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CONTENTS

GOVERNMENT NOTICE	<i>Page</i>
No. 145 Regulations relating to the first election of the members of the Council of Namibia: Nursing Act, 2004	1

Government Notice

MINISTRY OF HEALTH AND SOCIAL SERVICES

No. 145 2006

REGULATIONS RELATING TO THE FIRST ELECTION OF THE MEMBERS OF THE NURSING COUNCIL OF NAMIBIA: NURSING ACT, 2004

The Minister of Health and Social Services, under section 59 of the Nursing Act, 2004 (Act No. 8 of 2004) and on the recommendation of the Interim Nursing Council of Namibia, established under section 63 of that Act, has -

- (a) made the regulations set out in the Schedule; and
- (b) withdrawn Government Notice No. 223 of 20 October 1999.

SCHEDULE

Definitions

1. In these regulations, unless the context otherwise indicates, a word or expression defined in the Act has that meaning, and -

"Council" means the Nursing Council of Namibia established by section 3 of the Act;

"enrolled accoucheur" means a person enrolled as such under the Act;

"enrolled midwife" means a person enrolled as such under the Act;

"enrolled nurse" means a person enrolled as such under the Act;

"Interim Council" means the Interim Nursing Council established under section 63 of the Act;

"nursing auxiliary" means a person enrolled as such under the Act;

"qualified voter" in respect of a person to be elected in terms of section 7(2) of the Act as a member of the Council, means a person registered as an accoucheur, as a midwife or as a nurse, or enrolled as an accoucheur, as a midwife, as a nurse or as a nursing auxiliary, who is a Namibian citizen and is ordinarily resident in Namibia;

"registered accoucheur" means a person registered as such under the Act;

"registered midwife" means a person registered as such under the Act;

"registered nurse" means a person registered as such under the Act;

"returning officer" means the person appointed as such under regulation 2; and

"the Act" means the Nursing Act, 2004 (Act No. 8 of 2004).

Returning officer

2. (1) The registrar, or a person appointed by him or her in writing for such purpose, must act as the returning officer for the purpose of the first election of the members of the Council referred to in section 7(5) of the Act.

(2) If the returning officer, before the commencement of the election or at any time during such election, for any reason is or becomes unable to act as the returning officer, the registrar, or if the registrar is not available, the president of the Interim Nursing Council of Namibia, must appoint in writing another person to act as the returning officer.

Nomination of candidates

3. (1) When the first election of the members of the Council referred to in section 7(5) of the Act is to be held, the returning officer must publish in the Gazette, and forward by prepaid registered post to every person registered as a nurse, a midwife, or an accoucheur, and to every person enrolled as a nurse, as a midwife, or an accoucheur, and to every person whom is a nursing auxiliary, who is a Namibian citizen and is ordinarily resident in Namibia, at his or her address as it appears in the register concerned, an "Invitation for Submission of Nomination of Candidates for the First Election of Members of the Nursing Council of Namibia" substantially in the form of FORM 1 -

- (a) inviting the submission of the nomination by persons registered as nurses, as midwives, or as accoucheurs, or persons enrolled as nurses, as midwives, or as accoucheurs, or persons who are nursing auxiliaries, who are Namibian citizens and are ordinarily resident in Namibia, of persons registered as both nurses and midwives, or registered as both nurses and accoucheurs, and who are Namibian citizens and are ordinarily resident in Namibia, as candidates for the first election of members of the Nursing Council of Namibia;

- (b) specifying the final date, and the closing time on that date, on or before which the nominations referred to in paragraph (a) must be submitted to the returning officer;
- (c) specifying the address of the returning officer at which the nominations referred to in paragraph (a) must be delivered;
- (d) enclosing with the FORM 1 forwarded, in terms of this subregulation, to every person registered as a nurse, as a midwife, or as an accoucheur, and to every person enrolled as a nurse, as a midwife or as an accoucheur, and to every person who is a nursing auxiliary, who is a Namibian citizen and is ordinarily resident in Namibia, five "Nomination Forms" substantially in the form of FORM 2; and
- (e) advising the address where additional nomination forms may be obtained.

(2) The final date for the submission of nominations to the returning officer to be specified in terms of subregulation (1)(b) must be a date not less than 30 days, and not more than 60 days, after the date of the publication in the Gazette of the notice of "Invitation for Submission of Nomination of Candidates for the First Election of Members of the Nursing Council of Namibia" referred to in subregulation (1).

