

NAURU REHABILITATION CORPORATION

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Nauru Rehabilitation Corporation Act 1997

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Nauru Rehabilitation Corporation Act 1997

TABLE OF AMENDMENTS

The Nauru Rehabilitation Corporation Act 1977 No 10 was certified on 13 June 1997 and commenced on 31 May 1999 (GN No 94/1999; Gaz 26/1999).

| Amending Legislation | Certified | Date of Commencement |
|--|-------------------|-----------------------------|
| Statute Law Revision Act 2011 No 8 | 15 April 2011 | 15 April 2011 |
| RONWAN Finalisation Act 2014 No 19 | 10 September 2014 | 10 September 2014 |
| RONWAN Consolidation Act 2014 No 23 | 29 October 2014 | 19 December 2013 |
| Nauru Rehabilitation Corporation (Amendment) Act 2016 No 8 | 29 January 2016 | 29 January 2016 |
| Public Enterprises Act 2019 No 11 | 11 June 2019 | 11 June 2019 |
| Revised Written Laws Act 2021 No 7 | 1 June 2021 | 1 June 2021 |

An Act to establish a Corporation charged with responsibility for coordinating, promoting, carrying out, managing, and participating in, rehabilitation works in the Republic and other matters connected therewith or material thereto.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title

This Act may be cited as the *Nauru Rehabilitation Corporation Act 1997* and shall come into force on 31 May 1999.

2 Definitions

In this Act:

‘Acting Chief Executive Officer’ means the person appointed under Section 9A;
[def insrt Act 8 of 2016 s 4, opn 29 Jan 2016]

‘Board’ means the Board of Directors of the Corporation;

‘Chief Executive Officer’ means the Chief Executive Officer of the Corporation;

‘Corporation’ means the Nauru Rehabilitation Corporation established in Section 3;

‘Development Co-operation Agreement’ means the Rehabilitation and Development Co-operation Agreement between the Government of Australia and the Government of the Republic of Nauru made at Bridgetown (Barbados) on 5 May 1994 and published in the Australian Treaty Series as 1994 No 15;

‘Financial year’ in relation to the Corporation means 12 months ending 30 June;

‘Minister’ means the Minister appointed as the Responsible Minister for the Corporation under the *Public Enterprises Act 2019*;
[def insrt Act 11 of 2019 s 87 and Sch 2 clause 9, opn 11 June 2019]

‘Nacos Agreement’ means the documents comprising the Compact of Settlement made between the Republic of Nauru and the Commonwealth of Australia on 10 August 1993 and published in the Australian Treaty Series as 1993 No 26; and

‘Settlement Moneys’ means the moneys paid or to be paid by Australia to Nauru in settlement of the proceedings brought against Australia by Nauru in the International Court of Justice pursuant to the Nacos Agreement.

**PART 2 — ESTABLISHMENT OF THE CORPORATION, PURPOSES,
FUNCTIONS AND POWERS**

3 Establishment of the Corporation

- (1) There is hereby established for the purposes of this Act, a body known as the Nauru Rehabilitation Corporation which is a body corporate, having perpetual succession and a common seal.
- (2) The provisions of Schedule 1 shall have effect as to the constitution of the Corporation and otherwise in relation thereto.

4 Functions of the Corporation

The functions of the Corporation shall be to:

- (a) co-ordinate, promote, partake in, identify, initiate and carry out projects for the rehabilitation and development of worked out phosphate lands and unworked phosphate lands as described in the Corporation's business plan;
- (b) implement government policy with regard to the rehabilitation and development of the worked out phosphate lands of Nauru;
- (c) perform and promote such other activities in relation to rehabilitation and development as the Cabinet may direct either alone or in conjunction with Australia in the furtherance of the policies of objects of the Nacos Agreement and the Development Co-operation Agreement;
- (d) manage and administer the moneys and assets of the Corporation; and
- (e) manage and administer the moneys and assets of each of the Long Term Investment Fund and the Nauru Housing Fund, in each case separately and distinctly from the other moneys and assets of the Corporation.

