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Government Notice

MINISTRY OF MINES AND ENERGY

No. 358

2019

REGULATIONS RELATING TO NOMINATION OF CANDIDATES AND ELECTION OF MEMBERS OF COUNCIL: GEOSCIENCE PROFESSIONS ACT, 2012

Under section 41(1)(a) of the Geoscience Professions Act, 2012 (Act No. 3 of 2012) read with section 4(2)(a) of that Act, I have, after consultation with the Geoscience Council of Namibia, made the regulations set out in the Schedule.

T. ALWEENDO

MINISTER OF MINES AND ENERGY

Windhoek, 7 November 2019

SCHEDULE

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Definitions

1. In these regulations, a word or expressions to which a meaning has been assigned in the Act has that meaning, and unless the context indicates otherwise -

“ballot box” means the storage receptacle provided for the taking of a voting poll and for storing used and unused ballots;

“ballot paper” means a ballot paper which complies with the requirements set out in regulation 8(1);

“documents envelope” means an envelope which complies with the requirements set out in regulation 8(5);

“election” means an election held in terms of these regulations to elect members of the Council or to fill a vacancy on the Council caused by the vacation of office or death of a member so elected and “elect”, when used as a verb, has a corresponding meaning;

“enfranchised voter” means a person who is entitled to nominate a candidate for an election or to cast a vote during an election;

“nomination day” means the final day of the nomination period for submission of nominations for a particular election;

“polling day” means the day for the submission of ballot papers;

“registrar” means a staff member of the Ministry responsible for conducting elections in terms of these regulations;

“the Act” means the Geoscience Professions Act, 2012 (Act No. 3 of 2012); and

“year” means the 12 months for which the full annual fee is payable and which runs from 1 January to 31 December in any year.

Language of forms and documents

2. (1) Any form or document required to be submitted to the Council or registrar in terms of these regulations must, subject to subregulation (2), be in the English language.

(2) A form or document referred to in subregulation (1) that is not in the English language must be accompanied by a sworn translation.

Calling for nomination of candidates

3. (1) When an election for the Council is necessary, the registrar must publish a notice in the *Gazette* calling for the submission of nominations for the election.

(2) The notice referred to in subregulation (1) must specify the -

- (a) number of vacancies on the Council;
- (b) nomination period; and
- (c) nomination day.

(3) The notice referred to in subregulation (1) must be published three months before the expiry of the term of office of a Council member.

(4) An enfranchised voter is entitled to nominate an equal number of candidates to the vacancies specified in the notice referred to in subregulation (1).

(5) The registrar must call for new nominations if there are vacancies after filling vacancies in terms of regulation 14.

Submission of nominations

4. (1) The nomination of a candidate must be -

- (a) made on the form set out in Annexure A; and
- (b) lodged with the registrar before 16:00 on the nomination day.

(2) A separate nomination form must be used for the nomination of each candidate.

(3) A nomination form must be completed and signed by the person nominated as a candidate and two persons who nominated that person.

Acceptance of nominations

5. (1) The registrar must accept the nomination of a person as a candidate for an election if the registrar is satisfied that the -

- (a) nomination complies with regulation 4;
- (b) nominating person is an enfranchised voter; and
- (c) nominated person qualifies in terms of section 4 of the Act for election as a member of the Council.

(2) If the registrar refuses to accept the nomination of a person as a candidate for an election, the registrar must notify the nominated person and nominating person in writing of the grounds of refusal.

(3) If the number of candidates accepted for the nomination is equal to the number of vacancies on the Council on the nomination day the -

- (a) candidates are considered to be elected as members of the Council; and

- (b) election of a candidate as a member of the Council must be made known in the manner referred to in regulation 16.

(4) If the number of candidates accepted for nomination is less than the number of vacancies on the Council on nomination day the registrar must call for new nominations in terms of regulation 3.

Notice of election

6. (1) If the number of candidates for an election exceeds the number of vacancies on the Council on the nomination day, the registrar must issue a notice in the *Gazette* that an election will be held.

- (2) A notice in terms of subregulation (1) must -
 - (a) be issued within 30 days of the nomination day;
 - (b) specify the number of vacancies on the Council;
 - (c) specify the polling day; and
 - (d) include the following information of each candidate -
 - (i) full names;
 - (ii) residential addresses;
 - (iii) election manifesto not exceeding 200 words;
 - (iv) academic qualifications;
 - (v) career record;
 - (vi) special interest;
 - (vii) public and professional service; and
 - (viii) a mission statement.

