

TRUSTS

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Trusts Act 2018

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Trusts Act 2018

TABLE OF AMENDMENTS

The Trusts Act 2018 No 30 was certified and commenced on 4 October 2018 (GN No 781/2018; Gaz 150/2018).

Amending Legislation	Certified	Date of Commencement
Trusts (Amendment) Act 2018 No 34	18 December 2018	18 December 2018
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

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An Act to provide for the registration of express trusts and charitable trusts in the Republic and for related purposes.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title

This Act may be cited as the *Trusts Act 2018*.

2 Commencement

This Act commences on certification by the Speaker and came into effect on 4 October 2018.

3 Objectives

The objectives of this Act are to provide for the:

- (a) creation, establishment and registration of registrable trusts;
- (b) registration of charitable trusts having charitable purposes and public benefits; and
- (c) registration of trusts for the protection of minors' interests in a trust.

4 Interpretation

In this Act:

'beneficiary or beneficial owner'

[def rep Act 34 of 2018 s 4, opn 18 Dec 2018]

'beneficial owner' in relation to a registrable trust means a natural person including but not limited to a settlor, trustee, the protector (if any), the beneficiary:

- (a) who has ultimate control, directly or indirectly, over the trust;
- (b) who ultimately own, directly or indirectly, the trust; or
- (c) on whose behalf a trust is created;

[def insrt Act 34 of 2018 s 4, opn 18 Dec 2018]

'beneficiary' in relation to a registrable trust means a natural or legal person who is entitled to the benefit of the trust;

[def insrt Act 34 of 2018 s 4, opn 18 Dec 2018]

'minor' means a person under the age of 18 years;

'Register' means any register established and maintained under this Act;

'registered trust' means a trust that is registered under Part 5;

'registrable trust' has the meaning given in Section 5;

'Registrar' means the Registrar of Trusts appointed under Section 16;

'settlor' means a person who creates or establishes a trust;

'trustee' means a person who holds or deals with the trust property on behalf of the beneficiary or for the purposes of the trust; and

‘trustee corporation’ means a corporation incorporated in the Republic and permitted to carry on business as a trustee corporation under any other written law.

4A Application of the Custom and Adopted Laws Act 1971

Subject to this Act, the common law, statutes, rules, regulations and orders in England, adopted by Sections 4 and 5 of the *Custom and Adopted Laws Act 1971*, shall apply to trusts under this Act.

[s 4A insrt Act 34 of 2018 s 5, opn 18 Dec 2018]

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PART 2 — REGISTRABLE TRUSTS

5 Registrable trust

A registrable trust is:

- (a) an express trust within the meaning of Section 9;
- (b) a charitable trust within the meaning of Section 10; or
- (c) a discretionary trust;
- (d) located in the Republic under Section 6; and
- (e) not excluded under Section 7.

[s 5 subst Act 34 of 2018 s 6, opn 18 Dec 2018]

6 Meaning of a registrable trust located in the Republic

For the purposes of this Act, a registrable trust is located in the Republic where:

- (a) the settlor of the trust is a citizen of or ordinarily resident in the Republic;
- (b) at least one of the trustees of the trust is ordinarily resident in the Republic;
- (c) the trust is subject to the jurisdiction and the laws of the Republic; or
- (d) the trust is administered in the Republic.

7 Trusts that are excluded

- (1) A trust which is not required to be registered under this Act is:
 - (a) a constructive or resulting trust;
 - (b) an implied trust;
 - (c) a family trust unless the trustees or the beneficiaries intend to register the trust under this Act;
 - (d) a trust arising out of co-ownership of land by virtue of a family agreement or a decision of the Nauru Lands Committee under the *Nauru Lands Committee Act 1956*; or
 - (e) an express or implied trust arising out of an intestate estate by virtue of the *Regulations Governing Intestate Estates 1938* or formerly known as *Administration Order No 3 of 1938*.
- (2) A trust is a family trust for the purposes of subsection (1)(c) where the:
 - (a) assets or substantially all the assets are located in the Republic; and
 - (b) beneficiaries of the trust are:
 - (i) descendants of the settlor; or
 - (ii) otherwise close relatives as contained in the *Regulations Governing Intestate Estates 1938*; and
 - (c) purpose of the trust is not a substantive commercial purpose, profit or gain.
- (3) This Act does not apply to the fund established under *Article 63* of the *Constitution*.

8 Registrable trust to be registered

- (1) A registrable trust under the Act shall be registered in accordance with Part 5.

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- (2) A trustee who fails to register a registrable trust commits an offence under Section 26.

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PART 3 — EXPRESS TRUSTS

9 **Meaning of express trust**

A trust is an express trust where:

- (a) a settlor clearly and with reasonable certainty:
 - (i) indicates an intention to create a trust;
 - (ii) identifies the beneficiaries or the permitted purpose of the trust;
 - (iii) identifies the trust property;
 - (iv) identifies, appoints or make provisions for the appointment of a trustee for the trust; and
 - (v) empowers or vests in the trustee the power to have possession, control or title to the trust property;
- (b) the trust creates a legal relationship by which the trustee holds or deals with the trust property on behalf of the beneficiaries or for the purpose of the trust;
- (c) the trustee has the power and the obligation to deal with the trust property in accordance with the terms of the trust and the duties imposed on the trustee by law; and
- (d) the settlor states the terms of the trust in writing, orally or in any other manner the settlor deems necessary to communicate with the trustee or beneficiaries to deal with the trust property.

