



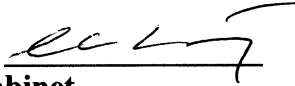
Republic of the Marshall Islands
Office of the Clerk of the Cabinet
P.O. BOX 2
MAJURO, MARSHALL ISLANDS 96960

Comm. # 64

MEMORANDUM

DATE : Jan. 11, 2016

TO : Morean S. Watak,
Clerk of the Nitijela

FROM : Earlie C. Bing, 
Clerk of the Cabinet

SUBJECT : Transmission of the following documents regarding Public Servants
and Public Officials running for ConCon 2017.

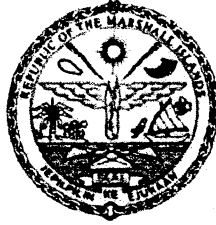
Yokwe Clerk Watak,

Transmitting three (3) documents, 1) Instructions to Employees intending to Nominate for the Constitutional Convention, 2) Upcoming Constitutional Convention – 2017, and 3) Eligibility of Public Officials to Contest a Seat in the Constitutional Convention.

Please provide copies to the Nitijela for their perusal.

Should there be any questions, concerns need addressing or any other recommendations or suggestions, I avail myself for such.

Kommol tata!



OFFICE OF THE ATTORNEY GENERAL

P.O BOX 890, Majuro MH96960;
REPUBLIC OF THE MARSHALL ISLANDS

Tuesday November 22, 2016

MEMORANDUM:

To : The Hon. Donald F. Capelle
Chairman, PSC

From : Office of the Attorney General

Subject: Instructions to Employees intending to Nominate for the Constitutional Convention

Dear Chairman,

The Office of the Attorney General has reviewed the Commission's draft instructions to employees of Public Service on the Constitutional Convention process [for the benefit of those wishing to participate in the upcoming Constitutional Convention], and makes the following comments.

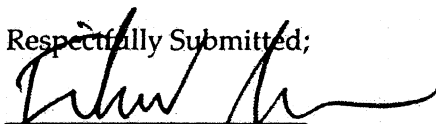
1. Please note the Regulation 51 applies specifically to employees of the Public Service that nominate for a seat in the Nitijela or a Local Government during a General Election, and governs their participation as employees of the PSC during the elections process and on becoming an elected member of the Nitijela or to a Local Government seat. This regulation in our view does not apply to elections to the Constitutional Convention as envisaged under Article XII of the *Constitution and Constitutional Convention Act 2015*.
2. Also note that the *Constitutional Convention* by its very nature is not a permanent body such as Nitijela or Local Government, and membership in the Convention is but a temporary engagement, as the Convention is a consultative body envisaged under the Article XII of the constitution, which is transitory, and whose life ends with the adoption or rejection thereof of constitutional amendment proposals submitted for its deliberations.

3. Although Section 407 (1) of the Constitutional Convention Act 2015 prescribes that the *Elections and Referenda Act* applies to election of members of the Constitutional Convention, it also prescribes that the provisions of that Act apply *mutatis mutandi* to the conduct of elections to the convention, meaning, the Elections and Referenda Act applies with the necessary modifications given the differences between the Nitijela and Local Government membership, and that envisaged for Convention membership under the Constitutional Convention Act 2015 and Article XII of the Constitution.
4. The tenure of membership of, and the life of a Constitutional Convention is set out under Article XII of the Constitution. The *Constitutional Convention Act 2015* also provides guidance on the rights of employees of the PSC that intend to nominate for the Convention.
5. In regards to the authority of the PSC to issue the instructions to public service employees intending to nominate for the Convention, we find no legal objections to the exercise of such authority, as that is a matter within your authority as the PSC, in ensuring the smooth operations of the Service. However in reviewing the actual draft instructions forwarded to this Office for review, we find the following issues:
 - (a) As to your instructions on the question of the process for notification of the PSC of an employee's candidature; and the dates on which leave should commence for those employees intending to nominate, this Office finds no legal objections. The PSC may coordinate with the Office of the Chief Electoral Officer who is responsible for administering the Convention elections, to confirm the dates, including dates for resumption of official duties where a candidate fails to get elected to the Convention, withdraws his or her candidature prior to the election, and following the conclusion of the work of the Convention.
 - (b) Where an employee of the PSC is successfully elected to the Convention, please note that Section 418 of the *Constitutional Convention Act 2015* prescribes that such employee shall be entitled to leave with pay. This provision takes precedence over any PSC Regulations, and that any instructions by the PSC in regards to remuneration of employees while on leave as a member of the Convention, must be consistent with Section 418(1) of the *Constitutional Convention Act 2015*, as highlighted hereinabove.
 - (c) On your proposed instruction that an employee is deemed to have resigned from his or her employment with the PSC upon election to the Convention, we find that this instruction is not consistent with the above, on the grounds that:

- a. Regulation 51 of the *PSC Regulations* and the constitutional requirement to resign when elected, under Article IV Section 5 of the Constitution, apply only in the case of elections to the Nitijela.
 - b. such an instruction would be inconsistent with Section 418(1) of the *Constitutional Convention Act 2015*;
6. In conclusion, we reiterate the following:
- (a) the PSC may issue the necessary instructions to PSC employees on the processes and dates certain, in regards to notification of nomination to the PSC; commencement of leave, and resumption of duties, to ensure the smooth operation of the Service;
 - (b) that employees of the PSC that are elected to the Convention are entitled to leave with pay, in accordance with Section 418(1) of the *Constitutional Convention Act 2015*;
 - (c) that employees of the PSC that are elected to the Convention remain employees of the PSC (granted leave with pay) throughout the life of the Convention pursuant to Section 418 of the *Constitutional Convention Act 2015*.

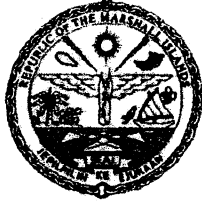
Please do not hesitate to contact this Office should you have any further comments.

Respectfully Submitted;



Dr. Filimon M Manoni
Attorney General

cc: file



Republic of the Marshall Islands
Office of the Public Service Commission

PO Box 90 ~ Majuro, MH 96960 ~ Marshall Islands
Phone: 692.625.8298 ~ 692.625.8498 ~ Fax: 692.625.3382 ~ Email: pscrm@ntamar.net

24th November 2016

MEMORANDUM

To: Heads of Ministries/Agencies
From: PSC
Re: *Upcoming Constitutional Convention - 2017*

Iokwe aolep.

By the powers inherent in the Public Service Commission pursuant to the Constitution and the Public Service Regulations, the Public Service Commission hereby issues the following instructions to all public servants that have filed, or intend to file a nomination for a seat in the upcoming Constitutional Convention.

Public Servant Candidates

1. Note that the nomination period opened on 07th November 2016, and will close on 07th December 2016;
2. Any public servant that has filed, or intends to file a nomination for a seat in the Constitutional Convention by 07th December 2016, must provide notification of this fact to the Public Service Commission, through the head of the Ministry, Department or Agency.
3. All public Servants that nominate for a seat in the Constitutional Convention are hereby granted leave beginning 07th December 2016 and ending 25th March 2017, the date the results are declared. All public servants not successful in winning a seat in the Convention shall resume official duties on that date. Any public servant that withdraws his or her nomination prior to the declaration of results shall resume official duties on the date of withdrawal of nomination, with notification to the Head of Ministry and the Public Service Commission;

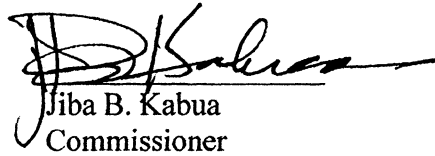
Public Servants Elected to the Convention

1. Public Servants who are declared successful candidates in the Constitutional Convention elections and who become members of the Convention will be granted leave, for the purposes of, and for the duration of the Constitutional Convention - with pay, as per Section 418[1] of the *Constitutional Convention Act 2015*.

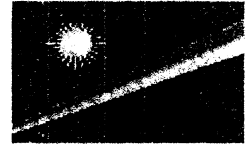
We attach for your kind reference, the 2017 Constitutional Convention (Special Election) Time Table. Should there be any questions, comments and/or concerns regarding the matter, please do not hesitate to contact the Commission. Jerammon non aolep im kom emmool.

