

ELECTIONS AND REFERENDA
REGULATIONS
1993

Title 2, Marshall Islands Administrative Code

Regulation 101 et seq.

(2MIAC 101 et seq.)

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ELECTORAL ADMINISTRATION
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PART I - PRELIMINARY

101. Short title.

These Regulations may be cited as the Elections and Referenda Regulations 1993.

102. Authority.

These Regulations are promulgated by the Cabinet under the authority of Section 116 of the Elections and Referenda Act 1980, 2 MIRC, Chapter 1, as amended by the Elections and Referenda (Amendment) Act 1991 P.L.1991-113 and the Elections and Referenda (Amendment Act) 1992 P.L.1992-9.

103. Definitions.

In these Regulations, unless the context otherwise requires:

- (a) "Act" means the Elections and Referenda Act 1980 as amended;
- (b) any word or expression used in these Regulations that is defined in the Act has the same meaning in these Regulations as it has in the Act.

104. Application of these Regulations.

(1) These Regulations apply to and are in relation to:

- (a) elections to the Nitijela;
- (b) referenda required under the Constitution of the Republic of the Marshall Islands;
- (c) elections by ballot under the Local Government Act 1980; as amended;
- (d) to the extent provided by the Act or the Local Government Act 1980, elections by consensus under the last mentioned Act;
- (e) referenda under the Local Government Act 1980, and
- (f) and other referenda required by law.

(2) Nothing in these Regulations preclude, or shall be construed to preclude, these Regulations or any of them from being applied, with or without modification, to any other election or referendum.

PART II - THE ELECTORAL REGISTER

105. Composition of the Electoral Register.

(1) The electoral register shall consist of one more volumes for each electoral district, local government area or electoral subdivision, with a general alphabetical index of voters. However the Chief Electoral Officer may decide not to require a general alphabetical index of voters where, in his judgment, it is impracticable or unnecessary to require such index.

(2) The Register shall be:

- (a) printed in such form as the Chief Electoral Officer may direct;
- (b) maintained and kept by the Chief Electoral Officer or such person as the Chief Electoral Officer may designate;
- (c) open to public inspection at all times during business hours; and
- (d) a public record.

(3) The Register shall be published and made available for public inspection not later than sixty (60) days prior to any election or referendum under the Act or Local Government Act 1980.

106. Compilation, continuity and correction of the Register.

(1) The Chief Electoral Officer may, from time to time either generally or in relation to a particular electoral district, local government area or electoral subdivision, compile and keep or cause to be compiled and kept a new Register.

(2) On the compilation of a new Register under Subregulation (1), the existing Register shall be void and of no effect from such date as may be specified in writing by the Chief Electoral Officer.

(3) Without prejudice to Subregulation (2) but subject to the provisions of the Act, the Chief Electoral Officer may, from time to time:

- (a) correct errors and supply omissions in the Register;
- (b) delete entries in the Register that he is satisfied relate to persons who are dead or have ceased to be eligible voters; or
- (c) rearrange the Register to comply with Section 26 of the Act.

(4) An entry in the Register shall be deemed to be correct until it is altered or deleted under the Act or in accordance with law or these Regulations.

107. Application to correct errors, omissions, etc.

(1) A person who claims that he is entitled to be entered in the Register or in the voter's list and that:

- (a) he has not been so entered;
- (b) he has been entered incorrectly; or
- (c) entry in respect of, or relating to, himself has been wrongfully deleted, may apply to the Chief Electoral Officer to have the Register or list amended accordingly.

(2) The Chief Electoral Officer shall make or cause to be made full and careful inquiry into the matter of the application and shall advise the applicant as soon as practicable that he:

- (a) accepts the claim and amends the Register or list accordingly; or
- (b) rejects the claim.

(3) If the claim is rejected, the applicant may appeal to the High Court, which may:

- (a) confirm the rejection, or
- (b) order the Chief Electoral Officer to amend the Register or list in such manner as the Court directs.

PART III - REGISTRATION OF VOTERS

108. Application for registration.

(1) An eligible voter may apply for entry in the Electoral Register by presenting himself at any time during business hours to the member of a Board of Elections for the Electoral district with respect to which he applies for entry in the Register, or to a person in that district authorized to administer oaths and shall then and there satisfy the requirements of Section 32 (1) and Section (2) of the Act.