[s 4 am Act 23 of 2014 s 45, opn 19 Dec 2013; Act 19 of 2014 s 8, opn 10 Sep 2014; Act 11 of 2019 s 87 and Sch 2 clause 9, opn 11 June 2019]

5 Powers of the Corporation

- (1) Subject to the restrictions of subsection (3), the Corporation shall have powers to do anything which is calculated to facilitate the discharge of its functions, or is incidental or conducive to their discharge.
- (2) Without prejudice to the generality of the provisions of subsection (1), the Corporation may:
 - (a) enter into agreements or arrangements with a person or institution, whether national or international, providing participation, assistance or cooperation with its activities;
 - (b) assist or provide advisory, consultancy, managerial, secretarial, financial, accountancy or other related services;
 - (c) carry on any business conducive to the furtherance of its objectives;
 - (d) act as agent for other persons or appoint agents on its behalf;
 - (e) invest monies on call or for fixed or limited periods;
 - (f) acquire and dispose of moveable or immovable property;
 - (g) acquire, hold and dispose of stocks shares and securities issued by corporations, units and other interests in or issued by trusts, and securities issued by governments or their instrumentalities; and

(h) establish and maintain reserve funds to meet contingencies and for such other purposes as it may think fit.

(3) [subs (3) rep Act 11 of 2019 s 87 and Sch 2 clause 9, opn 11 June 2019]

6 Exercise of functions and powers

(1) In the exercise of its functions and powers, the Corporation shall have regard to the highest principles of prudence and probity in its stewardship of its moneys and properties.

(2) The Corporation in dealing with any fund which constitutes moneys of the Republic including with the Long Term Investment Fund, the Nauru Rehabilitation Fund and the Nauru Housing Fund does so for the benefit of the citizens of Nauru and is responsible to the Parliament through Cabinet for the administration of such fund.

(3) Any assets and monies under the Nauru Rehabilitation Fund may be utilised in pursuance of any function or power of the Corporation under Section 4(a), (b), (c) and (d).

[s 6 am Act 23 of 2014 s 45, opn 19 Dec 2013; Act 19 of 2014 s 8, opn 10 Sep 2014]

7 Board of the Corporation

(1) The Corporation shall have a Board of directors appointed and holding office in accordance with the *Public Enterprises Act 2019*.

(2) The business, operations and affairs of the Corporation shall be managed by, or under the direction or supervision of, the Board.

[s 7 subst Act 11 of 2019 s 87 and Sch 2 clause 9, opn 11 June 2019]

8 Cabinet may give directions to the Board

[s 8 rep Act 11 of 2019 s 87 and Sch 2 clause 9, opn 11 June 2019. Part 8 Div 1 of the Public Enterprises Act 2019 applies.]

9 Chief Executive Officer

[s 9 rep Act 11 of 2019 s 87 and Sch 2 clause 9, opn 11 June 2019. Section 64 of the Public Enterprises Act 2019 applies.]

9A Appointment of Acting Chief Executive Officer

(1) The Cabinet may appoint a person to act in the position of Chief Executive Officer when the Chief Executive Officer is away from office or is unable to perform his or her duties by reason of illness.

(2) The Acting Chief Executive Officer appointed under subsection (1), is responsible for the day to day management and control of the Corporation and for the implementation of Board policies until the return of the substantive Chief Executive Officer.

(3) The terms and conditions of an appointment made under subsection (1), shall be determined by Cabinet at the time of appointment.

(4) When an Acting Chief Executive Officer is appointed under this Section, all references in the Act to the Chief Executive Officer is a reference to the Acting Chief Executive Officer until the appointment expires or the substantive Chief Executive Officer has returned to office.

[s 9A insrt Act 8 of 2016 s 6, opn 29 Jan 2016]

PART 3 — FINANCIAL

10 Corporation to have no share capital

The Corporation shall not have any share capital.

11 Distribution of operating surplus

[s 11 rep Act 11 of 2019 s 87 and Sch 2 clause 9, opn 11 June 2019. Part 3 Div 3 of the Public Enterprises Act 2019 applies.]

12 Revenue and expenditure estimates

[s 12 rep Act 11 of 2019 s 87 and Sch 2 clause 9, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

13 Chief Executive to Report annually to Minister

[s 13 rep Act 11 of 2019 s 87 and Sch 2 clause 9, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

14 Corporation to keep accounts

[s 14 rep Act 11 of 2019 s 87 and Sch 2 clause 9, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

14A Election candidates — resignation

Any employee, including the Chief Executive Officer of the Corporation who intends to submit a nomination as a candidate in the country's general elections, shall at least 3 months before he or she submits their nomination, resign from his or her employment in the Corporation.

