

Rodrigues Regional Assembly Elections (Amendment) Regulations 2022

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THE REPRESENTATION OF THE PEOPLE ACT

Regulations made by the President under section 85(1) of the Representation of the People Act

1. These regulations may be cited as the **Rodrigues Regional Assembly Elections (Amendment) Regulations 2022**.

2. In these regulations -

"principal regulations" means the Rodrigues Regional Assembly Elections Regulations 2002.

3. Regulation 3 of the principal regulations is amended by revoking paragraph (3) and replacing it by the following paragraph -

(3) Where a returning officer or deputy returning officer is prevented, by sickness or any other cause, from acting, or refuses or neglects to act, at an election, the Commission may appoint some other fit and proper person to act in the place of the returning officer or deputy returning officer, as the case may be, for that election.

4. Regulation 5 of the principal regulations is amended by revoking paragraph (3).

5. The principal regulations are amended by inserting, after regulation 5, the following new regulation -

5A. Receipt of writ of election

(1) On receipt of a writ of election, the Electoral Commissioner shall forthwith transmit the writ to the appropriate returning officer.

(2) A returning officer shall, on receipt of a writ of election, enter the date of receipt on the verso of the writ, sign the entry and proceed to hold the election in such manner as provided under these regulations.

6. Regulation 6 of the principal regulations is amended, in paragraph (2), by deleting the words "as he may determine" and replacing them by the words "as the Electoral Commissioner may determine".

7. Regulation 7 of the principal regulations is revoked.

8. Regulation 11A of the principal regulations is amended -

- (a) in paragraph (3), by deleting the words "2.45 p.m." and replacing them by the words "1.45 p.m.";
- (b) in paragraph (4), by deleting the words "section 8" wherever they appear and replacing them by the words "section 8(8)".

9. Regulation 13 of the principal regulations is amended -

- (a) in paragraph (1) -
 - (i) in subparagraph (a), by deleting the words "hours of 9 a.m. and 3 p.m." and replacing them by the words "hours of 8 a.m. and 2 p.m.";
 - (ii) in subparagraph (b), by deleting the words "3 p.m." and replacing them by the words "2 p.m.";
- (b) in paragraph (6), by deleting the words "3 p.m." and replacing them by the words "2 p.m."

10. Regulation 13A of the principal regulations is amended -

- (a) in the heading, by deleting the words **"section 8 of the Act"** and replacing them by the words **"section 8(8) of Act"**;
- (b) in paragraph (1), by deleting the words "3 p.m." and replacing them by the words "2 p.m.";
- (c) in paragraph (3), by deleting the words "3 p.m." and "section 8" and replacing them by the words "2 p.m." and "section 8(8)", respectively;
- (d) in paragraph (4) -
 - (i) in subparagraph (a), by deleting the words "section 8" and "5 p.m." and replacing them by the words "section 8(8)" and "4 p.m.", respectively;
 - (ii) in subparagraph (b), by deleting the words "3 p.m. and 5 p.m." and replacing them by the words "2 p.m. and 4 p.m.";
- (e) in paragraph (6), by deleting the words "5 p.m." and "section 8" and replacing them by the words "4 p.m." and "section 8(8)", respectively;
- (f) in paragraph (7) -
 - (i) in subparagraph (a), by deleting the words "section 8 of the Act at 3 p.m." and replacing them by the words "section 8(8) of the Act at 2 p.m.";
 - (ii) in subparagraph (b), by deleting the words "3 p.m." and replacing them by the words "2 p.m."