[The next page is 121,201]

PART 4 — CHARITABLE TRUSTS

10 Meaning of charitable trust

- (1) A charitable trust shall be for a charitable purpose, for:
 - (a) the relief of poverty;
 - (b) the advancement of education;
 - (c) the advancement of religion;
 - (d) any other matter beneficial to the community or the public at large; or
 - (e) a combination of one or more of paragraphs (a), (b), (c) and (d).
- (2) The purpose of a charitable trust shall be for the benefit of the public.
- (3) The Cabinet may prescribe any additional requirements of establishing, registering, auditing and reporting of a charitable trust or purpose.

[The next page is 121,401]

PART 5 — PROCEDURE FOR REGISTRATION

11 Effect of registration of a trust

- (1) A registrable trust once registered shall constitute a legal entity which may:
 - (a) sue and be sued;
 - (b) enter into contracts and other legal obligations; and
 - (c) acquire, hold, manage and dispose of real or personal properties.
- (2) The certificate of registration shall be conclusive evidence that the trust is a legal entity.
- (3) Where there is more than one trustee of a trust, the trustees may delegate their duties, powers and functions to one or more of the other trustees unless the settlor specifically excludes such delegation of powers.
- (4) In exercising the duties, powers and functions of a trust, the trustees shall exercise such duties, powers and functions vested to the trustees by the settlor and shall where necessary have the same rights, obligations and liabilities as the directors of a corporation registered under the *Corporations Act 1972*.
- (5) The trustees shall on behalf of a registered trust have the power to:
 - (a) execute any contracts, instruments and documents;
 - (b) commence, continue or defend any proceedings by an agent; or
 - (c) represent the trust.

12 Application for registration of trust

- (1) A person who applies to register a registrable trust shall comply with the requirements under Section 13.
- (2) In the case of an existing trust that becomes a registrable trust on the commencement of this Act, an application to register such trust shall be filed within 30 days after the commencement of this Act.
- (3) In the case of a registrable trust that is created after the commencement of this Act, an application to register such trust shall be filed within 30 days after it is created.
- (4) In the case of any other trust that becomes a registrable trust after the commencement of this Act, an application to register such trust shall be filed within 30 days after it becomes a registrable trust.

13 Requirements for application for registration of registrable trust

An application for the registration of a registrable trust shall:

- (a) be in the prescribed form;
- (b) contain the information required by the prescribed form;
- (c) be accompanied by the documents required by the prescribed form;
- (d) be accompanied by any additional information or documents that may be prescribed;
- (e) be signed by the person filing it; and
- (f) be accompanied by the prescribed fee.

14 Registration

In an application for registration under Section 12, the Registrar shall:

- (a) register the trust; and
- (b) issue a certificate of registration of the trust in the prescribed form, provided the application is correct in form and substance and complies with any other written law.

15 Annual returns to be filed

- (1) The trustees shall file annual returns of the registrable trust on the anniversary of the date of the registration of the trust.
- (2) The annual return under subsection (1) shall be:
 - (a) in the prescribed form;
 - (b) accompanied by the documents required by the prescribed form;
 - (c) signed by the trustees or an authorised person; and
 - (d) accompanied by the prescribed fee.

[The next page is 121,601]

PART 6 — TRUSTS REGISTER

16 Registrar of Trusts

The Secretary for Justice shall be the Registrar of Trusts.

[s 16 am Act 34 of 2018 s 7, opn 18 Dec 2018]

17 Power of Registrar to delegate

- (1) The Registrar may from time to time delegate to a person all or any of the functions, duties and powers exercisable by the Registrar under this Act, except this power of delegation.
- (2) A delegation under this Section:
 - (a) may be revoked by notice in the Gazette; and
 - (b) does not prevent the concurrent exercise of any function, duty or power by the Registrar.

18 Power of Registrar to inspect information of trusts

- (1) For the purpose of ascertaining whether a trustee of a registered trust is complying with the provisions of this Act, the Registrar or any authorised officer may inspect and take copies of any information, including any document, account or record, relating to any activity of the trust.
- (2) A trustee of a registered trust or a person authorised by a trustee, shall on being required by the Registrar or authorised person, produce any information, including any document, account or record, relating to any activity of the trust.
- (3) A trustee who fails to comply with subsection (2), commits an offence and upon conviction is liable to a fine not exceeding \$5,000.

[subs (3) insrt Act 34 of 2018 s 8, opn 18 Dec 2018]

19 Register of Registrable Trusts

- (1) The Registrar shall ensure that there is established and maintained:
 - (a) a Register of Trusts under Part 3; and
 - (b) a Register of Charitable Trusts under Part 4.
- (2) The registers shall be kept in the form that the Registrar considers expedient, which may include electronic form.

20 Access to information contained in Register

- (1) A trustee of a registered trust or a person authorised by a trustee, is entitled to inspect and obtain a copy of all entries in the Register relating to the trust.
- (2) An entry in the Register is not a public record and a member of the public does not have a right to inspect or obtain a copy of an entry in the Register.

