names of the respective candidates by placing in a separate parcel all those on which a first preference is indicated for the same candidate; and
- (c) count the first preference votes given for each candidate on all unrejected ballot-papers.

32.—(1.) In respect of each District or group of Districts—

Determination
of result of
election.

- (a) The Returning Officer shall ascertain the total number of first preference votes given for each candidate;
- (b) The candidate who has received the largest number of first preference votes shall, if that number constitutes an absolute majority of votes, be elected for that District or group of Districts;
- (c) If no candidate has received an absolute majority of votes a second count shall be made;
- (d) On the second count the candidate who has received the fewest first preference votes shall be excluded and each ballot-paper counted to him shall be counted to the candidate next in the order of the elector's preference;
- (e) If a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the fewest votes and counting each of his ballot-papers to the unexcluded candidate next in order of the elector's preference shall be repeated until one candidate has received an absolute majority of votes;
- (f) The candidate who has then received an absolute majority of votes shall be elected for that District or group of Districts;
- (g) Where two Councillors are required to be elected for a group of Districts in accordance with section twelve of this Ordinance, the following further action shall be taken after one Councillor has been elected—
 - (i) the Returning Officer shall re-arrange all the ballot-papers under the names of the respective candidates in accordance

- with the first preference indicated thereon, except that each ballot-paper on which a first preference for the elected candidate is indicated shall be placed in the parcel of the candidate next in order of the voter's preference;
- (ii) if a candidate then has an absolute majority of votes he shall be elected, but if no candidate then has an absolute majority of votes, the scrutiny shall proceed as provided in paragraph (e) of this sub-section until one other candidate has received an absolute majority of votes; and
 - (iii) the candidate who has then received an absolute majority of votes shall be elected as the other Councillor; and
 - (h) if on any count two or more candidates have an equal number of votes and one of them has to be excluded, the Returning Officer shall decide by lot which shall be excluded.

(2.) In this section an "absolute majority of votes" means, in relation to any District or group of Districts, a greater number than one-half of the whole number of ballot-papers, other than informal ballot-papers, in respect of that District or group of Districts.

33. As soon as may be after the result of an election is ascertained, the Returning Officer shall, at the Domaneab, publicly declare—

Declaration of poll.

- (a) the result of the election;
- (b) the name or names of the candidate or candidates elected;
- (c) the number of formal votes cast for each candidate; and
- (d) the number of informal votes.

34.—(1.) Subject to sub-section (4.) of this section, where a Councillor ceases to hold office before the expiration of the term for which he was elected, a by-election shall be held to fill the vacancy on a date fixed by the Council.

Filling of casual vacancies of Councillor. Substituted by No. 2, 1963, s. 7.

(2.) The Council shall cause notice of the date fixed for the holding of a by-election to be published in the *Nauru Gazette* not less than twenty-eight days before that date.

(3.) The provisions of sections eighteen to thirty-three (inclusive) of this Ordinance apply in relation to the conduct of a by-election in like manner as they apply to and in relation to the conduct of an election under Division 2 of this Ordinance.

(4.) A by-election shall not be held to fill a vacancy on the Council if the Council determines that, by reason of the proximity of an approaching election under section eleven of this Ordinance, it is unnecessary to fill the vacancy before that election is held.

Division 2A.—Court of Disputed Elections.

34A. In this Division, unless the contrary intention appears—
“declaration of election” means a declaration made under section thirty-three of this Ordinance;
“petition” means a petition made under the next succeeding section.

Division 2A
inserted by
No. 5, 1959,
s. 8.

Definitions.
Inserted by
No. 5, 1959,
s. 8.

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

Method of
disputing
elections, etc.
Inserted by
No. 5, 1959,
s. 8.

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

The Court
of Disputed
Elections.
Inserted by
No. 5, 1959,
s. 8.

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

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

Requisites of
petition.
Inserted by
No. 5, 1959,
s. 8.

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

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

Deposit as
security for
costs.
Inserted by
No. 5, 1959,
s. 8.