11. Regulation 15 of the principal regulations is amended, in paragraph (11(a)), by deleting the words "6 p.m." and replacing them by the words "5 p.m."
12. Regulation 17 of the principal regulations is amended, in paragraph (1) -
 - (a) by deleting the words "6 p.m." and replacing them by the words "5 p.m.";
 - (b) in subparagraph (c), by deleting the words "the returning officer shall appoint another nomination day" and replacing them by the words "another nomination day shall be appointed";
 - (c) in subparagraph (d), by deleting the words "the returning officer shall appoint another nomination day" and replacing them by the words "another nomination day shall be appointed".
13. Regulation 18A of the principal regulations is amended, in paragraph (2), by revoking subparagraph (a) and replacing it by the following subparagraph -
 - (a) The Electoral Commissioner shall, on receipt of the report referred to in paragraph (1), give public notice of the report.
14. Regulation 20 of the principal regulations is amended by revoking paragraph 5.
15. Regulation 22 of the principal regulations is revoked and replaced by the following regulation -

22. Preparations for taking of poll

(1) Where a poll is to take place, the Public Service Commission shall, on the recommendation of the Commission, appoint senior presiding officers, presiding officers and such other election officers as may be necessary to assist every returning officer in the performance of his duties.

(2) Every returning officer shall provide each polling station in his local region with a sufficient number of certified copies of the register, ballot papers and other election material for the taking of the poll.

(3) Every returning officer shall ensure that the booths in each voting room are so arranged as to allow the electors to mark their ballot papers in such a manner as to ensure the secrecy of their votes.

(4) Every returning officer shall, before polling day, visit each polling station in his local region to ensure that each polling station is provided with all the necessary facilities for taking the poll.

16. Regulation 23 of the principal regulations is revoked.

17. Regulation 24 of the principal regulations is amended by deleting the words "the hours of 6.30 a.m. and 3.30 p.m. on the same day" and replacing them by the words "the hours of 6 a.m. and 3 p.m. on the same day".

18. Regulation 29 of the principal regulations is amended -

(a) in paragraph (1), by deleting the words "and police officer on duty" and replacing them by the words "police officers on duty and such other person as the Electoral Commissioner may authorise";

(b) by adding the following new paragraphs -

(4) Where any person persists, after being warned, in disobeying the directions of the senior presiding officer or in acting in contravention of these regulations, the senior presiding officer shall cause him to be removed from the polling station.

(5) The Commissioner of Police shall, in consultation with the returning officer, take measures for the maintenance of order and the prevention of crowd gathering in and around the polling station and in its vicinity.

19. Regulation 30 of the principal regulations is amended, in paragraph (11(b)), by deleting the word "bill" and replacing it by the word "billboard".

20. Regulation 31 of the principal regulations is amended, in paragraph (1), by inserting, after the words "presiding officer", the words "in the appropriate voting room".

21. Regulation 33 of the principal regulations is amended -

(a) by revoking paragraph (1) and replacing it by the following paragraph -

(1) Before delivering a ballot paper, the presiding officer may, or shall, where requested by a candidate, an election agent or a polling agent, put to that person applying for a ballot paper, the following questions -

(a) "Are you the person named in the register for this registration area as follows: (the whole entry from the register to be read)?";

(b) "Have you already voted at this election either in this voting room or elsewhere?",

and may require that person to furnish his signature or an impression of his thumbprint or, where he is incapacitated by physical cause from impressing his thumbprint, the print of such other finger as may be available for that purpose.

(b) in paragraph (2), by inserting, after the words "refuses to furnish", the words "his signature or".

22. Regulation 34 of the principal regulations is amended by adding the following new paragraph -

(5) (a) No unauthorised person shall remove a ballot paper from a voting or counting room.

(b) No unauthorised person shall, outside a voting or counting room, have in his possession a ballot paper.

(c) Any person who contravenes this regulation shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 2 years.

23. Regulation 38 of the principal regulations is amended, in paragraph (2), by deleting the words "at the close of poll to the returning officer" and replacing them by the words "after the counting of votes to the senior presiding officer".

24. The principal regulations are amended by revoking regulation 39 and replacing it by the following regulation -

39. Incapacitated electors

(1) Any elector who is an incapacitated person may apply to the presiding officer to be allowed to vote with the assistance of a companion.

(2) No person shall act as a companion unless the person -

(a) has attained the age of 18;

(b) is the father, mother, brother, sister, husband, wife, son or daughter of the incapacitated person; and

(c) is not a candidate, or an agent of a candidate, in the local region where the incapacitated person is an elector.