21 Recording in the Register

- (1) The Registrar shall record an entry in the Register:
 - (a) the information provided by the trustee for the registration of a registrable trust;

- (b) a change or variation:
 - (i) by the trustees at any time; or
 - (ii) in the annual returns;
- (c) in accordance with a change of information notified to the Registrar in the annual returns; or
- (d) otherwise if the Registrar is satisfied after proper inquiry that the information contained in the entry is incorrect.

[subs (1) subst Act 34 of 2018 s 9, opn 18 Dec 2018]

- (2) The Registrar shall not record an entry under subsection (1)(c) unless the Registrar has first:
 - (a) notified the person who filed the most recent annual return of the Registrar's proposed variation; and
 - (b) given that person a reasonable opportunity to make a submission to the Registrar as to whether the information is incorrect and whether the proposed variation is appropriate.

[subs (2) am Act 34 of 2018 s 9, opn 18 Dec 2018]

22 How to bring a trust to an end

- (1) A registrable trust may come to an end where:
 - (a) all the beneficiaries consent to requiring the trustee to distribute the trust properties and wind up the trust;
 - (b) the court has made an order distributing the trust property and approving the winding up of the trust on behalf of any of the beneficiaries who:
 - (i) lacks capacity;
 - (ii) may acquire beneficial interest at a future date or on the happening of a future event or on becoming a member of a certain class of persons; or
 - (iii) is a future person who may acquire a beneficial interest; and
 - (c) in case of a dispute or disagreement amongst the trustees or beneficiaries or both, by an order of the court.
- (2) A beneficiary with the approval of the trustees may take all the interest in a trust, in which he or she will cease to be the beneficiary of the trust.

23 Removal from Register

- (1) The Registrar may remove a registered trust from the Register if the Registrar is satisfied after proper inquiry that the trust:
 - (a) has ceased to be a registrable trust; or
 - (b) is a dormant trust.
- (2) The Registrar shall give notice of the removal of a registered trust to the person who filed the most recent annual return and if the person fails to respond, the Registrar may remove the registered trust under subsection (1).
- (3) For the purposes of this Section, a registered trust is deemed to be '*dormant*' where it fails to file annual returns for 3 consecutive years or the annual returns filed shows the trust not undertaking any activity.

[s 23 subst Act 34 of 2018 s 10, opn 18 Dec 2018]

[The next page is 121,801]

PART 7 — OFFENCES

24 Offence of filing false or misleading information

- (1) A person shall not, lodge or cause to be lodged, an application form or annual return that is false or misleading in a material respect.
- (2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a term of imprisonment not exceeding 3 years or a fine not exceeding \$10,000 or to both.

25 Obligation to keep and maintain accounts and records

- (1) A trustee of a registered trust shall ensure that:
 - (a) records including the underlying documentation such as proper accounts and records relating to the affairs of the trust are kept and maintained; and
 - (b) those accounts and records are kept for not less than 7 years from the end of the period to which the information relates.
- (2) The records that shall be kept under subsection (1) shall include underlying documentation such as but not limited to invoices and contracts for the following:
 - (a) all sums of money that the trust receives and expends;
 - (b) items or matters for which the trust receives or expends money;
 - (c) all sales and purchases of goods and services by the trust;
 - (d) all assignments of rights or assumptions of liabilities by the trust;
 - (e) all transactions by the trust affecting its assets or liabilities; and
 - (f) the assets and liabilities of the trust.
- (3) A trustee who contravenes this Section, commits an offence and upon conviction is liable to a fine not exceeding \$5,000.

26 Offence of failure to register trust or file annual returns

- (1) If a trust is not registered in accordance with Sections 12 and 13, each trustee commits an offence and upon conviction is liable to:
 - (a) a penalty not exceeding \$5,000; and
 - (b) a penalty not exceeding \$50 for each day that the failure continues.
- (2) If an annual return is not filed for a registered trust in accordance with Section 15, each trustee commits an offence and upon conviction is liable to:
 - (a) a penalty not exceeding \$5,000; and
 - (b) a penalty not exceeding \$50 for each day that the failure continues.

27 Civil claim

A proceeding in any court or imposition of any penalty shall not prohibit a beneficiary or contributor from seeking any relief or remedy in a civil claim against the trustees.

[The next page is 122,001]

PART 8 — BENEFICIARIES WHO ARE MINORS IN AN EXPRESS TRUST

28 Beneficiaries who are minors in an express trust

A minor is a beneficiary of an express trust whether or not the beneficiary's interest is a contingent interest:

- (a) on attaining the age of majority;
- (b) at any later age; or
- (c) upon the happening of any event.

29 Power of accumulation of income and of advancement

- (1) The trust may direct or permit, at the trustee's discretion, accumulation of all or any part of the income of the trust for any period or until the happening of any specified event.
- (2) Subject to the trust and to any prior interests or charges affecting the trust property, the trustee of an express trust where the minor is a beneficiary under subsection (1) may:
 - (a) accumulate the income attributable to the interest of such beneficiary pending the attainment of the age of majority or the later age or the happening of the event;
 - (b) apply the income or part of it to or for the maintenance, education or other benefit of the beneficiary; or
 - (c) advance or appropriate for the benefit of the beneficiary the interest or part of the interest.
- (3) The receipt of income by a parent or legal guardian of the beneficiary who is a minor is sufficient discharge to the trustee for a payment made under this Section.