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

No proceedings
unless requisites
complied with.
Inserted by
No. 5, 1959,
s. 8.

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

Returning Officer entitled to enter appearance. Inserted by No. 5, 1959, s. 8.

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

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

Powers of Court. Inserted by No. 5, 1959, s. 8. Sub-section (1.) amended by No. 2, 1963, s. 8.

(a) to adjourn;

(b) to compel the attendance of witnesses and the production of documents;

(c) to grant to a party to a petition leave to inspect, in the presence of a person appointed for the purpose by the Secretary, the rolls and other documents (except ballot-papers) used at or in connexion with an election and to take, in the presence of a person appointed for the purpose by the Secretary, extracts from those rolls and other documents;

(d) to examine witnesses on oath;

(e) to declare that a person who has been declared to be elected under section thirty-three of this Ordinance was not duly elected;

(f) to declare a candidate duly elected who has not been declared to be elected under section thirty-three of this Ordinance;

(g) to declare an election absolutely void;

(h) to dismiss or uphold a petition in whole or in part;

(i) to award costs; and

(j) to punish any contempt of its authority by fine or imprisonment.

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

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

Inquiries by Court. Inserted by No. 5, 1959, s. 8.

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

Real justice to be observed. Inserted by No. 5, 1959, s. 8.

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

Decisions to be final.
Inserted by No. 5, 1959, s. 8.

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

Costs.
Inserted by No. 5, 1959, s. 8.

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

Deposit applicable for costs.
Inserted by No. 5, 1959, s. 8.

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

Other costs.
Inserted by No. 5, 1959, s. 8.

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

Effect of decision of Court.
Inserted by No. 5, 1959, s. 8.

(a) if a person who has been declared to be elected under section thirty-three of this Ordinance is declared not to have been duly elected, he ceases to be a Councillor;

(b) if a person who has not been declared to be elected under section thirty-three of this Ordinance is declared to have been duly elected, he becomes a Councillor accordingly; and

(c) if an election is declared absolutely void, a new election shall be held.

Division 3.—Tenure of Office of Head Chief and Councillors.

35. The Head Chief shall, subject to this Ordinance, hold office from the date of his election until the election of a successor by the Councillors elected at a succeeding election held in pursuance of section eleven of this Ordinance.

Tenure of office of Head Chief.

36. A Councillor shall, subject to this Ordinance, hold office from the date of his election until the election of a successor at a succeeding election held in pursuance of section eleven of this Ordinance.

Tenure of office of Councillors.

37. Where the Head Chief or a Councillor—

(a) is absent from three consecutive meetings of the Council without the leave of the Council;

(b) becomes incapable of performing his duties as Head Chief or Councillor; or

Disqualification of Head Chief or Councillor.

(c) is committed to any gaol, prison or house of correction to serve a sentence of one year or longer as a punishment for an offence against any law in force in Nauru,
he shall be deemed to have vacated his office.

38. The Head Chief may, by writing addressed to the Council, resign his office of Head Chief.

Resignation of
Head Chief.

39. A Councillor may, by writing under his hand delivered to the Secretary, resign his office of Councillor.

Resignation of
Councillors.
Amended by
No. 2, 1963,
s. 9.

Division 4.—Powers of the Council.

40. The Council shall be a body corporate with perpetual succession and a common seal, and shall have power to acquire, hold and dispose of real and personal property, enter into contracts, institute and defend actions, suits and other legal proceedings, and do all things necessary for the purposes of its powers and functions.

Incorporation
of Council.

41.—(1.) The Council may advise the Administrator in relation to any matter affecting the peace, order and good government of the Island of Nauru, including the making of new Ordinances or Regulations and the repeal or amendment of existing Ordinances or Regulations, and shall have such powers and functions as are provided by or under this or any other Ordinance.

Advisory
powers of the
Council.
Sub-section (1.)
amended by
No. 2, 1963,
s. 10.

(2.) Where the Administrator has, after having received advice from the Council in relation to a matter under the last preceding sub-section—

Substituted by
No. 2, 1963,
s. 10.