(3) No person shall act as a companion for more than 2 incapacitated persons in an election.

(4) (a) Any person who wishes to act as a companion shall make a declaration in Form 11.

(b) A declaration under subparagraph (a) shall be made and signed before the presiding officer at the time when an incapacitated person applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall countersign and retain it.

(5) The presiding officer may, on being satisfied that an elector is an incapacitated person and acting in reliance upon the declaration made under paragraph (4), grant the application made under paragraph (1).

(6) Where an elector who is an incapacitated person is not assisted by a companion, the poll clerk shall, at the request of the incapacitated elector and on being so ordered by the presiding officer, and in the presence of the presiding officer and of any other election officer, mark the vote of the elector in the manner directed by the elector.

(7) The name and number in the register of electors of every elector whose vote is marked in accordance with this regulation and the name, National Identity Card number and address of the companion, if any, shall be entered by the presiding officer on a list to be called "List of Electors Assisted".

(8) Any person who contravenes this regulation or knowingly makes a false or misleading declaration under this regulation shall commit an offence and shall, on conviction, be liable to a fine not exceeding 1,000 rupees and to imprisonment for a term not exceeding 12 months.

(9) In this regulation, "incapacitated person" means a person who -

(a) is incapacitated by blindness or any other physical cause from voting in the manner laid down in these regulations; or

(b) declares that he is unable to read or write, or understand the symbols.

25. Regulation 45 of the principal regulations is amended -

(a) in paragraph (1), by inserting, after the words "a candidate" and "to furnish", the words ", an election agent" and "his signature or", respectively;

(b) in paragraph (2), by inserting, after the words "refuses to furnish", the words "his signature or".

26. Regulations 47, 48, 49 and 50 of the principal regulations are revoked and replaced by the following regulations -

47. Duties of presiding officer at close of poll

(1) The counting of votes shall be effected at the close of poll on polling day in the manner provided for in these regulations.

(2) Immediately after the close of the poll, the presiding officer of each voting room shall, in the presence of any candidate or his election agent or polling agent, if any -

(a) seal the aperture of the ballot box in use at his voting room, allowing any candidate or agent, if any, to affix his seal thereon if he so desires; and

- (b) complete the ballot paper account, showing the number of ballot papers entrusted to him, and accounting for them under the heads of "ballot papers in the ballot box", "unused", "spoilt" and "tendered ballot papers".

(3) Immediately thereafter, the presiding officer shall, in the presence of any candidate or agent, if any, deliver the completed ballot paper account to the senior presiding officer, and the presiding officer shall keep the sealed ballot box in his custody in his voting room in order to proceed with the counting of votes as soon as practicable.

48. Counting agents

(1) Subject to paragraph (2), any person appointed as polling agent shall act as counting agent for the purpose of counting of votes.

(2) (a) Each candidate or party may, where the candidate or party has -

- (i) no polling agent in a voting room, appoint not more than 2 counting agents; and
- (ii) one polling agent per voting room, appoint not more than one counting agent,

to attend the counting of votes in each counting room.

(b) Notice in writing of the appointment, stating the names, National Identity Card numbers and addresses of the counting agents shall be given by the candidate or party, as the case may be, to the returning officer not later than 5 days before the polling day and the returning officer may refuse to admit to the place where votes are counted any person purporting to be a counting agent in respect of whom such notice has not been given.

(3) A candidate or party may submit to the returning officer a notice for the replacement of a counting agent at any time prior to the start of the counting of votes.

(4) A counting agent who is not a polling agent shall be admitted at the polling station only at the close of poll on polling day.

(5) The returning officer may limit the number of counting agents who may be admitted at any time to a counting room.

49. Counting of votes

(1) The presiding officer shall, in the presence of duly appointed agents of a candidate or party, if any, break the seals affixed to the ballot box, open the ballot box and forthwith proceed to count the ballot papers contained in the ballot box and record the number thereof, keeping the ballot papers with their

face upwards, and taking all proper precautions for preventing any person from seeing the number on the back of such papers, and then proceed to count the votes.