(3) The registrar must send a copy of the notice referred to in subregulation (1) within 48 hours of the date of issue to the permanent postal address entered in the register or any other form of communication as determined by the Council to every person who on that date is registered as a geoscience professional in terms of the Act and must be accompanied by -

- (a) a ballot paper;
- (b) a ballot envelope;
- (c) voting directions;
- (d) an identification statement; and
- (e) a documents envelope.

Death of candidates

7. If a candidate for an election dies before or on the polling day of the election -
- (a) regulation 5(3) or (4) applies where the remaining number of candidates is equal to or less than the number of vacancies on the Council; or
 - (b) the election concerned proceeds as if the candidate has not died with any vote recorded in favour of the deceased candidate being disregarded in determining the result of the election.

Issuing of ballot papers

8. (1) A ballot paper must -
- (a) indicate the full names of the candidates for the election in alphabetical order of surnames;
 - (b) contain a blank outlined square with dimensions of at least 10mm by 10mm opposite the name of each candidate; and
 - (c) contain an indication -
 - (i) that it is a ballot paper for the election of members of the Council; and
 - (ii) of the number of members of the Council to be elected during the election.
- (2) A ballot envelope must have a gummed flap with which it can be sealed after a completed ballot paper has been placed.
- (3) Voting directions as set out in regulation 9 indicate how a person must proceed to cast a vote and return the ballot paper to the registrar.
- (4) An identification statement must contain a declaration in the form set out in Annexure B.
- (5) A documents envelope must -
- (a) be large enough to place a ballot envelope and an identification statement;
 - (b) have a gummed flap with which it can be sealed after a ballot envelope and an identification statement has been placed in it; and
 - (c) be addressed to the registrar.
- (6) If the registrar is satisfied that the documents referred to in regulation 6(3) are lost or destroyed, the registrar must issue a fresh ballot paper and accompanying documents to the person concerned.

Voting directions

9. (1) A voter may cast only one vote in favour of each candidate of his or her choice by -

- (a) marking on the ballot paper with a cross or any other mark denoting a clear choice for a particular candidate within the outlined blank square provided on the ballot paper;
- (b) folding the ballot paper and placing it in the ballot envelope;
- (c) sealing the ballot envelope by sticking the gummed flap;
- (d) making the declaration referred to in regulation 8(4) by completing and signing the identification statement;
- (e) placing the identification statement together with the sealed ballot envelope in the documents envelope; and
- (f) sealing the documents envelope by sticking the gummed flap and sending it to the registrar by post or delivering it by hand.

(2) A documents envelope which is sent to or delivered to the registrar in terms of subregulation (1)(a) must reach the registrar before 16:00 on the polling day.

Ballot boxes

10. (1) The registrar must as soon as possible after the date of issue of a notice referred to in regulation 6(1) prepare a ballot box for the election concerned.

(2) A ballot box must be sealed while it is empty by a commissioner of oaths to ensure that a documents envelope placed in there cannot be removed except by breaking the seal.

(3) The commissioner of oaths referred to in subregulation (2) must provide the registrar with a written statement regarding the sealing of the ballot box.

(4) The sealed ballot box referred to in subregulation (2) must be placed in a safe place before it is opened by the registrar to ensure limited access to it when placing document envelopes in it for the election concerned.

Examination of documents

11. (1) The registrar must -

- (a) open each documents envelope received and record the date of receipt on the enclosed ballot envelope;
- (b) ensure that each documents envelope contains an identification statement and that the declaration referred to in regulation 8(4) has been made;
- (c) compile a list which shows that the person by who the declaration is made had cast his or her vote;
- (d) compare the particulars furnished in each declaration with the applicable register and the list referred to in paragraph (c); and
- (e) place the ballot envelope in the ballot box referred to in regulation 10.

(2) If a documents envelope is received by the registrar after 16:00 on the polling day

of an election day, the registrar must -

- (a) endorse the ballot envelope in which the ballot paper is contained with the words “Received too late in terms of regulation 9(2)” without opening the ballot envelope; and
- (b) preserve the ballot envelope in terms of regulation 16(2).

Examination of ballot papers

12. (1) The registrar and the internal auditor of the Ministry must, soon after 08:30 on the first working day following the polling day after an election, break the seal on a ballot box referred to in regulation 10 and remove the contents of that ballot box in a room -

- (a) which is clear of any unused ballot papers for the election; and
 - (b) where it is accessed only by the registrar or his or her representative.
- (2) After breaking the seal on a ballot box in terms of subregulation (1), a person may not -
- (a) bring in to the room -
 - (i) any unused ballot papers; or
 - (ii) a ballot paper received by the registrar after the closing time on the polling day;
 - (b) remove any ballot envelope or ballot paper from the room concerned; or
 - (c) alter any ballot paper in any way.
- (3) The registrar must -
- (a) divide the ballot envelopes into those endorsed in terms of regulation 11(2) and those which have not been endorsed; and
 - (b) open the ballot envelopes which have not been endorsed and examine the ballot papers in there.
- (4) After an examination referred to in subregulation (3), if the registrar is satisfied that a ballot paper is rejected on the grounds referred to in regulation 13, the registrar must -
- (a) endorse the ballot paper and the ballot envelope with the word “Spoilt”;
 - (b) record why the ballot paper is rejected; and
 - (c) keep it with the ballot envelopes endorsed in terms of regulation 11(2) and preserve it in terms of regulation 16.