30 Variation

- (1) The court may vary or revoke a trust on behalf of a minor.
- (2) The court may not reduce or remove any vested interest or any other proprietary rights held by a beneficiary:
 - (a) even if unambiguous, to conform with the settlor's intention if it is provided by clear and convincing evidence that both the settlor's intent and the trust were affected by a mistake of fact or law, whether in expression or inducement;
 - (b) if because of circumstances not anticipated by the settlor, modification will further the purpose of the trust; or
 - (c) if continuation of the trust in its existing provisions would be impracticable or wasteful or impair the trust's administration.
- (3) An application under subsection (1) may be made by the trustee or the legal guardian or representative of a beneficiary who is a minor.
- (4) Where the court deems appropriate, it may appoint the Curator to be the trustee for a minor.

31 Recording of minors' interests

- (1) The Registrar shall specifically record the interests of minors in a registrable trust.

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- (2) The Cabinet may prescribe the particulars of the registration of minors' interests.

[The next page is 122,201]

PART 9 — MISCELLANEOUS

32 Authorised officer

The Secretary for Justice may by notice in the Gazette authorise an officer of the Department of Justice to be an authorised officer for the purposes of this Act.

[s 32 am Act 34 of 2018 s 11, opn 18 Dec 2018]

33 Information sharing

- (1) Subject to subsection (2), the Registrar may provide any information, including any copy of a document, account or record that the Registrar has obtained under this Act to:
 - (a) a law enforcement or regulatory agency, whether in the Republic or in an overseas jurisdiction, for the purposes of carrying out the agency's duty, power or function; or
 - (b) the competent authority of a foreign government with which the Republic has entered into an agreement providing for the exchange of information, to the extent permitted under that agreement.
- (2) For information sharing under subsection (1), the Registrar shall be satisfied that there are or will be in place protections for maintaining the confidentiality of the information except for the extent necessary to achieve the purpose for which the information is provided.

34 Regulations

- (1) The Cabinet may make regulations prescribing all matters necessary or convenient to give effect to this Act.
- (2) Without limiting subsection (1), the Cabinet may make the following regulations:
 - (a) prescribing the application form for the registration of a registrable trust;
 - (b) prescribing additional information or documents that shall be filed with the application to register a registrable trust;
 - (c) prescribing the form of the annual return;
 - (d) prescribing additional information or documents that shall be filed with the annual return;
 - (e) prescribing the circumstances in which fees are payable for the purposes of this Act and the amounts of those fees;
 - (f) specifying information or documents that shall be contained in the Register;
 - (g) making provision for the filing of an application to register a registrable trust or annual return by electronic means, including provision for an electronic signature or other means of verification in place of a physical signature; and
 - (h) in respect of any other matters necessary or expedient for the proper administration of this Act.

[The next page is 130,001]

Trusts (Forms and Fees) Regulations 2018

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Title</i>
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4	Certificate of Registration of Trust
5	Annual return to be filed
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Trusts (Forms and Fees) Regulations 2018

TABLE OF AMENDMENTS

The Trusts (Forms and Fees) Regulations 2018 No 30 was notified on 4 October 2018 and commenced on 15 January 2019 (reg 2).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Business Licences (Non-Operational Businesses Record Keeping) Regulations 2023 SL 31	6 October 2023	reg 5(4), (5): 6 October 2023

[The next page is 130,401]

The Cabinet makes the following Regulations under Section 34 of the *Trusts Act 2018*:

1 Citation

These Regulations may be cited as the *Trusts (Forms and Fees) Regulations 2018*.

2 Commencement

These Regulations come into effect on 15 January 2019.

3 Application for registration of a registrable trust

- (1) For the purposes of Section 13 of the Act, the form for an application for registration of a registrable trust is set out in Form 1 of Schedule 1.
- (2) The application for registration of a registrable trust shall contain the following information and documents:
 - (a) the full name, business or residential address, nationality if a natural person, and contact details including email address of each of:
 - (i) the settlor;
 - (ii) the trustees;
 - (iii) the beneficiaries to the extent that they are known or ascertainable;
 - (iv) the protector of a trust;
 - (v) Tax Identification Number issued under the *Revenue Administration Act 2014* for the trust for the purposes of the business;
 - (vi) Tax Identification Number issued to the beneficiaries, settlor(s) and trustees if available; and
 - (vii) a person or persons who is or are beneficial owner or owners of the trust;
 - (b) the trust deed or other document evidencing the creation of the trust;
 - (c) any document amending the trust deed or founding document;
 - (d) the full name, business or residential address and contact details including email address of the person filing the application for a registrable trust; and
 - (e) the nature and extent where ascertainable of the interest of a person who is a beneficial owner under the trust.

4 Certificate of Registration of Trust

For the purposes of Section 14(b) of the Act, the Registrar shall issue a Certificate of Registration of the Trust as set out in Form 2 of Schedule 1.