(2) With respect to an application for registration in an electoral district based upon land rights, evidence of qualification for such registration shall, if deemed necessary, include an affidavit from the Iroij, Iroijedrik, Alap, or Senior Dri Jerbal, as the case may be, certifying or confirming such land rights.

(3) With respect to an application for registration in an electoral district based upon residence, evidence of qualification for such registration may, if deemed necessary, include a supporting affidavit from the Iroij, Iroijedrik, Alap, or Senior Dri Jerbal, as the case may be, or the head of the local government of the applicant or the designee of such head.

(4) For the purposes of Subregulation (3), and subject to Section 32 (5) of the Act:

- (a) "residence" with its cognate expressions and grammatical variations, means that the applicant ordinarily lives or has his normal place of abode in such electoral district; an
- (b) the term "residence" shall require a period of at least four (4) years actual residence in the electoral district; however, this shall not be interpreted to require continuous presence throughout said period of four (4) years.

109. Registration.

(1) If the member of a Board of Elections or a person authorized to administer oaths, to whom application for entry in the Register is made under Section 32 of the Act, is satisfied that the applicant is entitled to be entered in the Register in accordance with the application, he shall approve the application and forward it to the Chief Electoral Officer for the necessary entry in the Register.

(2) If an application for registration is not approved by the member of a Board of Elections or authorized person to whom it is made, the applicant may appeal to the Chief Electoral Officer who, after giving the applicant an opportunity to be heard and to bring evidence on the matter, may:

- (a) approve the application and make the necessary entry in the Register; or
- (b) reject the application.

110. Appeals.

If the Chief Electoral Officer rejects an application for registration under the Act or these regulations, the applicant may appeal to the High Court which may:

- (a) confirm the rejection; or

- (b) order the Chief Electoral Officer to enter the applicant in the Register in such manner as the Court directs.

111. Re-registration.

(1) If the Register or part of the Register is lost or destroyed, the Chief Electoral Officer may, by a public announcement made in such manner as he thinks most likely to come to the attention of the eligible voters concerned, call upon the eligible voters whose entries in the Register are affected by the loss or destruction to apply under Section 32 of the Act for registration.

(2) If a registered voter:

(a) changes his name; or

(b) wishes to exercise, or to exercise again, the choice of electoral districts referred to in section 5 (2) of the Act, or if any other particular in the Register concerning a registered voter changes, he shall reapply under Section 32 of the Act for registration.

(3) If any entry in the Register has been deleted under Section 27 (2) of the Act on the ground that the person concerned has ceased to be an eligible voter and the person again becomes an eligible voter, he shall reapply under Section 32 of the Act for registration.

112. Registration of certain persons.

Notwithstanding anything in these Regulations or the Act (other than section 36 of the Act), an application for registration may be received from a person who has not attained the age of eighteen (18) years but is otherwise an eligible voter, if the Chief Electoral Officer is satisfied that the applicant will have attained the age of eighteen (18) years before the next election in which the applicant would be entitled to vote, or vote if registered, and that there is no good reason why the applicant should be refused.

113. Voters lists.

The Chief Electoral Officer, may from time to time and shall, immediately before an election (including an election by consensus) or referendum, prepare, as necessary or convenient from the Register, voter's lists for the various electoral districts, local government areas and electoral subdivisions affected, and send them to the relevant authorities.

PART IV - ABSENTEE, POSTAL AND OTHER SPECIAL VOTING PROCEDURES

114. Application of Part IV.

This part does not apply to, or with respect to, elections by consensus under the Local Government Act 1980.

115. Absentee voting.

(1) A registered voter who, on the day of an election (other than an election by consen-

sus under the Local Government Act), is absent from the electorate with respect to which he is entered in the Register may, subject to the provisions of the Act and these Regulations, vote in such election by means of an absentee ballot paper.

(2) Such voter may, on the said election day and during polling hours, apply to an election official at a special polling place for an absentee ballot paper.

(3) The application shall be in writing, and shall include sufficient information to enable the right of the applicant to vote, and the electorate with respect to which he is entitled to vote, to be prima facie established.

116. Provision and use of absentee ballot paper.

(1) If the election official is satisfied, based upon information in the list of voters and such other information as are provided in the application, that an applicant for an absentee ballot paper is entitled to receive one, he shall give to the applicant the items mentioned in Section 58 (1) of the Act.

(2) The absentee voter shall, on receipt of such absentee ballot paper, vote by complying with the provisions of Section 58 (2), (3) and (4) of the Act.