Signed,


Donald F. Capelle
Chairman


Jiba B. Kabua
Commissioner

Cc: Minister in Assistance
Office of the Chief Secretary
RMI Chief Electoral Office
File



**Republic of the Marshall Islands
 2017 Constitutional Convention (Special Election) Time Table**

Administrative	September - October 2016	Voter Education Month on the Constitutional Convention Special Election <i>Allin in kommane Voter Education program ko nan public im ro ilikin Majuro im RMI kin wawen ko rej aikuj jela kaki nan aer naj komane jo-kelet eo aer ilo Con Con Special Election eo naj komman ilo 21 February 2017</i>
E&R Act 1980, Subsection 146(1)	November 7, 2016	Filing of Nomination Petitions for Constitutional Convention Representative <i>Pellok ebbök Nomination Pepa ñan jibadök jea ko einwot juon Constitutional Convention Representative</i>
E&R Act 1980, Subsection 128	November 15, 2016 (Available)	Voters List for General Election 2015 will be used for the Constitutional Convention <i>Voters List eo jen General Election 2015 enaj jerbäl nan Constitution Convention eo</i>
E&R Act 1980, Subsection 161 (2a)	December 1, 2016	Request Application for Postal Ballot begins Apply/register for Confined vote and those that will not be present on election day <i>Epellok kajjitök ñan Postal Ballot. Epellok ñan kajjitök kôn Confined Vote & ro renaaj jako ilo aelöñ kein ilo raan in Ekäälel eo</i>
E&R Act 1980, Subsections 146(1)	December 7, 2016	Deadline to submit Nomination Petitions for Constitutional Convention Representative <i>Jemlok ebbök Nomination Pepa ñan jibadok jea ko einwot juon Constitutional Representative</i>
E&R Act 1980, Subsection 147	December 14, 2016 (9:00 - 11:30 AM)	Drawing of Lot to assign candidate's slot for the islands of Majuro, Arno, Mili, Aur, Maloelap, Wotje, Likiep, Utrik, Ailuk, Mejit, Jabat and Ailinglaplap <i>Kuben-kijdik ñan Mājuro, Arno, Mili, Aur, Maoelap, Wotje, Likiep, Utrik, Ailuk, Mejit, Jabat & Ailinglaplap</i>
E&R Act 1980, Subsection 147	December 14, 2016 (1:00 - 4:00 PM)	Drawing of lot to assign candidate's slot on the ballot paper for the islands of Ebon, Namdrik, Kili, Jaluit, Namu, Ujae, Lae, Wotho, Enewetak, Lib, Rongelap & Kwajalein <i>Kuben-kijdik ñan Ebon, Namdik, Kili, Jaluit, Namu, Ujae, Lae, Wotho, Enewetak, Lib, Rongelap & Kwajalein</i>
E&R Act 1980, Subsections 148 & 142	December 16, 2016	Announcement of Candidates names on the Radio <i>Kadiwōjlok etan Rijibarök ro ilo Radio</i>

E&R Act 1980 Subsection 152	January 1, 2017	Printing of ballot papers <i>Jino print-l Ballot pepa ko</i>
E&R Act 1980 Subsection 162(1)	January 15, 2017	Mailing of Postal Ballots <i>Jino jilikinlok (Mail) Postal Ballots ko likin RMI</i>
Administrative	January 25, 2017	Preparing of voting documents & Ballot Boxes for the outer-islands <i>Kepooj Pepa in vote/Ballot Box ko ñan aelõñ ko likin</i>
E&R Act 1980, Subsection 161(2bii)	February 6, 2017	Deadline to receive request for Postal Ballots (Postmarked no later than 14 days before Election Day) <i>Ran eo eliktata nan ebbok kajjitõk ko ñan Postal Ballot (Postmarked enjab rumujlok jen 14 raan mokta jen ran in Ekäälel eo)</i>
E&R Act 1980, Subsection 162(3)	February 6-20, 2017 (20 February 2017 in the states is 21 February 2017 RMI Date, which is the Election Date)	Postal Voting begins (Ballots Postmarked Dates) <i>Jino Postal Voting, bareinwot ballot eo en postmarked ilo raan kein</i>
Administrative	February 10-20, 2017	Voting Materials and Electoral personnel dispatched to outer islands for voting day...Electoral personnel will conduct training on site prior to voting day <i>Kein jermal ko im ri-jermal ro an Electoral renaaj jino diwõjlok ñan aelõñ ko ilikin. Ri-jermal ro an Electoral renaj kaminene ilo jikin vote mokta jen ran in vote</i>
Administrative	February 13, 2017	Refresher training for EBMs, Police Officers, and Counting and Tabulating Committee <i>Kaminene nan EBM, Police Optija im Ribonbon ro renaj jermal ilo ran in ekaalel eo</i>
E&R Act 1980, Subsection 161(2b)	February 15, 2017	Last day to apply/register for Confined (in country absentee) Voters <i>Raan eo eliktata ñan kajjitõk kõn Confined Vote & ro renaaj jako ilo aelõñ kein ilo raan in Ekäälel eo</i>
RMI Constitution Section 12(3), E&R Act 1980 Subsection 170 (1-4)	February 21, 2017 <i>(Nitjela or PSC need to declare as an administrative Holiday?)</i>	Election for the Constitutional Convention Representatives. Polling places will open at 7:00 AM and close at 7:00 PM. Counting of ballots will start soon after voting is closed <i>Raan in EKÄÄLEL eo nan jea ko ilo Constitutional Convention eo. Jikin vote ko renaaj pellok jen 7:00 a.m. ñan 7:00 p.m. im elikin jino Bõnbõn Vote</i>
E&R Act 1980, Subsection 162(3)	March 7, 2017	Last day to receive Postal Ballots from abroad (No later than 14 days after the date of election) <i>Raan eo eliktata ñan ebbõk Postal Ballot jen ro itulikün RMI, jab rumij jen 14 raan elkin raan in ekaalel eo</i>
E&R Act 190, Subsections 164, 165, and 166	March 8, 2017	Examination of Postal Ballots to ensure voter compliance <i>Etali Postal Ballot ko nan lale ne ri-vote eo ear loor rule ko nan juon Postal Voter</i>