- (3) A person referred to in subregulation (1) of this regulation -
 - (a) may return the Nomination Form or Nomination Forms concerned, duly completed, to the returning officer at any time after the date of publication of the notice in the Gazette in terms of that subregulation; and
 - (b) must return the Nomination Form or Nomination Forms referred to in paragraph (a) to the returning officer in such a manner that it is, or that they are, received by the returning officer on or before the closing time on the final date for submission of the Nomination Forms specified in the notice referred to in that paragraph.

Eligibility for election as a member of the Council and nomination as candidate

4. (1) No person may be nominated as a candidate for election as a member of the Council unless he or she -

- (a) is registered as both a nurse and a midwife, or is registered as both a nurse and an accoucheur; and
- (b) is not disqualified in terms section 8 of the Act to be elected as such a member.

(2) The nomination of a person as a candidate for election as a member of the council is not valid, unless -

- (a) the nomination is made substantially in the form of FORM 2 ("Nomination Form"), duly completed;
- (b) the Nomination Form referred to in paragraph (a) is submitted or sent to the returning officer so as to be received by that returning officer before the closing time on the final date for submission of nominations to the returning officer as specified, in terms of regulation 3(1)(b), in the relevant FORM 1

("Invitation for Submission of Nomination of Candidates for the First Election of Members of the Nursing Council of Namibia") referred to in regulation 3(1) and as published by notice in the *Gazette*;

- (c) the persons who make the nominations, state in the relevant FORM 2 ("Nomination Form") referred to in paragraph (b) their full names, addresses and capacities as they appear in the register concerned, and sign such form; and
- (d) a person nominated as a candidate and whose name appears as such in the relevant FORM 2 ("Nomination Form") submitted to the returning officer pursuant to paragraph (b) -
 - (i) signifies his or her consent to the nomination in writing, either by means of his or her signature on such Nomination Form, or by means of a separate letter, telegram or facsimile, which must be submitted or sent to the returning officer at his or her address as it appears in the relevant FORM 1 ("Invitation for Submission of Nomination of Candidates for the First Election of Members of the Nursing Council of Namibia") referred to in paragraph (b), so as to be received by the returning officer not later than the closing time on the final date for the submission of nominations referred to in that paragraph (b); and
 - (ii) complies with subregulation (9).

(3) The nomination of a person as a candidate for election as a member of the Council is not valid if more than one person is so nominated on the same Nomination Form.

(4) A person registered as a nurse, as a midwife, or as an accoucheur, or a person enrolled as a nurse, as a midwife, or as an accoucheur, or a person who is a nursing auxiliary, who is a Namibian citizen and is ordinarily resident in Namibia, may sign and submit Nomination Forms for a number of candidates not exceeding five candidates to be elected as members.

(5) If any of the persons referred to in subregulation (4) signs and submits to the returning officer more than one Nomination Form referred to in that subregulation, those persons must number such Nomination Forms in the order of priority relating to the candidates so nominated.

(6) If any of the persons referred to in subregulation (4) signs and submits to the returning officer more than five Nomination Forms, the returning officer must -

- (a) accept as valid nominations only the first five nominations received; and
- (b) reject the nominations received subsequent to the nominations accepted as valid nominations in terms of paragraph (a).

(7) If -

- (a) any person referred to in subregulation (4) submits to the returning officer more than five Nomination Forms; and
- (b) the returning officer is unable to determine the sequence in which the relevant Nomination Forms were submitted by the person making the nominations referred to in paragraph (a),

the returning officer must reject all the Nomination Forms submitted by that person.

(8) A person nominated as a candidate in terms of this regulation, whether or not he or she has signified his or her consent to such nomination in terms of paragraph (d) of subregulation (2), may withdraw, at any time before the closing time on the final date for the submission of nominations referred to in paragraph (b) of that subregulation, his or her candidature by means of a written notice under his or her signature delivered to the returning officer before such closing time on such date.

