

Electoral (Proxy Voting) (Amendment) Regulations 2010

EXPLANATORY MEMORANDUM

Background

The *Electoral (Proxy Voting) Regulations 2004* (the “principal Regulations”) prescribe a method for proxy voting in an election under the *Electoral Act 1965-2009*. Section 13(3) of the *Referendum Procedures Act* provides that, if a method is prescribed under the *Electoral Act* for a person to vote in an election where the person is unable to attend a polling place, the method applies, with the necessary and appropriate modifications, to voting in a referendum.

Cabinet has already prescribed modifications to the principal Regulations for the purpose of their application to voting in a referendum. However, certain amendments to the principal Regulations are desirable for the conduct of both elections and referenda. The principal Regulations require an application to vote by proxy to be witnessed by a person specified in Part III, First Schedule. However, the list of persons is limited to representatives of Nauru, in Nauru Brisbane, Suva, Taipei, New York, Auckland, London, Kiribati, Marshall Islands and Bangkok.

These Regulations amend the *Electoral (Proxy Voting) Regulations 2004* to allow Cabinet to authorise other persons not listed in Part III, First Schedule, to witness applications to vote by proxy. This allows Cabinet to authorise persons in major Nauruan population centres not currently accounted for and anywhere else required on a case by case basis. In addition, the list of persons in the new First Schedule would include a person in another country who is a legal practitioner, notary public, commissioner for oaths or justice of the peace under the law of the country.

A further amendment to the principal Regulations would clarify that the application to vote by proxy can be delivered to the Returning Officer by electronic means, such as e-mail.

Notes on clauses:

Clauses 1, 2 and 3 provide for the short title, commencement and principal Regulations to be amended.

Clause 4 amends the definition of “witness” in regulation 2. This is necessary because the list of persons who may witness an application to vote by proxy will now not be limited to officers of the Republic.

Clause 5 amends regulation 4 to clarify that delivery to the Returning Officer of an application to vote by proxy can be made by electronic means.

Clause 6 repeals and substitutes Part III, First Schedule to update the list of diplomatic representatives and add the following to the list of persons qualified to witness an application to vote by proxy:

- a person authorised by Cabinet
- a person in another country who is a legal practitioner, notary public, commissioner for oaths or justice of the peace under the law of the country.