117. Absentee voting with respect to conduct of elections.

(1) The following provisions of the act apply to and with respect to absentee voting:

- (a) Section 69 (which enjoins the chief Electoral Officer to ensure that each polling place is provided, on election day, with sufficient ballot boxes, lock, official ballot papers, cards of instructions, pencils, voter's lists and other necessary supplies);
- (b) Section 70 (1) - (3) relating to time of polling;
- (c) Section 72, regulating admission to polling places; and;
- (d) Section 74, providing for assistance to certain voters (i.e. voters who, by reason of some physical disability, are unable to mark their ballot paper without assistance, or are unable to read or write, etc.).

(2) Subject to the electoral instructions, the other provisions of Part VIII, Division 5, of the Act do not apply to absentee voting with respect to the conduct of elections.

(3) The Chief Electoral Officer may, by electoral instructions, make additional provisions in relation to absentee voters, with respect to the conduct of elections.

118. Postal voters.

(1) A registered voter who:

- (a) is prevented by illness or physical disability from attending a polling place in order to vote in an election; or
- (b) resides outside the Republic or will be outside the Republic on the day of an election, may, subject to the provisions of the Act and these Regulations, vote by means of a postal ballot paper.

(2) Such voter may apply to the Chief Electoral Officer for a postal ballot paper.

(3) The application for a postal ballot paper shall be postmarked or made to reach the Chief Electoral Officer:

- (a) after the day on which the list of candidates is published under

Section 48 of the Act, or after the twenty-first (21st) day before the date of election, whichever is the earlier; and

(b) not later than:

- (i) five (5) days before the election, if the applicant will be outside the Republic on the day of the election or the applicant is prevented by illness or physical disability from attending a polling place in order to vote in an election and will be within the Republic on the day of the election; or
- (ii) fourteen (14) days before the election, if the applicant resides outside of the Republic, provided, however, that in no event will an application for a postal ballot received through the mail be accepted on or after a date three (3) days prior to the date of the election.

(4) The application shall include:

- (a) sufficient information to allow the right of the applicant to vote and the electorate (with respect to which he is entitled to vote), to be established,
- (b) the address to which he wishes to ballot paper to be forwarded, and
- (c) the grounds of the application.

(5) In the case where the ground for the application is illness or physical disability, the application shall, if deemed necessary, be accompanied by a certificate from a medical practitioner confirming such illness or physical disability.

(6) In the case where the ground for the application is residence outside of the Republic, the application shall, if deemed necessary, be accompanied by an affidavit sworn to before a notary public in the country of residence of the applicant outside of the Republic.

(7) In the case where the ground for the application is that the voter will be outside the Republic on the day of an election, the application shall, if deemed necessary, be accompanied by the air ticket or other proof that the applicant is about to travel outside the Republic.

119. Provision and use of postal ballot paper.

(1) If the Chief Electoral Officer is satisfied that, prima facie, an applicant for a postal ballot paper is entitled to receive one, he shall forward to him the items mentioned in Section 62 (1) of the Act.

(2) Upon receipt by the applicant of the items referred to in Subregulation (1), the applicant shall comply with the provisions of Sections 62 (2) and (3) of the Act.

120. Special voting procedure for confined and certain persons.

(1) A registered voter who is:

- (a) an inpatient at a hospital, or a member of the staff of a hospital,
- (b) confined to his house or other place of abode on account of sudden illness or disability,
- (c) a full time student at an educational training institution, or a member of the staff of such an institution, or
- (d) a passenger on, or a member of the crew of, a vessel operating in

the Republic, and who is unable to attend a polling place in order to vote or would otherwise be required to vote in accordance with the provisions of the Act relating to absentee or postal voters, may, subject to the provisions of the act and these Regulations, vote at such hospital, house or other place of abode, institution, or on the vessel as the case may be, and the ballot papers delivered to the Counting and Tabulation Committee or the a Local Counting and Tabulation Committee appointed by the Chief Electoral Officer under Section 19 (1) (b) of the Act.

(2) In the case of a voter who applies to vote pursuant to Subregulation (1) (b), the Chief Electoral Officer shall use his discretion as to whether such voter should be allowed to vote in the manner provided for in this Regulation 120.

(3) For the purpose of enabling the persons referred to in Subregulation (1) to vote at the places mentioned in that Subregulation, the said places shall be deemed to be special polling places opened by the Chief Electoral Officer under Section 56 of the Act.