Grounds for rejection of ballot papers

13. The registrar must reject a ballot paper if -

- (a) it is not contained in a sealed ballot envelope when it is received by the registrar;

- (b) the declaration on the identification statement is not completed or is completed in a manner that it is not possible for the registrar to determine the identity of the voter with reference to the register kept by the registrar;
- (c) the declaration on the identification statement is not signed by the voter;
- (d) the person by whom the declaration on the identification statement has been made -
 - (i) is not an enfranchised voter; or
 - (ii) has already cast a vote;
- (e) a cross or mark made in terms of regulation 9(1)(a) extends beyond the outline of a square on the ballot paper to the extent that it is not possible for the registrar to determine without reasonable doubt in favour of which candidate the vote concerned has been cast; or
- (f) the number of candidates opposite whose names crosses or marks referred to in regulation 9(1)(a) are made exceeds the number of members of the Council to be elected during the election concerned.

Determination of result of election

14. (1) The registrar must use the valid ballot papers to determine the number of votes recorded in favour of each candidate during the election.

(2) The candidate who gets the most votes fills the vacancy.

(3) In the event that an equal number of votes are recorded in favour of two or more candidates, a run-off election must be held in accordance with these regulations.

(4) For a run-off election referred to in subregulation (3), regulations 6, 8, 9, 10, 11, 12, 13 and 14 apply with the necessary changes required by the context.

Announcement of elected members of Council

15. (1) After filling the vacancies of elected members the secretary of the Council must cause a notice to be published in the *Gazette* in terms of section 4(3) of the Act.

(2) The registrar must notify each elected person in writing of the person's election as a member of the Council.

Preservation of election documents

16. (1) The registrar must keep all documents relating to the election in separate packages marked with dates of the nomination day and the polling day and seal it in one package.

(2) The registrar must keep the package referred to in subregulation (1) unopened for a period of at least three years after the date of publication of the notice in the *Gazette* referred to in regulation 15(1), unless directed to the contrary by a competent court.

Report on election

17. (1) The registrar must soon after an election, report to the Council on the number of -

- (a) persons nominated as candidates for the election;
- (b) nominations that are rejected and the grounds for rejection; and
- (c) ballot papers -
 - (i) issued by the registrar for the election;
 - (ii) submitted to the registrar; and
 - (iii) rejected in terms of regulation 13.

(2) A person may not disclose particulars referred to in subregulation (1) and regulation 15 regarding the result of an election unless the person is directed to do by a competent court.

(3) A registered person who contravenes subregulation (2) commits an offence of improper conduct under section 32 of the Act and if found guilty is liable to any of the penalties provided for in section 38 of the Act.

ANNEXURE A

Nomination of a candidate for election of members of the
Geoscience Council of Namibia
(Regulation 4(1)(a))

1. Particulars of candidate

- a) Full names and Surname
- b) Full residential address
- c) Full postal address
- d) Registration number

I comply with the qualifications set out in section 6 of the Geoscience Professions Act, 2012 (Act No. 3 of 2012) for election as a member of the Geoscience Council of Namibia. At the request of the persons indicated in paragraph 2, I am prepared to accept nomination as a candidate for an election of member of that Council.

.....
Signature of Candidate

.....
Date

2. Particulars of persons making nomination

First Nominator:

- a) Full names and surname
- b) Full postal address
- c) Registration number

Second Nominator:

- a) Full names and surname
- b) Full postal address
- c) Registration number

We hereby nominate the person indicated in paragraph 1 as a candidate for an election of members of the Geoscience Council of Namibia

.....
Signature of first nominator

.....
Signature of second nominator

.....
Date

.....
Date

ANNEXURE B

Declaration by a person casting a vote during an election of members of the
Geoscience Council of Namibia
(Regulation 8(4))

.....
Full names and surname of deponent

.....
Full residential address of deponent

.....
Registration number of deponent

I hereby declare that I am the person to whom the enclosed ballot paper was issued, that I am entitled to cast a vote at the election of members of the Geoscience Council of Namibia and that I have not previously submitted any other ballot paper for this election.

.....
Signature of deponent

.....
Date