(2) No person shall be allowed within the precincts of any place where counting is carried out, except -

(a) the Chairperson, members and officials of the Electoral Supervisory Commission;

(b) the Electoral Commissioner, the Deputy Electoral Commissioner and other election officials;

(c) candidates;

(d) election agents of candidates, if any;

(e) duly appointed polling or counting agents;

(f) members of the Police Force on duty;

(g) international election observers, if any; and

(h) such other person as the Electoral Commissioner may authorise.

50. Continuous counting

(1) The returning officer shall, as far as practicable, proceed continuously with the counting of the votes.

(2) Where the counting process is adjourned, the returning officer, deputy returning officer or senior presiding officer, as the case may be, shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the agents of the candidates as desire to affix their seals, and take proper precautions for the security of the papers and documents.

27. Regulation 51 of the principal regulations is amended -

(a) by inserting, after paragraph (1), the following new regulation -

(1A) A ballot paper may be rejected by a returning officer, deputy returning officer or senior presiding officer.

(b) by revoking paragraph (2) and replacing it by the following paragraph -

(2) The returning officer, deputy returning officer or senior presiding officer shall endorse "rejected" on any invalid ballot paper and shall also add "rejection objected to" if an objection is made by a candidate, an election agent or counting agent.

28. Regulation 52 of the principal regulations is amended by adding the following new paragraph

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(3) (a) Where the returning officer determines that votes are to be recounted, he shall, subject to paragraph (b), proceed with the recounting of the votes.

(b) In exceptional circumstances, the returning officer may, after consultation with the Electoral Commissioner, proceed with recounting of votes on the next day.

(c) Where recounting of votes is to take place on the following day pursuant to paragraph (b), the returning officer, deputy returning officer or senior presiding officer, as the case may be, shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the agents of the candidates as desire to affix their seals, and take proper precautions for the security of the papers and documents.

29. The principal regulations are amended by inserting, after regulation 52, the following new regulation -

52A. Non-attendance of candidate, election agent, polling agent and counting agent

Where, in these regulations, any expression is used requiring, authorising or inferring that any act or thing should be done in the presence of a candidate, an election agent, a polling agent or a counting agent, such expression shall be deemed to refer to the presence of such candidate or agent as may be authorised to attend and has in fact attended at the time and place where such act or thing is being done, and the non-attendance of any such candidate or agent at such time and place shall, notwithstanding these regulations and where such act or thing is otherwise duly done, not invalidate the act or thing done.

30. Regulation 53 of the principal regulations is amended, in paragraphs (1) and (2), by inserting, after the words "returning officer", the words ", deputy returning officer or senior presiding officer, as the case may be,".

31. Regulation 54 of the principal regulations is amended -

(a) in the heading, by inserting, after the words "**returning officer**", the words ", **deputy returning officer or senior presiding officer**";

(b) by inserting, after the words "returning officer", the words ", deputy returning officer or senior presiding officer, as the case may be,".

32. Regulation 56 of the principal regulations is amended -

(a) in the heading, by inserting, after the words "**Returning officer**", the words "**or deputy returning officer**";

(b) by inserting, after the words "returning officer" wherever they appear, the words "or deputy returning officer".

33. The principal regulations are amended by inserting, after regulation 56, the following new regulation -

56A. Addition of votes

(1) Where there is only one counting room at a counting centre, the senior presiding officer shall, after the counting of votes, transmit to the returning officer the total number of votes obtained by each candidate by fax or such other manner as the Electoral Commissioner may determine.

(2) (a) Where there is more than one counting room at a counting centre, the senior presiding officer shall, after the counting of votes, add up the number of votes obtained by each candidate in all the counting rooms and transmit to the returning officer, by fax or such other manner as the Electoral Commissioner may determine, the total number of votes obtained by each candidate in his counting centre.