(9) A person nominated as a candidate in terms of this regulation and who has signified his or her consent to such nomination in terms of paragraph (d) of subregulation (2), must submit in writing to the returning officer, not later than ten days after the closing time on the final date for submission of nominations referred to in paragraph (b) of that subregulation -

- (a) full particulars of his or her academic qualifications;
- (b) the period of time or the periods of time that he or she practised or has been practising his or her profession, and the address or addresses where he or she so practised such profession or is so practising such profession;
- (c) the period of time or the periods of time that he or she has been employed by any employer in his or her profession, or was so employed or is so being employed, the name and address or the names and addresses of that employer or those employers who so employed him or her, or where he or she is so being employed;
- (d) the capacity in which he or she was or is being employed by each of the respective employers referred to in paragraph (c), and his or her main functions and responsibilities when so employed; and
- (e) a mission statement in which he or she sets out briefly what he or she intends to achieve as a member of the Nursing Council of Namibia,

including a colour passport photograph of him or her, which photograph must have been taken not more than 12 months before the date of the submission to the registrar of the Nomination Form concerned, and a certified copy of his or her identity document or of his or her birth certificate or of his or her certificate of citizenship as proof that he or she is a Namibian citizen.

(10) A candidate who fails to comply with subregulation (9) must be regarded as having withdrawn from the election.

Nomination list and voting date

5. (1) If -
- (a) five persons registered as both nurses and midwives, or registered as both nurses and accoucheurs, are validly nominated as candidates in terms of regulation 4, the five persons so nominated must be regarded as having been duly elected as members of the Council and no election must be conducted;
 - (b) less than five persons registered as both nurses and midwives, or registered as both nurses and accoucheurs, are validly nominated as candidates in terms of regulation 4, the persons so nominated must be regarded as having been

duly elected as members of the Council, no election must be conducted and the Minister may appoint, in accordance with section 7(8)(a) of the Act, the remaining members of the Council required to be elected pursuant to section 7(1)(c) of the Act.

(2) If more than five persons are validly nominated as candidates in terms of regulation 4, an election for the purpose of electing five members of the Council must be conducted in accordance with these regulations and for which purpose the returning officer must publish a notice in the *Gazette* -

- (a) stating the names of the persons so nominated;
- (b) notifying that the first election for the members of the Council must be held;
- (c) specifying the final date for the casting of votes in accordance with regulation 6, including the time on such date before which votes must be cast; and
- (d) specifying the address where ballot papers for the purpose of such election may be obtained.

(3) The date specified in terms of paragraph (c) of subregulation (2) must be a date not less than 30 days, and not more than 60 days, after the date of the publication of the notice in terms of that subregulation.

(4) Not less than 30 days before the date specified in terms of paragraph (c) of subregulation (2), the returning officer must forward by prepaid registered post to the address of every qualified voter as it appears in the register concerned, or deliver to every qualified voter by hand -

- (a) a ballot paper substantially in the form of FORM 3 ("Interim Nursing Council of Namibia: Ballot Paper for the First Election of Members of the Nursing Council of Namibia"), in which ballot paper the names of the applicable candidates have been printed;
- (b) an identification envelope which bears a declaration substantially in the form of FORM 4 ("Interim Nursing Council of Namibia: Form of Declaration on Identification Envelope"); and
- (c) the particulars of each candidate as submitted by that candidate in terms of regulation 4(9)(a), (b), (c), (d) and (e).

(5) If a ballot paper or an envelope forwarded to a qualified voter in terms of subregulation (4) is lost, destroyed or spoilt, the returning officer, if satisfied that the envelope or the ballot paper is so lost, destroyed or spoilt, must forward or submit, at the written request of the qualified voter concerned, to that qualified voter a fresh ballot paper or envelope, or both, as the case may be.

(6) Every ballot paper must bear a secret mark affixed to it by the returning officer, which secret mark must be so affixed before the ballot paper is handed or sent to a qualified voter.

Manner of voting

6. (1) A qualified voter, when casting his or her vote at the election of the members of the Council, must -

- (a) mark the ballot paper with a cross ("X") next to the name of each candidate for whom he or she is voting, but may not vote for more than five candidates;
- (b) insert the ballot paper, folded face inwards, into the identification envelope and seal such envelope;
- (c) sign, in the presence of a witness, the declaration printed on the identification envelope, which witness must also sign the envelope in the presence of that qualified voter; and
- (d) insert the identification envelope into a covering envelope and forward such covering envelope by prepaid registered post, or deliver it, to the returning officer, so as to be received at the address of the returning officer before the time on the final date specified in terms of regulation 5(2)(c).