E&R Act 1980, Subsection 178(1c)	March 9, 2017	Counting of Postal Ballots <i>Bōnbōn Postal Ballot</i>
E&R Act 1980, Subsection 178(4b)	March 10, 2017	Announcement of unofficial results over the radio <i>Kadiwojlok Unofficial (ejañin pen) Result eo ilo Radio</i>
E&R Act 1980, Subsection 185(1)	March 25, 2017	Official Announcement (if no petition requests) <i>Kadiwōjlok Official Result eo elañe ejjelok-abnōnō</i>
Submitted by: //ORIGINAL SIGNED// Robson Yasiwo Almen Chief Electoral Officer		Approved by: Molly Helkena Acting Secretary




OFFICE OF THE ATTORNEY GENERAL

P.O BOX 890, Majuro MH96960;
REPUBLIC OF THE MARSHALL ISLANDS

Monday December 5, 2016

MEMORANDUM:

To : **Hon. Donald F. Capelle**
Chair, PSC

From : Office of the Attorney General 

Subject: Eligibility of Public Officials to Contest A Seat in the Constitutional Convention

The Office of the Attorney General has reviewed the question on whether Public Officials¹ are eligible to contest a seat in the upcoming Constitutional Convention 2017, and provides the following comments. Pursuant to Section 406 of the Constitutional Convention Act 2015, any person that is qualified to be a voter or candidate under Article IV Section 4 of the Constitution, is eligible to run for a seat in the Constitutional Convention. Therefore, any person that meets the qualification criteria under Article IV Section 4 [adopted under Section 406 of the Constitutional Convention Act 2015] including Public Servants and Public Officials², is eligible to contest a seat in the upcoming Constitutional Convention. No other qualification is required, we find no express prohibitions preventing Public Officials from contesting and becoming a member of the Convention.

² **Public Official** means: (a) any judge of the Superior Court or of the High Court; (b) any Nuclear Claims Tribunal member; (c) any ambassador; (d) any Public Service Commission member; (e) the Auditor-General; and (f) any other official whose office requires that he be confirmed by a Resolution of the Nitijela. [ERA Section 108]

In regards to administrative matters, the Constitution, the Elections and Referenda Act and, the Constitutional Convention Act 2015, are silent on the issue, in regards to Public Officials.³ Section 418 of the Constitutional Convention Act 2015, which provides for leave with pay, applies to Public Servants. We have taken this to mean, 'employees of the Public Service' appointed by the Public Service Commission, noting the differentiation between 'Public Servants' and 'Public Officials' under the Elections and Referenda Act. Given that there is no law that prohibits the participation of Public Officials, in the Constitutional Convention, Public Officials may consult with the Cabinet on administrative arrangements, to ensure the continued efficiency in their Offices, should a Public Official be elected to the Convention.