(4) Subject to the provisions of Division 4 of the Act (dealing with Absentee, Postal and Other Special Voting Procedures) and the provisions of this Regulation, such special polling places shall, as far as practicable, be administered, supervised and controlled as though they were open for the purposes of an election in the electorates in which they are situated, but otherwise the Act applies as though they were polling places in the electorates in which the election or referendum is actually being conducted.

(5) With respect to passengers on, or members of the crew of, a vessel operating in the Republic, the Chief Electoral Officer may apoint the master or captain of such vessel as a temporary election official under Section 20 of the Act to perform such duties or functions in relation to the election or referendum as the Chief Electoral Officer may direct.

(6) A registered voter to whom this Regulation applies need not apply for an absentee ballot paper under Section 57 of the Act (which deals with application for absentee ballot papers). However the Chief Electoral Officer, or the appropriate election official, shall satisfy himself that such voter is qualified or entitled to vote under this Regulation before the voter is permitted to vote.

(7) The provisions of Section 58 of the Act (dealing with the provision and use of absentee ballot papers) shall, with the necessary modification, apply with respect to voting by voters described in Subregulation (1).

PART V - CONDUCT OF ELECTIONS

121. Polling places.

(1) For the purpose of:

- (a) elections to the Nitijela;
- (b) referenda required under the Constitution of the Republic of the Marshall Islands;
- (c) elections by ballot under the Local Government Act 1980;
- (d) referenda under the Local Government Act 1980; and
- (e) other referenda required by law, the eighty-four (84) polling places specified in the Schedule to these Regulations are hereby prescribed for the electoral districts, respectively mentioned in relation to such polling places.

(2) Pursuant to Section 25 of the Act, the Chief Electoral Officer shall, within each electoral subdivision in the electoral districts referred to in Subregulation (1) designate, for each election or referendum to be conducted in the subdivision, suitable and convenient premises as polling places.

(3) Notwithstanding Subregulation (1), the Chief Electoral Officer may establish such other or additional polling places as he deems necessary in the interest of a more efficient and orderly conduct of elections or referenda under the Act.

122. Admission to polling places.

(1) For the purpose of regulating the admission of voters to polling places pursuant to Section 72 of the Act, the Chief Electoral Officer may erect or cause to be erected, suitable barricades or fences around the polling places referred to in Regulation 21.

(2) Only persons who are receiving, preparing or depositing their ballots, or such other persons authorized by the appropriate member or members of the Board of Elections or the Chief Electoral Officer, may be permitted to be present within such barricades or fences.

123. Time of polling.

(1) Subject to Section 70 of the Act, and the provisions of this Regulation, a polling place shall remain open from 7 a.m. to 7 p.m. on the day of an election, and shall then close.

(2) Pursuant to Section 68 of the Act, the Cabinet hereby authorizes the Chief Electoral Officer to expand or extend the polling hours referred to in Subregulation (1), if by reason of storm or other weather condition or any other cause whatsoever, the hours during which votes can be cast under the Act and these Regulations have been shortened.

124. Voting.

Voting at an election or referendum to which these Regulations apply shall be conducted in the manner outlined in Section 73 of the Act as supplemented by relevant electoral instructions issued by the Chief Electoral Officer.

125. Assistance to certain voters.

Pursuant Section 74 of the Act, a voter who is blind or otherwise, by reason of some physical disability, unable to mark his ballot paper without assistance, or is unable to read or write, may have the assistance of a person chosen by him in marking his ballot paper.

126. Spoilt ballot papers.

(1) Any voter who spoils a ballot paper during the course of voting, may return it to the appropriate member of a Board of Elections or other election official present at the polling place and receive another in its place, one at a time, but not to exceed three (3) in all.

(2) A ballot paper shall not be rejected for any technical error which does not render it impossible to determine the voter's choice, even though such ballot paper is soiled or partially defaced.

PART VI - MISCELLANEOUS

127. Reference to the High Court of questions as to voting.

Where, pursuant to Section 88 of the Act, the Chief Electoral Officer is required to refer a question to the High Court concerning:

- (a) any person's claim to a right to vote in an election;
- (b) any question that has arisen at any stage of an election regarding the right of any person to vote in such election; or
- (c) any challenge relating to an entry in the electoral Register, the documents that must be submitted before the Chief Electoral Officer makes such reference shall include an affidavit setting out the grounds relied upon in support of the claim of right or right to vote in the election concerned, or right to be entered in the Electoral Register, as the case may be.