(2) A voter must be regarded as having invalidated his or her ballot paper, and the votes on such ballot paper must not be counted, if he or she -

- (a) votes for more than five persons registered under the Nursing Act, 2004, as nurses and as midwives, or as nurses and as accoucheurs; or
- (b) votes for a person who has not been validly nominated and whose name does not appear on the ballot paper; or
- (c) votes more than once for the same candidate or returns more than one ballot paper; or
- (d) does not clearly indicate the candidate, or any of the candidates, for whom he or she is voting; or
- (e) marks the ballot paper in any manner other than by means of a cross ("X").

(3) A qualified voter -

- (a) may vote in accordance with subregulation (1) at any time after the receipt of the ballot paper forwarded to him or her in terms of regulation 5(4); and
- (b) must vote in accordance with subregulation (1), and submit his or her ballot paper to the returning officer, at any time before the time on the final date specified in terms of regulation 5(2)(c).

(4) No vote on a ballot paper must be counted unless such ballot paper -

- (a) when received by the returning officer, is enclosed in the identification envelope concerned; and
- (b) is received at the address of the returning officer before the time on the final date specified in terms of regulation 5(2)(c).

(5) The witness referred to in subregulation (1)(c) must be a person of not less than 21 years of age and who has not been declared mentally ill by a competent court in terms of the Mental Health Act, 1973 (Act No. 18 of 1973).

Counting of votes

7. (1) The returning officer must -

- (a) keep in safe custody all the identification envelopes received by him or her pursuant to regulation 6(1)(d); and
- (b) not open, unless in accordance with subregulation (3), any identification envelope.

(2) The Minister must appoint in writing, at the written request of the returning officer, as a scrutineer any person whom he or she considers to be a suitable person for such purpose, which person must perform such functions relating to the election of the members of the Council as set out in these regulations and as the Minister may determine and specify in such written appointment.

(3) As soon as practicable after the final date specified in terms of regulation 5(2)(c), the returning officer, in conjunction with, and in the presence of, the scrutineer appointed in terms of subregulation (2), must -

- (a) examine each identification envelope duly received before the specified time on such final date, to verify whether the declaration on such envelope has been signed by a qualified voter and by a competent witness in accordance with regulation 6(1)(c);
- (b) open every identification envelope he or she is satisfied as having been signed as required by paragraph (a);
- (c) remove every ballot paper, kept folded, from every identification envelope referred to in paragraph (b) and insert every folded ballot paper into a closed ballot box with an aperture for inserting such ballot papers;
- (d) when all the ballot papers have been inserted into the ballot box in accordance with paragraph (c), open the ballot box, examine the ballot papers and separate the invalidated ballot papers from the valid ballot papers;
- (e) count the votes on the valid ballot papers to ascertain the number of valid votes recorded for each candidate; and
- (f) compile, as soon as possible after the final date for the casting of votes determined in terms of regulation 5(2)(c), a list of the candidates in order of the number of votes received by each of those candidates, commencing with the candidate who received the highest number of votes and ending with the candidate who received the lowest number of votes.

(4) The five candidates who have received the highest number of votes must be regarded as having been duly elected as members of the Council.

(5) In the event of the number of votes recorded for any two or more candidates being equal, and if such equality of votes affects the outcome of the election, the returning officer must determine, in the presence of the scrutineer, by lot which of the candidates

having received equal votes must be declared duly elected as a member or as members of the Council.

(6) Any candidate, or a representative appointed by him or her in writing for such purpose -

- (a) may be present during the proceedings by the returning officer and the scrutineer in accordance with subregulations (3), (4) and (5); and
- (b) must not intervene in or render any assistance relating to the proceedings referred to in paragraph (a), at any point in time, unless upon the specific instructions or request of the returning officer.

(7) The returning officer must furnish the registrar, as soon as practicable after the counting of the votes in accordance with subregulation (3) -

- (a) in writing with the names of the persons elected as members of the Council in the election conducted in accordance with these regulations, confirmed in writing by the scrutineer appointed in terms of subregulation (2); and
- (b) with the identification envelopes, ballot papers and list of candidates referred to in subregulation (8).