(a) acted in relation to the matter otherwise than in accordance with the advice; or

(b) failed to act in relation to the matter in accordance with the advice,

the Administrator shall, upon the request of the Council, furnish to the Council, in writing, his reason for having so acted or for having failed so to act, as the case may be.

42. The Council, the Head Chief and a Councillor (in relation to his District or group of Districts) shall—

General duties
of Council,
Head Chief and
Councillors.

(a) perform the duties and fulfil the obligations imposed upon it or him by this Ordinance or by any other law in force in Nauru;

(b) subject to the laws of Nauru, generally maintain peace, order and good government among the Nauruans; and

(c) intervene for the purpose of preventing, and to the best of its or his ability prevent, the commission by any Nauruan over whom it or he has authority of any offence against a law of Nauru.

43. Subject to the provisions of any other law in force in Nauru, the Council may—

General powers
of Council.
Amended by
No. 2, 1963,
s. 11.

(a) organize, finance or engage in any business or enterprise likely to benefit the Nauruan community;

(b) carry out any works for the benefit of the Nauruans either generally or in a particular District or Districts; and

(c) provide, or co-operate with the Administration of Nauru or other body in providing, any public or social service for the Nauruan community.

44.—(1.) Subject to this Ordinance, the Council may make rules, not inconsistent with any Act or Ordinance or any instrument (including regulations) made thereunder in force in Nauru, for regulating the conduct of its business and for the peace, order and welfare of the Nauruans, and in particular for—

Power of
Council to
make Rules.
Sub-section (1.)
amended by
No. 3, 1955,
s. 2; No. 4,
1955, s. 3; and
No. 8, 1956,
s. 3.

(a) regulating the manner in which Councillors shall elect one of their number to be Head Chief;

(b) regulating the time, place and manner of its meetings and the order and conduct of its business;

(c) prohibiting, restricting or regulating any game or practice in which, in the opinion of the Council, any Nauruan is likely to be defrauded;

(d) prohibiting any act or conduct which, in the opinion of the Council, might cause a riot, disturbance or breach of the peace;

(e) preventing the pollution or obstruction of the water in any stream, water-course, lagoon, water supply, well or water-hole;

(f) requiring and regulating the disposal of garbage, excreta or other objectionable matter;

(g) prohibiting, restricting or regulating the cutting or destruction of trees or plants;

(h) requiring the control or destruction of any vermin or insect pest;

- (i) apprehending and impounding any pig or other live-stock by whomsoever owned found straying on any public road or place or on any unfenced land abutting on any public road or place, and for the establishment and control of pounds for the holding of any such pig or live-stock;
- (j) prohibiting, restricting or regulating the burning of grass or bush, and the use of fire or lights;
- (k) prescribing measures to relieve any actual or anticipated famine, food shortage, pestilence, flood or other grave emergency;
- (l) regulating dealings in land between Nauruans and the handling of estates of deceased Nauruans in accordance with the customs of the Nauruans;
- (m) ensuring the maintenance in good order and repair of such roads as the Administrator and the Council may agree should be maintained by the Council;
- (n) regulating the use of the Domaneab and other Nauruan public buildings;
- (o) prohibiting, restricting, regulating or requiring to be done any matter or thing which the Council by custom of the Nauruans may prohibit, restrict, regulate or require to be done;
- (p) prescribing fees to be paid in respect of any matter permitted or directed to be done; and
- (q) regulating the manner in which rates and taxes imposed by the Council under section forty-five of this Ordinance shall be assessed and collected.

(2.) A rule made by the Council under the last preceding sub-section—

- (a) shall be reduced to writing in the English and Nauruan languages;
- (b) shall be notified in the *Nauru Gazette*;
- (c) shall, subject to the next succeeding sub-section, take effect from the date on which it is so notified, or from such later date as is specified in the rule.

Substituted by
No. 2, 1963,
s. 12.

(3.) The Administrator may, within three months after notice of the making of a rule has been published in the *Nauru Gazette* under this section, by notice published in the *Nauru Gazette* disallow the rule or a part of the rule.