128. General penalty.

Any person who violates any of these Regulations for which no penalty is prescribed under the Act, shall be guilty of a misdemeanor and shall, upon conviction, be liable to a fine not exceeding five hundred dollars (\$500) or to a term of imprisonment not exceeding one year, or both.

129. Severability.

In the event that any of the provisions of these Regulations are found to be invalid, or if the application of any provision of these Regulations to any person or circumstance is found to be invalid, such invalidity shall affect any other provision or application which can be given effect without the invalid provision or application.

SCHEDULE
Polling places
(Regulation 21 (1))

<p><u>Majuro Atoll</u></p> <ol style="list-style-type: none"> 1. Rita 2. Jenrok 3. Uliga 4. Delap 5. Rairok 6. Ajeltake 7. Woja 8. Jeirok 9. Eolap 10. Lobat 11. Lomar 12. RongRong 13. Aenkan 	<p><u>Jaluit Atoll</u></p> <ol style="list-style-type: none"> 1. Jaluit 2. Jabor 3. Imiej 4. Imroj 5. Mejjae 6. Jetokjen 7. Mejrirok 8. Mejatto 9. Pinglep 	<p><u>Arno Atoll</u></p> <ol style="list-style-type: none"> 1. Kebjeltak I 2. Kebjeltak II 3. Ajeltokrok I 4. Ajeltokrok II 5. Rearlaplap I 6. Rearlaplap II 7. Jabonwor I 8. Jabonwor II 	<p><u>Ailinglaplap Atoll</u></p> <ol style="list-style-type: none"> 1. Airok 2. Enebin 3. Woja 4. Aenkan 5. Boranailin
<p><u>Maloelap Atoll</u></p> <ol style="list-style-type: none"> 1. Airok 2. Tarwa 3. Jang 4. Wollet 5. Kaven 	<p><u>Mili Atoll</u></p> <ol style="list-style-type: none"> 1. Mile 2. Nallu 3. Takewa 4. Lukonwor 5. Enejjet 	<p><u>Likiep Atoll</u></p> <ol style="list-style-type: none"> 1. Plantation 2. Rakto 3. Jebal 4. Melan 5. Liklal 	<p><u>Ailuk Atoll</u></p> <ol style="list-style-type: none"> 1. Jitto 2. Jitak 3. Aen-Ion 4. Aen-Rak
<p><u>Enewatak/Ujelang</u></p> <ol style="list-style-type: none"> 1. Enewatak 2. Jeptan 3. Medren 4. Ujelang 	<p><u>Kwajalein Atoll</u></p> <ol style="list-style-type: none"> 1. Ebeye 2. Santo 3. Arbwe/Ebadon 4. Enibuoj 5. Carlos 	<p><u>Namu Atoll</u></p> <ol style="list-style-type: none"> 1. Namu 2. Majkin 3. Mae 4. Loen 	<p><u>Ebon Atoll</u></p> <ol style="list-style-type: none"> 1. Ebon 2. Toka 3. Enekoien
<p><u>Aur Atoll</u></p> <ol style="list-style-type: none"> 1. Aur 2. Tobal 	<p><u>Kili/Bikini Atoll</u></p> <ol style="list-style-type: none"> 1. Kili 2. Ejit 	<p><u>Ujae Atoll</u></p> <ol style="list-style-type: none"> 1. Ujae 2. Jabonwor 	<p><u>Wotje Atoll</u></p> <ol style="list-style-type: none"> 1. Wotje 2. Wormej
<p><u>Lae Atoll</u></p> <ol style="list-style-type: none"> 1. Lae 	<p><u>Jabat Island</u></p> <ol style="list-style-type: none"> 1. Jabat 	<p><u>Mejit Atoll</u></p> <ol style="list-style-type: none"> 1. Mejit 	<p><u>Lib Island</u></p> <ol style="list-style-type: none"> 1. Lib
<p><u>Namorik Atoll</u></p> <ol style="list-style-type: none"> 1. Namorik 	<p><u>Rongelap Atoll</u></p> <ol style="list-style-type: none"> 1. Rongelap 	<p><u>Utrik Atoll</u></p> <ol style="list-style-type: none"> 1. Utrik 	<p><u>Wotho Atoll</u></p> <ol style="list-style-type: none"> 1. Wotho