5 Annual return to be filed

For the purposes of Section 15 of the Act, the prescribed form for the annual return to be filed by the trustees of a registered trust is set out in Form 3 of Schedule 1.

6 Records in the Register

- (1) For the purposes of Section 19(2) of the Act, the Registrar shall keep and maintain the records as set out in Form 4 of Schedule 1.

[subreg (1) renum SL 31 of 2023 reg 5(4), opn 6 Oct 2023]

- (2) The Registrar shall keep and maintain the records under subregulation (1) for a period of at least 7 years from the date of voluntary or involuntary winding up or dissolution of the trust or cessation by virtue of Section 22 or 23 of the Act.

[subreg (2) insrt SL 31 of 2023 reg 5(4), opn 6 Oct 2023]

- (3) The trustees, individually or collectively of a trust, which has been voluntarily or involuntarily wound up or dissolved, or ceased to exist by virtue of Section 22 or 23 of the Act shall keep and maintain records of the trust for a period of 7 years from the date of the winding up, dissolution or cessation of operations of the trust.

[subreg (3) insrt SL 31 of 2023 reg 5(4), opn 6 Oct 2023]

7 Change or variation of trustee or annual return

- (1) For the purposes of Section 21(1)(a) of the Act, the prescribed form for change or variation of particulars of a trustee or annual return is set out in Form 5 of Schedule 1.

[subreg (1) renum SL 31 of 2023 reg 5(5), opn 6 Oct 2023]

- (2) The form for variation or change in particulars under subregulation (1) shall be submitted to the Registrar within 7 days of the occurrence of the variation or change.

[subreg (2) insrt SL 31 of 2023 reg 5(5), opn 6 Oct 2023]

8 Fees

The fees payable under the Act are set out in Schedule 2.

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SCHEDULE 1

FORMS

FORM 1



REPUBLIC OF NAURU TRUSTS ACT 2018

[Section 13; Regulation 3]

APPLICATION FOR REGISTRATION OF A REGISTRABLE TRUST

Registrar of Trusts
Department of Justice and Border Control
Government Offices, Yaren District
Republic of Nauru

Notes for completing this form:

- 1 If there is not sufficient space in the form or not enough boxes, use an additional page and attach it to the form.
- 2 If the details to be provided relate to a corporate entity and there is no separate box, for "Full name" state the full legal name of the entity and for "Nationality" state the jurisdiction of incorporation.

1. Details of trust

Provide the following details for the trust:

Name of trust	
Contact address	
Email address	
Telephone number	
Date created	
Tax identification number	

2. Details of settlor

Provide the following details for the settlor:*

Full name	
Nationality	

Residential or business address	
Email address	
Telephone number	
Tax Identification Number (if any)	

* If the settlor is deceased, provide the full name and nationality only.

3. Details of trustees who are individuals

Provide the following details for each of the trustees who are individuals:

Trustee 1

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date appointed	
Tax Identification Number	

Trustee 2

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date appointed	
Tax Identification Number	

Trustee 3

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date appointed	
Tax Identification Number	

4. Details of corporate trustee

If a trustee is a corporate entity, provide the following details:

Full legal name	
Jurisdiction of incorporation	

Date of incorporation	
Business address	
Email address	
Telephone number	
Date appointed	
Tax Identification Number	

5. Details of protector of a trust who is an individual (if any)

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date appointed	
Tax Identification Number (if any)	

6. Details of a corporate protector (if any)

Full legal name	
Jurisdiction of incorporation	
Date of incorporation	
Business address	
Email address	
Telephone number	
Date appointed	
Tax Identification Number	

7. Details of beneficiaries (trust that is not a purpose or charitable trust)

If the trust is not a purpose or charitable trust, provide the following details for each beneficiary who is known or ascertainable:

Beneficiary 1

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Tax Identification Number	

Beneficiary 2

Full name	
Nationality	

Residential or business address	
Email address	
Telephone number	
Tax Identification Number	

Beneficiary 3

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Tax Identification Number	

If beneficiary is a minor, provide the following details:

Full name	
Nationality	
Residential address	
Age and date of birth	
Date when minor attains age of majority	
Full names of minor's parents/legal guardian	
Telephone number of minor's parents/legal guardian	
Email addresses of minor's parents/legal guardian	

8. Details of purpose and recipients of distributions (purpose or charitable trust only)

If the trust is a purpose or charitable trust, state the purpose of the trust and provide the following details for each person who has received a distribution from the trust:

Purpose

--

Recipient 1

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Tax Identification Number (if any)	

Recipient 2

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Tax Identification Number (if any)	

9. Details of beneficial owner

Provide the following details for a person who is a beneficial owner under the trust:

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Nature and extent of interest*	
Tax Identification Number	

*If ascertainable. The beneficial owner means a natural person exercising ultimate effective control over the trust.

10. Documents

Attach a copy of the following documents to this form:

- ☐ the deed of trust or other document creating the trust;
- ☐ any document that has amended the deed of trust or other document creating the trust; and
- ☐ for each trustee that is a corporate entity, the certificate of incorporation.

11. Declaration

I/We(state name) of(address),(occupation), do solemnly and sincerely declare that (*set out matter declared using number paragraph if it is lengthy*):

And I/We make this solemn declaration by virtue of the ***Oaths, Affirmations and Statutory Declarations Act 1976*** conscientiously believing in the statement contained therein to be true in every particular.