Inserted by
No. 2, 1963,
s. 12.

(4.) The disallowance of a rule or of a part of a rule under the last preceding sub-section has the same effect as the repeal of the rule or part of the rule, and section forty-nine of the *Interpretation Ordinance 1956* applies to the disallowance as if it effected the repeal of the rule or part of the rule.

Inserted by
No. 2, 1963,
s. 12.

45.—(1.) Subject to the next succeeding sub-section, the Council may—

- (a) raise revenue by imposing taxes and levying rates; and
- (b) imposing fees or charges for services rendered by the Council or by persons employed by the Council.

Power to levy taxes, etc.
Substituted by No. 8, 1956, s. 4; and No. 2, 1963, s. 13.

(2.) Taxes imposed and rates levied under paragraph (a) of the last preceding sub-section are not payable by a person who is not a Nauruan.

PART III.—OFFENCES.

46. A Nauruan shall not—

- (a) without reasonable excuse, contravene or fail to comply with any rule made under this Ordinance which is applicable to him;
- (b) obstruct or interfere with the lawful exercise by the Council or by the Head Chief or by any Councillor of any of its or his powers or functions; or
- (c) without lawful authority, purport to exercise any power or function of the Council or of the Head Chief or any Councillor or of any person employed by the Council.

Obstruction of Council, etc.

Penalty: Five pounds or imprisonment for one month, or both.

47. A Nauruan shall not conspire against the Council, the Head Chief or any Councillor, or, by force, threats, fraud, misrepresentation, undue influence or in any other manner, attempt to prejudice the free and effective exercise of the lawful power and authority of the Council or of the Head Chief or of any Councillor.

Conspiring against Council.

Penalty: Five pounds or imprisonment for one month, or both.

48. The Head Chief or a Councillor shall not knowingly—

- (a) purport to exercise, as such Head Chief or Councillor, any power or authority which he does not possess;
- (b) take part in or support any purported exercise by the Council of any power or authority which it does not possess; or
- (c) otherwise abuse his position or authority as Head Chief or Councillor.

Offences by Head Chief or Councillors.

Penalty: Five pounds or imprisonment for one month, or both.

49. The payment of any fine adjudged by any Court to be paid upon a conviction of a Nauruan for an offence against this Ordinance may be enforced by imprisonment, and, notwithstanding anything contained in any other law, the imprisonment shall be for such period as the Court in its discretion thinks fit, but not exceeding the maximum fixed by the following scale:—

Imprisonment for non-payment of fine.

Where the fine—	The period shall not exceed—
Does not exceed One pound ..	seven days.
Exceeds One pound, but does not exceed Two pounds ..	fourteen days.
Exceeds Two pounds ..	one month.

PART IV.—MISCELLANEOUS.

50.—(1.) The Head Chief and Councillors shall, subject to this section, be paid such allowances as may be determined by the Council.

Remuneration of Head Chief and Councillors.

Sub-section (1.) amended by No. 2, 1963, s. 14.

Substituted by No. 1, 1954, s. 2; amended by No. 2, 1963, s. 14.

(2.) Where during any month the Head Chief or a Councillor has not attended a majority of meetings of the Council, he shall not, unless he has been granted leave by the Council, be entitled to any allowance in respect of that month:

Provided that no allowance shall be paid in respect of the month in which the Head Chief or a Councillor is deemed to have vacated his office in accordance with the provisions of section thirty-seven of this Ordinance.

51.—(1.) All fees, charges and other moneys collected or received by the Council by or on behalf of the Council shall, within seven days after having been so collected or received, be paid into a Fund to be known as the Nauru Local Government Council Fund (in this section referred to as "the Fund"), which shall be vested in the Council.

Receipts and expenditure of Council.

Substituted by No. 2, 1963, s. 15.

(2.) Where moneys collected or received by or on behalf of the Council are so collected or received on the condition that they are to be expended only for a particular purpose, a separate account shall be kept of those moneys in the Fund.