(8) The registrar must keep -

- (a) all the identification envelopes referred to in subregulation (3)(a);
- (b) all other identification envelopes received after the date and time referred to in subregulation (3)(a), but must not open such identification envelopes;
- (c) all the valid ballot papers and the invalidated ballot papers received, which valid ballot papers and invalidated ballot papers must be kept separately; and
- (d) the list of the candidates compiled in accordance with subregulation (3)(f),

in safe custody for a period of not less than six months after the date of the receipt thereof pursuant to subregulation (7).

General

8. (1) All the nomination forms, ballot papers and other forms and documents referred to in these regulations must be completed or signed or marked, as the case may be, in ink or with a ballpoint pen by the person completing, signing or marking such nomination form, ballot paper, other form or document.

(2) Any nomination form, ballot paper, other form or document referred to in subregulation (1) which is completed or signed or marked in any way other than by means of ink or with a ballpoint pen, must be regarded as invalid *ab initio*.

ANNEXURE

FORM 1

**INTERIM NURSING COUNCIL OF NAMIBIA: INVITATION FOR
SUBMISSION OF NOMINATION OF CANDIDATES FOR THE FIRST
ELECTION OF MEMBERS OF THE NURSING COUNCIL OF NAMIBIA**

Notice is hereby given that the first election of five persons registered under the Nursing Act, 2004, as both nurses and midwives, or as both nurses and accoucheurs, as members of the Nursing Council of Namibia is to be held in terms of section 7 of the Nursing Act, 2004 (Act No. 8 of 2004).

Nominations for eligible persons registered under the Nursing Act, 2004, as nurses and as midwives, or as nurses and as accoucheurs, as candidates for election are invited. All nominations must be delivered or submitted to the address of the returning officer specified below so as to be received at that address not later than _____ (*time*) on the _____ (*day*) of _____ (*month*) _____ (*year*).

GENERAL NOTES:

1. Any registered person registered under the Nursing Act, 2004, as both a nurse and a midwife, or as both a nurse and an accoucheur, who is a Namibian citizen and ordinarily resident in Namibia and who is not disqualified in terms of section 8 of the Nursing Act, 2004, to be elected as a member of the Council, is eligible for nomination.
2. Nominations must be made on a nomination form substantially in the form of FORM 2 (Nomination Form) of the Regulations Relating to the First Election of Members of the Nursing Council of Namibia made under the Nursing Act, 2004. The necessary Nomination Forms may be obtained from the returning officer at the address specified at the bottom of this FORM 1.
3. Each candidate must be nominated on a separate Nomination Form.
4. Every person registered or enrolled under the Nursing Act, 2004, as a nurse, as a midwife, or as an accoucheur, or whom is a nursing auxiliary, is entitled to sign nomination forms in respect of any number of persons, not exceeding five persons, registered under the Nursing Act, 2004, as both nurses and midwives, or as both nurses and accoucheurs, as candidates for the first election of members of the Nursing Council of Namibia.
5. Each nomination form must state the full names of the person nominated and must be signed by any two persons registered or enrolled under the Nursing Act, 2004, as nurses, as midwives, or as accoucheurs, or persons who are nursing auxiliaries.
6. The person nominated as a candidate must endorse the relevant Nomination Form confirming his or her consent to the nomination. If the person nominated as a candidate is not available to endorse the Nomination Form, he or she may forward his or her consent to such nomination to the returning officer by letter, telegram or facsimile, so as to be received by the returning officer not later than the date and time for the delivery or submission of nominations as specified above.
7. The registered address and qualifications of every person signing the Nomination Form must be stated on such Form.

8. A Nomination Form must be duly completed and signed by the persons concerned.

Returning Officer

Interim Nursing Council of Namibia:

P O Box 50021,
Bachbrecht
Windhoek

Council House,
No. 37 Schönlein Street,
Windhoek West

Date: _____

FORM 2

**INTERIM NURSING COUNCIL OF NAMIBIA:
NOMINATION FORM:
FIRST ELECTION OF MEMBERS OF THE NURSING COUNCIL OF
NAMIBIA**

We, the undersigned, being persons registered or enrolled under the Nursing Act, 2004, as nurses, as midwives, or as accoucheurs, or who are nursing auxiliaries, hereby nominate:

(full names) _____
of (address) _____

a person registered under the Nursing Act, 2004, as both a nurse and a midwife, or as both a nurse and an accoucheur*, as a candidate for the first election of members of the Nursing Council of Namibia.