Signed by the trustee/trustee.....

Name of person filing this form:

Declared at.....this.....day of20.....

Before me:

(Signature)

(Title)

NOTE: A person making a false statement is guilty of an offence and liable to imprisonment for 5 years.

*If the person filing this form is not the settlor or a trustee of the trust, you shall provide the following details for that person:

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Tax identification number (if any)	

FORM 2**REPUBLIC OF NAURU
TRUSTS ACT 2018***[Section 14(b), Regulation 4]***CERTIFICATE OF REGISTRATION OF TRUST**

I hereby certify that the Trust described below has been duly registered under the *Trusts Act 2018*:

Name of registered Trust:.....

Certificate issued to:.....

This Certificate of Registration of the Trust is issued on theday
of.....20.....

Signature:

(Registrar of Trusts)

Date:

[The next page is 130,701]

FORM 3



REPUBLIC OF NAURU
TRUSTS ACT 2018

[Section 15; Regulation 5]

ANNUAL RETURN FOR REGISTERED TRUST

Registrar of Trusts
Department of Justice and Border Control
Government Offices, Yaren District
Republic of Nauru

Notes for completing this form:

- 1 If there is not sufficient space in the form or not enough boxes, use an additional page and attach it to the form.
- 2 If the details relate to a corporate entity and there is no separate box, for "Full name" state the full legal name of the entity and for "Nationality" state the jurisdiction of incorporation.

1. Identity of trust

Provide the following details of the registered trust to which this annual return relates:

Name of trust		
Registration number		
Contact address		
Email address		
Telephone number		
Tax Identification Number		

If any of the above details have changed in the previous 12 months place a tick in the column on the right.

2. Change in individual trustee or protector

Complete this section if in the previous 12 months an individual has ceased to be a trustee or has been appointed a trustee:

Former trustee

Full name	
Nationality	

Residential or business address	
Email address	
Telephone number	
Date ceased to be trustee	
Tax Identification Number	

New trustee

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date appointed	
Tax Identification Number	

3. Change in corporate trustee

Complete this section if in the previous 12 months a corporate entity has ceased to be a trustee or has been appointed a trustee:

Former corporate trustee

Full legal name	
Address of registered office	
Business address	
Jurisdiction of incorporation	
Date of incorporation	
Email address	
Telephone number	
Date ceased to be trustee	
Tax Identification Number	

New corporate trustee

Full legal name	
Address of registered office	
Business address	
Jurisdiction of incorporation	
Date of incorporation	
Email address	
Telephone number	
Date appointed	
Tax Identification Number	

4. Change in beneficiary (trust that is not a purpose or charitable trust only)

Complete this section if:

- the trust is not a purpose or charitable trust; and
- in the previous 12 months a person:
 - has ceased to be a beneficiary; or
 - has become a beneficiary:

Former beneficiary

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date ceased to be beneficiary*	
Tax Identification Number (if any)	

• A person ceases to be a beneficiary when the person ceases to be entitled to an interest in the trust.

New beneficiary

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date became beneficiary*	
Tax Identification Number (if any)	

• A person becomes a beneficiary when a person not previously so entitled becomes entitled to an interest in the trust.

5. Change in purpose or new recipients of distributions (purpose or charitable trust only)

Complete this section if:

- the trust is a purpose or charitable trust; and
- in the previous 12 months:
 - the purpose of the trust has changed; or
 - the trust has made a distribution to a person who had not previously received a distribution from the trust:

New or amended purpose:

--

New recipient 1

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Tax Identification Number	

New recipient 2

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Tax Identification Number	

6. Change in beneficial owner

Complete this section if in the previous 12 months a person has ceased to be, or has become, a beneficial owner under the trust:

Former beneficial owner

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date ceased to be beneficial owner*	
Tax Identification Number	

- A person ceases to be a beneficial owner when the person loses or disposes of rights that conferred ultimate effective control over the trust.

New beneficial owner

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date became beneficial owner*	
Tax Identification Number	

- A person becomes a beneficial owner when the person acquires rights that confer ultimate effective control over the trust.

7. Change in nature of beneficial owner interest

Complete this section if in the previous 12 months the beneficial owner interest of a beneficial owner has changed (for example, it was previously not ascertainable but has become ascertainable, or has increased or decreased):*

Nature of change in beneficial owner interest:

--

Beneficial owner

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Tax Identification Number (if any)	

*Do not use this section if there has been a change in beneficial owner — use Section 6.

8. Changes in name, address, or other contact details

Complete this section if in the previous 12 months there has been a change in the name, address, or other contact details of a current trustee, beneficiary, or beneficial owner that have previously been notified in a notice of trust or annual return:*

Name	Position (trustee, beneficiary, beneficial owner)	Change in name, address or other contact details

*Do not use this section if there has been a change in trustee, beneficiary or beneficial owner — use the appropriate section above.

9. Documents

Attach a copy of the following documents to this form:

- (a) if in the previous 12 months the deed of trust or other document has been amended, the amending document;
- (b) for each new trustee that is a corporate entity, the certificate of incorporation.