(3.) Subject to this section, moneys may be expended from the Fund by the Council—

(a) for the payment of allowances to the Head Chief and Councillors;

(b) for the remuneration of the Secretary, District Constables, and other persons employed by the Council;

- (c) to meet the general expenses of the Council; and
- (d) in connexion with the exercise of its powers or the performance of its duties and functions under this Ordinance or under any other law in force in Nauru.

(4.) Moneys standing to the credit of an account kept in accordance with sub-section (2.) of this section shall not be expended except for the particular purpose for which they were collected or received.

(5.) The amounts expended by the Council in a year shall not exceed the aggregate of the moneys standing to the credit of the Fund at the end of the previous year and the moneys paid into the Fund in accordance with sub-section (1.) of this section in that year.

(6.) The transactions of the Fund shall be subject to a periodical audit by a person appointed by the Administrator for the purpose.

Added by No. 7, 1963, s. 2.

51A. A fine imposed by a court in respect of an offence against paragraph (a) of section forty-six of this Ordinance shall, when recovered, be paid to the Nauru Local Government Council Fund.

Payment of certain fines to the Fund. Inserted by No. 8, 1956, s. 6.

52.—(1.) The Council shall appoint a Secretary to the Council and may appoint such District Constables and other officers as it considers necessary.

Officers of the Council.

(2.) The Secretary, District Constables and other officers appointed by the Council shall receive such remuneration as the Council determines.

Amended by No. 2, 1963, s. 16.

(3.) The Secretary shall—

- (a) keep all books and records of the Council;
- (b) keep minutes of all proceedings of the Council; and
- (c) perform such other duties as the Council may direct.

* * * * *

Sub-section (4.) omitted by No. 2, 1963, s. 16.

(5.) District Constables shall assist in the enforcement of the rules and authority of the Council.

* * * * *

Section 53 repealed by No. 8, 1956, s. 7.

- (i) apprehending and impounding any pig or other live-stock by whomsoever owned found straying on any public road or place or on any unfenced land abutting on any public road or place, and for the establishment and control of pounds for the holding of any such pig or live-stock;
- (j) prohibiting, restricting or regulating the burning of grass or bush, and the use of fire or lights;
- (k) prescribing measures to relieve any actual or anticipated famine, food shortage, pestilence, flood or other grave emergency;
- (l) regulating dealings in land between Nauruans and the handling of estates of deceased Nauruans in accordance with the customs of the Nauruans;
- (m) ensuring the maintenance in good order and repair of such roads as the Administrator and the Council may agree should be maintained by the Council;
- (n) regulating the use of the Domaneab and other Nauruan public buildings;
- (o) prohibiting, restricting, regulating or requiring to be done any matter or thing which the Council by custom of the Nauruans may prohibit, restrict, regulate or require to be done;
- (p) prescribing fees to be paid in respect of any matter permitted or directed to be done; and
- (q) regulating the manner in which rates and taxes imposed by the Council under section forty-five of this Ordinance shall be assessed and collected.

(2.) A rule made by the Council under the last preceding sub-section—

- (a) shall be reduced to writing in the English and Nauruan languages;
- (b) shall be notified in the *Nauru Gazette*;
- (c) shall, subject to the next succeeding sub-section, take effect from the date on which it is so notified, or from such later date as is specified in the rule.

(3.) The Administrator may, within three months after notice of the making of a rule has been published in the *Nauru Gazette* under this section, by notice published in the *Nauru Gazette* disallow the rule or a part of the rule.

(4.) The disallowance of a rule or of a part of a rule under the last preceding sub-section has the same effect as the repeal of the rule or part of the rule, and section forty-nine of the *Interpretation Ordinance 1956* applies to the disallowance as if it effected the repeal of the rule or part of the rule.

Substituted by
No. 2, 1963,
s. 12.

Inserted by
No. 2, 1963,
s. 12.

Inserted by
No. 2, 1963,
s. 12.

THE SCHEDULE.

FORM A.

Section 19.

Form A
amended by
No. 2, 1963,
s. 17.

THE ISLAND OF NAURU.