This NOMINATION FORM is submitted as NOMINATION FORM number _____ in the order of priority.

Particulars of persons making the nomination :

1. Full names: _____
Registered or enrolled as a nurse, as a midwife, or as an accoucheur, or being a nursing auxiliary*: _____
Registration number: _____
Registered address: _____

Signature: _____
Date: _____

2. Full names: _____
Registered or enrolled as a nurse, as a midwife, or as an accoucheur, or being a nursing auxiliary*: _____
Registration number: _____
Registered address: _____

Signature: _____
Date: _____

I, _____
(Full names)

the undersigned, being the person nominated as set out above -

- (a) consent to my nomination as a candidate for the first election of members of the Nursing Council of Namibia;
- (b) confirm that I am conversant with the provisions of the Nursing Act, 2004, that I subscribe to and fully support the Preamble to that Act and that I have no objection to the taking of the oath or the solemn affirmation* provided for in section 7(12) of that Act;
- (c) confirm that I am not disqualified in terms of section 8 of that Act to be a member of the Council;

- (d) declare that -
- (i) neither myself nor my spouse, nor any of my partners or my employer, as the case may be, have any business interests; and
 - (ii) I am not a member of, or have any shares or interest in, any organisation, which may be, or may come, in conflict with, or may be detrimental to, my being a member of the Council; and
- (e) undertake and commit myself to inform the Council immediately and in writing should I or my spouse or any of my business partners or my employer, as the case may be, or any organisation in which I have any shares or interest, come in conflict with, or become detrimental to, my being a member of the Council

Signature

Date

Registered to practise as both a nurse and a midwife, or as both a nurse and an accoucheur,*

Registration number: _____

Registered address: _____

*Delete whichever is not applicable

FORM 3

**INTERIM NURSING COUNCIL OF NAMIBIA:
BALLOT PAPER FOR THE FIRST ELECTION
OF MEMBERS OF THE NURSING COUNCIL OF NAMIBIA**

Official mark of returning officer:

First election of five persons registered under the Nursing Act, 2004, both as nurses and midwives, or both as nurses and accoucheurs, as members of the Nursing Council of Namibia.

INSTRUCTIONS TO VOTERS:

1. A voter is entitled to vote for not more than five candidates, and must vote by placing a cross ("X") next to the name of each candidate for whom he or she votes.
2. A ballot paper is invalidated if the voter -
 - (a) votes for more than five candidates;
 - (b) votes for a person who has not been validly nominated and whose name does not appear on the ballot paper;
 - (c) votes more than once for the same person or returns more than one ballot paper;
 - (d) does not clearly indicate for whom he or she is voting; or
 - (e) marks the ballot paper in any manner other than by means of a cross ("X").
3. The ballot paper must be folded face inwards and be inserted into the accompanying identification envelope.
4. The voter must complete and sign the declaration on the identification envelope in the presence of a witness, who must also sign the declaration. The witness must be a person who is not less than 21 years of age and who has not been declared mentally ill by a competent court in terms of the Mental Health Act, 1973 (Act No. 18 of 1973).
5. The identification envelope must be sealed and then inserted into the covering envelope, which must be sent to the Returning Officer, the Interim Nursing Council of Namibia, P O Box 50021, Bachbrecht, Windhoek, or delivered to the Returning Officer at the offices of the Interim Nursing Council, No. 37 Schönlein Street, Windhoek West, so as to be received by the returning officer not later than _____ (time) on _____ (day) _____ (month) _____ (year).

*Delete whichever is not applicable

FORM 4

**INTERIM NURSING COUNCIL OF NAMIBIA:
FIRST ELECTION OF MEMBERS OF THE NURSING COUNCIL OF
NAMIBIA FORM OF DECLARATION ON IDENTIFICATION ENVELOPE**

I, _____
(Full names)

Identity No. _____, being a person registered under the Nursing Act, 2004, as both a nurse and a midwife, or as both a nurse and an accoucheur,* with registration no. _____, declare that I am the person to whom the enclosed ballot paper was addressed, that I am a Namibian citizen and ordinarily resident in Namibia, and that I have not returned any other ballot paper in this election.

Signature

Date

Signature of Witness

Full names, identification number and address of witness :

*Delete whichever is not applicable