10. Declaration

I/We(state name) of(address),(occupation), do solemnly and sincerely declare that *(set out matter declared using numbered paragraphs if it is lengthy)*:

And I/We make this solemn declaration by virtue of the *Oaths, Affirmations and Statutory Declarations Act 1976* conscientiously believing in the statement contained therein to be true in every particular.

Signed by the trustee/trustees.....

Name of person filing this form:

Declared at.....this.....day of20.....

Before me:

(Signature)

(Title)

NOTE: A person making a false statement is guilty of an offence and liable to imprisonment for 5 years.

*If the person filing this form is not the settlor or a trustee of the trust, provide the following details for that person:

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Tax Identification Number (if any)	

FORM 4



REPUBLIC OF NAURU
TRUSTS ACT 2018

[Section 19(2) and Regulations 6]

REGISTER FOR TRUSTS

Trust	Trustee	Nauru Trust Number(NTN)	Tax Identification Number of the Trust

FORM 5



REPUBLIC OF NAURU
TRUSTS ACT 2018

[Section 21, Regulation 7]

CHANGE OR VARIATION OF PARTICULARS

To: The Registrar of Trusts, Nauru

I/We _____ and (_____) apply
for the following change or variation in the particulars of the Trust.

Trust Name	
Nauru Trust Number (NTN)	

1. Change or variation in individual trustee or protector

Complete this section if in the previous 12 months an individual has ceased to be a trustee or has been appointed a trustee:

Former trustee

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date ceased to be trustee	
Tax Identification Number	

New trustee

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date appointed	
Tax Identification Number	

2. Change or variation in corporate trustee

Complete this section if in the previous 12 months a corporate entity has ceased to be a trustee or has been appointed a trustee:

Former corporate trustee

Full legal name	
Address of registered office	
Business address	
Jurisdiction of incorporation	
Date of incorporation	
Email address	
Telephone number	
Date ceased to be trustee	
Tax Identification Number	

New corporate trustee

Full legal name	
Address of registered office	
Business address	
Jurisdiction of incorporation	
Date of incorporation	
Email address	
Telephone number	
Date appointed	
Tax Identification Number	

3. Change or variation in beneficiary (trust that is not a purpose or charitable trust only)

Complete this section if:

- the trust is not a purpose or charitable trust; and
- in the previous 12 months a person:
 - has ceased to be a beneficiary; or
 - has become a beneficiary:

Former beneficiary

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date ceased to be beneficiary*	
Tax Identification Number (if any)	

• A person ceases to be a beneficiary when the person ceases to be entitled to an interest in the trust.

New beneficiary

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date became beneficiary*	
Tax identification number (if any)	

• A person becomes a beneficiary when a person not previously so entitled becomes entitled to an interest in the trust.

4. Change or variation in purpose or new recipients of distributions (purpose or charitable trust only)

Complete this section if:

- the trust is a purpose or charitable trust; and
- in the previous 12 months:
 - the purpose of the trust has changed; or
 - the trust has made a distribution to a person who had not previously received a distribution from the trust:

New or amended purpose:

--

New recipient 1

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Tax identification number	

New recipient 2

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Tax identification number	

5. Change in beneficial owner

Complete this section if in the previous 12 months a person has ceased to be, or has become, a beneficial owner under the trust:

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Former beneficial owner

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date ceased to be beneficial owner*	
Tax identification number	

• A person ceases to be a beneficial owner when the person loses or disposes of rights that conferred ultimate effective control over the trust.

New beneficial owner

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Date became beneficial owner*	
Tax identification number	

• A person becomes a beneficial owner when the person acquires rights that confer ultimate effective control over the trust.

6. Change in nature of beneficial owner interest

Complete this section if in the previous 12 months the beneficial owner interest of a beneficial owner has changed (for example, it was previously not ascertainable but has become ascertainable, or has increased or decreased):*

Nature of change in beneficial owner interest:

--

Beneficial owner

Full name	
Nationality	
Residential or business address	
Email address	
Telephone number	
Tax Identification Number (if any)	

*Do not use this section if there has been a change in beneficial owner — use Section 6.

7. Changes in name, address, or other contact details

Complete this section if in the previous 12 months there has been a change in the name, address, or other contact details of a current trustee, beneficiary, or beneficial owner that have previously been notified in a notice of trust or annual return:*

Name	Position (trustee, beneficiary, beneficial owner)	Change in name, address or other contact details

*Do not use this section if there has been a change in trustee, beneficiary or beneficial owner — use the appropriate Section above.

Declaration

I/We (state name) of(address),(occupation), do solemnly and sincerely declare that (*set out matter declared using numbered paragraphs if it is lengthy*):

And I/We make this solemn declaration by virtue of the ***Oaths, Affirmations and Statutory Declarations Act 1976*** conscientiously believing in the statement contained therein to be true in every particular.

Signed by the person filing this form

Name of person filing this form: *

Date:

NOTE: A person making a false statement is guilty of an offence and liable to imprisonment for 5 years.