[s 14A insrt Act 8 of 2016 s 7, opn 29 Jan 2016]

14B Election candidates — Board of Directors

Any Board director, including the Chairperson and Vice-Chairperson, who intends to submit a nomination as a candidate in the country's general elections, shall at least 3 months before he or she submits their nomination, resign from their position as a member of the Board.

[s 14B insrt Act 8 of 2016 s 8, opn 29 Jan 2016]

14C Public service employees — exempt

Despite Section 14B, public service employees who are members of the Board are subject only to the provisions in the *Public Service Act 2016*.

[s 14C insrt Act 8 of 2016 s 8, opn 29 Jan 2016]

PART 4 — MISCELLANEOUS

15 Cabinet may make regulations

The Cabinet may, after consultation with the Board, make regulations generally for the proper carrying out of the provisions and purposes of this Act, and in particular, but without prejudice to the generality of the foregoing, may make regulations:

- (a) for the guidance of directors appointed by the Corporation to enterprises in which the Corporation holds a commercial interest; and
- (b) for the procedure to be followed and the form and manner in which information relating to the Corporation's affairs is to be reported.

16 Transfer of assets to the Corporation

- (1) From and after the date of coming into operation of this Act or of this Section or any part hereof, whichever shall last occur:
 - (a) all assets and liabilities of the Republic listed in Schedule 3 shall be transferred to and vest in the Corporation without further assurance, and the Corporation shall have all the powers necessary to take possession of, recover and deal with such assets and discharge such liabilities;
 - (b) every agreement in writing and every deed, bond or other instrument listed in Schedule 5 to which the Republic was party immediately before that date shall have effect as if the Corporation were a party; and
 - (c) any asset listed in Schedule 3 administered by the Nauru Phosphate Royalties Trust may at the direction of the Cabinet continue to be so administered but shall be administered by the said Trust on behalf of the Corporation and subject to the direction of the Corporation.
- (2) Upon a direction of the Cabinet so to do the Trust shall transfer any asset of the Corporation administered by it to the Corporation.
- (3) The Cabinet may at any time before 30 June 1998 by notice in the Gazette make such additions to Schedule 3 as it considers necessary and upon such publication Schedule 3 shall for all purposes be deemed amended.

[s 16 am Act 8 of 2011 s 12 and Sch 1[107], opn 15 Apr 2011]

16A Transfer of Long Term Investment Fund and Nauru Housing Fund assets to the Corporation

From and after the date of commencement of the *Ronwan Finalisation Act 2014*, all assets and monies of each of the Long Term Investment Fund and the Nauru Housing Fund shall be transferred to and vest in the Corporation without further assurance, and the Corporation shall have all the powers necessary to take possession of, recover and deal with such assets and monies for the purposes and objects of the Long Term Investment Fund and the Nauru Housing Fund respectively.

[s 16A am Act 23 of 2014 s 45, opn 19 Dec 2013; Act 19 of 2014 s 8, opn 10 Sep 2014]

SCHEDULE 1

[Section 3]

THE NAURU REHABILITATION CORPORATION

[Sch am Act 11 of 2019 s 87 and Sch 2 clause 9, opn 11 June 2019]

1 The corporate seal

- (1) The seal of the Corporation shall be authenticated by the signature of the Chairperson or the Deputy Chairperson or a member of the Board authorised to act in that behalf and an officer of the Corporation so authorised.
- (2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Corporation may be signified under the hand of the Chairperson or the Deputy Chairperson or the Chief Executive Officer or any member of the Board authorised by the Board to act in that behalf or an officer of the Corporation so authorised.

2 Employment and control of employees

[repealed]

3 Expenses of the Corporation

[repealed]

4 Keeping accounts

[repealed]

5 Corporation to provide information

[repealed]

6 Annual review of operations

[repealed]

SCHEDULE 2

[Section 7]

THE BOARD OF DIRECTORS OF THE CORPORATION

[Sch 2 rep Act 11 of 2019 s 87 and Sch 2 clause 9, opn 11 June 2019]

SCHEDULE 3

[Section 16]

ASSETS OF THE CORPORATION

[Sch 3 am Act 8 of 2011 s 12 and Sch 1[107], opn 15 Apr 2011]

- 1 All of the assets of the Nauru Rehabilitation Fund administered by the Nauru Phosphate Royalties Trust.