Nauru Local Government Council Ordinance 1951-1963.

Electoral District of.....

Number on Roll.....

NOTIFICATION TO ELECTOR WHO APPEARS TO HAVE FAILED TO VOTE

.....(name)

.....(address)

You are notified that you appear to have failed to vote at the election held under the Nauru Local Government Council Ordinance 1951-1963 on the true reason why you failed so to vote. and you are hereby called upon to give the

You are required to—

- (a) state, in the form attached, the true reason why you failed to vote;
- (b) complete and personally sign the form, and have it witnessed by an elector or a person qualified to be an elector; and
- (c) return the form to reach me on or before

You are advised that every elector who—

- (a) fails to vote at an election without a valid and sufficient reason for that failure;
 - (b) on receipt of this notice, fails to complete, sign and return within the time specified in the notice, the form (duly witnessed) attached hereto; or
 - (c) states in that form a false reason for not having voted or, in the case of an elector completing the form on behalf of any other elector, states in that form a false reason why that other elector did not vote,
- is guilty of an offence and liable to a penalty of one pound.

Returning Officer,
Nauru.

Date

, 19 .

NOTE:—If the elector to whom this notice is addressed is unable, by reason of absence from his place of living or physical incapacity, to complete, sign and return the attached form within the time specified in this notice, any other elector who has personal knowledge of the facts may complete, sign and return the form, duly witnessed, within that time, and the completing, signing and returning of the form will be treated as compliance by the first-mentioned elector with the requirements of this notice.

* Not being less than fourteen days after the sending of this notice.

Nauru Local Government Council Ordinance 1951-1965

THE SCHEDULE—continued.

FORM B.

Section 19.

Form B amended by No. 2, 1963, s. 17.

THE ISLAND OF NAURU.
Nauru Local Government Council Ordinance 1951-1963.

Electoral District of.....

Number on Roll.....

FORM OF DECLARATION TO BE COMPLETED AND RETURNED TO THE RETURNING OFFICER, NAURU.

I, _____, do hereby declare that the following is the true reason why I* failed to vote at the election held under the Nauru Local Government Council Ordinance 1951-1963, on _____, the _____ day of _____, 19 _____.

(Personal Signature of Elector)
I, the undersigned, being an elector or a person qualified to be an elector, certify that I have seen the abovementioned elector sign the above declaration.
(Signature of witness in own handwriting)
(Occupation)
(Address)

Date _____, 19 _____

* Where this form is filled in on behalf of an absent or physically incapacitated elector, the word "I" must be struck out, and the name of the absent or incapacitated elector inserted.
† Here set out the precise and true reason for having failed to vote.

FORM C.

Section 21.

Form C amended by No. 2, 1963, s. 17.

THE ISLAND OF NAURU.
Nauru Local Government Council Ordinance 1951-1963.
NOMINATION FOR COUNCILLOR.

We hereby nominate*.....
off.....

as a Councillor for†..... District(s).

Dated this..... day of....., 19 _____

(Signature of Nominator)

(Signature of Nominator)

I hereby consent to the foregoing nomination.

Dated this..... day of....., 19 _____

(Signature of Candidate)

* Here insert in full the Christian names and surname of the candidate.
† Here insert the candidate's place of residence and occupation.
‡ Here insert name of District or group of Districts.

THE SCHEDULE—continued.

FORM D.

Section 25.

Form D amended by No. 2, 1963, s. 17.

BALLOT-PAPER.

Nauru Local Government Council Ordinance 1951-1963.

Electoral District of.....

Election of Councillor (or two Councillors, as the case requires) of the Nauru Local Government Council.

CANDIDATES

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

DIRECTIONS TO ELECTORS

Mark your vote on this ballot-paper by placing the numbers (here insert "1 and 2" where there are two candidates, "1, 2 and 3" where there are three candidates, "1, 2, 3 and 4" where there are four candidates and so on as the cases require) in the squares respectively opposite the names of the candidates so as to indicate the order of your preference for them.

ESPLIBRARY COLLECTION