*If the person filing this form is not owner of the business provide the following details for that person:

Full name	
Nationality	
Date of birth	
Gender	
Residential or business address	
Email address	
Telephone number	

[The next page is 130,901]

SCHEDULE 2

FEEs

Provision	ITEM	FEEs
Section 9; Regulation 3	Filing an application for a registrable trust	\$200
Section 15; Regulation 5	Filing an annual return	Nil
Section 21; Regulation 7	Application for change or variation of trustees or annual return	\$100

[The next page is 136,001]

Trusts (Trustee Duties) Regulations 2023

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Title</i>
1	Citation
2	Commencement
3	Principal duties of a trustee
4	General duty of care and responsibilities
5	Duty to obtain information about regulated agents
6	Access to basic information

[The next page is 136,201]

Trusts (Trustee Duties) Regulations 2023

TABLE OF AMENDMENTS

The Trusts (Trustee Duties) Regulations 2023 No 34 was notified and commenced on 6 October 2023 (GN No 1108/2023; Gaz 216/2023).

Amending Legislation	Notified	Date of Commencement
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[The next page is 136,401]

The Cabinet makes the following Regulations under Section 34 of the *Trusts Act 2018*:

1 Citation

These Regulations may be cited as the *Trusts (Trustee Duties) Regulations 2023*.

2 Commencement

These Regulations commence on the day they are notified in the Gazette.

3 Principal duties of a trustee

- (1) The duties of the trustee are:
 - (a) to act honestly and in good faith;
 - (b) to be familiar with the terms and conditions of the trust;
 - (c) to act in accordance with the terms of the trust;
 - (d) not to delegate the trust duties to another person, except where the trust instrument expressly permits;
 - (e) to exercise reasonable degree of skill and care in carrying out his or her duties in respect of the trust;
 - (f) to devote loyalty to the beneficiaries;
 - (g) to administer the trust solely for the interest of the beneficiaries and the objects of the trust;
 - (h) to carry out the intentions of the settlor;
 - (i) to put his or her own interest secondary to the interest of the beneficiaries or interest of the trust and where there is a potential for conflict, he or she shall immediately disclose the interest to other trustees and trust practicably in writing or any verbal communication be recorded in trust records or meeting minutes;
 - (j) to possess, protect and preserve the trust property and in doing so, the trustee shall defend the trust, the beneficiaries and any challenge to the validity of the creation or the objects of the trust;
 - (k) to invest prudently and with due diligence for the purposes of benefiting the trust;
 - (l) not to mix his or her interest in property with a trust property;
 - (m) to ensure that activities of a trust are carried out in accordance with the laws;
 - (n) to be accountable to the beneficiaries;
 - (o) to be impartial in carrying out his or her duties to the beneficiaries;
 - (p) to keep or require to keep the books, records and accounts of the trust:
 - (i) during the operations of the trust;
 - (ii) any dormant period of the trust; and
 - (iii) 7 years from the winding up, dissolution, cessation or lapsing of the trust; and
 - (q) not to profit from the trusteeship of the trust.
- (2) The trustees individually and collectively, in addition to the duties in subregulation (1) shall:
 - (a) ensure that the operations and activities of the trust are carried out in accordance with the *Trusts Act 2018*;
 - (b) ensure that the trust complies with the requirements of the *Anti-Money*

Laundering and Targeted Financial Sanctions Act 2023 and Counter Terrorism and Transnational Organised Crime Act 2004; and

- (c) ensure that the trust, trustees or the beneficiaries shall not use the trust as a vehicle for aiding or abetting any activities relating to money laundering or are abused by any person for the purposes of carrying out any objectives or furthering any such objectives for a terrorist, terrorist group, terrorist financing or proliferation financing.

4 General duty of care and responsibilities

When administering a trust, other than when exercising a discretion to distribute trust property, a trustee shall exercise the care and skill that is reasonable in the circumstances, in particular:

- (a) to any special knowledge or experience that the trustee has or that the trustee holds out as having; and
- (b) if the person acts as a trustee in the course of a business or profession, to any special knowledge or experience that it is reasonable to expect of a person acting in the course of that kind of business or profession.

5 Duty to obtain information about regulated agents

- (1) A trustee shall obtain, keep and maintain basic information and record of a regulated agent of the trust.
- (2) For the purpose of subregulation (1), a '*regulated agent*' includes an investment advisor, manager, accountant, legal advisor, tax advisor or any other person whose professional or advisory services are ordinarily required for the operations and management of the trust.
- (3) For the purposes of subregulation (1), '*basic information*' means:
 - (a) name of the legal entity or natural person;
 - (b) in case of a legal entity, at least a beneficial owner or the person who carried out or attended to the transactions or professional advisory services for the trust on behalf of the legal entity;
 - (c) tax identification number of the legal entity or the natural person or both;
 - (d) address of the place of business; and
 - (e) address or email or phone contact of the natural person.

6 Access to basic information

- (1) A trustee upon request shall provide his or her name, residential address, corresponding address, email and any other means of communication with him or her directly to Nauru Police Force, Financial Intelligence Unit, Nauru Revenue Office or any other law enforcement body or agency.
- (2) A trust shall provide the name, residential address, corresponding address and email address of a trustee to a law enforcement body or agency for legitimate purpose or inquiry.
- (3) For the purposes of subregulation (2), the law enforcement body or agency shall provide to the trust or trustees the reasons for seeking information in respect of a trustee, before the information may be provided.

[The next page is 150,001]