(b) Upon receipt of the votes obtained by each candidate from all the counting centres in his local region, the returning officer shall add up all the votes obtained by each candidate.

34. Regulation 57 of the principal regulations is amended by inserting, after the words "result of the poll", the words "pursuant to regulation 56A".

35. The principal regulations are amended by inserting, after regulation 57, the following new regulation -

57A. Duties of presiding officer after counting of votes

Immediately after the counting of votes, the presiding officer of each voting room shall, in the presence of any candidate or his election agent or counting agent, if any, make up into separate packets, sealed with his own seal and the seal of any candidate or agent, if any, who desires to affix his seal -

- (a) the list of proxies and the proxy papers;
- (b) the unused and spoilt ballot papers;
- (c) the tendered ballot papers;
- (d) the poll clerk's marked copy of the register of electors and the counterfoils of the ballot papers; and
- (e) the tendered votes list and the list of electors assisted.

36. Regulation 59 of the principal regulations is revoked and replaced by the following regulation-

59. Papers to be sent to Electoral Commissioner

(1) The returning officer shall, as soon as practicable after making the return -

- (a) make up all the packets of papers referred to in regulation 53 into parcels and seal those parcels so that they cannot be opened without breaking the seals; and
- (b) forward the sealed parcels to the Electoral Commissioner.

(2) The Electoral Commissioner shall -

- (a) subject to paragraph (3), keep the sealed parcels in safe custody and shall not allow any person to have access to those sealed parcels; and
- (b) after the expiry of 6 months from the date of the election, destroy the sealed parcels unless there is an election petition pending before the Supreme Court.

(3) Where an election petition is lodged questioning the validity of any election or return, the Electoral Commissioner shall, on the order of a Judge of the Supreme Court, deliver to the Master and Registrar the sealed parcels relating to the election which is in dispute.

37. Regulation 61 of the principal regulations is amended -

(a) by revoking paragraph (1) and replacing it by the following paragraph -

(1) In case of adverse weather conditions, riot or violence, or any other circumstance prevailing in the country which may disrupt the smooth running of the electoral process on nomination day, polling day or counting day, or with a view to preventing the spread of a communicable disease in the Island of Rodrigues, the President of the Republic may, after consultation with the Commission and the Electoral Commissioner, and acting in accordance with the advice of the Prime Minister, vary, by Proclamation, the nomination day, nomination centre, polling day, polling station, counting day or counting centre.

(b) by adding the following new paragraph -

(3) In this regulation -

"communicable disease" has the same meaning as in the Quarantine Act 2020.

38. Regulation 61A of the principal regulations is amended by revoking paragraphs (1) and (2) and replacing them by the following paragraphs -

(1) Where election proceedings at any nomination centre, polling station or counting centre are interrupted or obstructed by any adverse weather conditions, riot or violence which may, in the opinion of the returning officer, disrupt the smooth running of the election proceedings at the nomination centre, polling station or counting centre, the Electoral Commissioner may, after consultation with the Commission, adjourn proceedings at such nomination centre, polling station or counting centre until the next day.

(2) Where necessary, the Electoral Commissioner may, after consultation with the Commission, further adjourn the election proceedings until such interruption or obstruction shall have ceased.

39. Regulation 61B of the principal regulations is amended, in paragraph (1), by inserting, after the words "the Commission", the words ", after consultation with the Electoral Commissioner,".

40. The Schedule to the principal regulations is amended, in Form 2 -

(a) by deleting the words "9 a.m. and 3 p.m." wherever they appear and replacing them by the words "8 a.m. and 2 p.m.";

(b) by deleting the words "by 3 p.m." and replacing them by the words "by 2 p.m.";

(c) by deleting the words "3 p.m. and 5 p.m." and replacing them by the words "2 p.m. and 4 p.m.".

41. The Schedule to the principal regulations is amended, in Form 8, by deleting the words "6.30 a.m. and 3.30 p.m." and replacing them by the words "6 a.m. and 3 p.m.".

42. These regulations shall come into operation on 5 January 2022.

Made by the President on 5 January 2022.