

THE TERRITORY OF NAURU

No. 6 of 1968

A N O R D I N A N C E

To establish a Trust to administer certain funds consisting of moneys paid out of Phosphate Royalties, in pursuance of the Nauru Phosphate Royalties (Payment and Investment) Ordinance 1968, and for purposes connected therewith.

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with advice of the Federal Executive Council, hereby make the following Ordinance under the Nauru Act 1965.

Dated this *twenty-fifth* day of *January*, 1968.

CASEY
Governor-General.

By His Excellency's Command,

C. E. BARNES
Minister of State for Territories.

NAURU PHOSPHATE ROYALTIES TRUST ORDINANCE 1968.

PART I. - PRELIMINARY

Short title.

1. This Ordinance may be cited as the Nauru Phosphate Royalties Trust Ordinance 1968*.

Parts.

2. This Ordinance is divided into Parts, as follows:-
- Part I. - Preliminary (Sections 1-3).
- Part II. - Establishment and Constitution of the Trust (Sections 4-13).

* Notified in the Territory of Nauru Gazette on *29th* *January*, 1968.

- Part III. - Meetings of the Trust (Sections 14-17).
- Part IV. - Funds (Sections 18-21).
- Part V. - Functions and Powers of the Trust
(Sections 22-28).
- Part VI. - Audit and Reports (Sections 29-31).
- Part VII. - Miscellaneous (Sections 32-33).

Definitions.

3.-(1.) In this Ordinance, unless the contrary intention appears -

"acting member" means an acting member of the Trust;

"member" means a member of the Trust, but does not include an acting member;

"the Chairman" means the Chairman of the Trust;

"the Trust" means the Nauru Phosphate Royalties Trust established by this Ordinance.

(2.) In this Ordinance, a reference to the person by whom a member or acting member was appointed or is to be appointed shall, in the case of a member or acting member who was appointed or is to be appointed by the Council, be read as a reference to the Council.

PART II. - ESTABLISHMENT AND CONSTITUTION

OF THE TRUST

Establishment
of Trust.

4.-(1.) A body corporate is hereby established, under the name of the Nauru Phosphate Royalties Trust.

(2.) The Trust -

(a) has perpetual succession;

(b) shall have a common seal;

(c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued in its corporate name.

(3.) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Trust affixed to a document and shall presume that it was duly affixed.

Constitution
of the Trust.

5.-(1.) The Trust shall consist of four members, namely -

- (a) one person appointed by the Governor-General;
- (b) one person appointed by the Administrator; and
- (c) two persons appointed by the Council.

(2.) Subject to this Ordinance, a member holds office for such period, not exceeding three years, as is fixed, at the time of his appointment, by the person by whom he is appointed.

(3.) A member is eligible for re-appointment.

(4.) The performance of the functions or the exercise of the powers of the Trust is not affected by reason only of there being a vacancy or vacancies in the membership of the Trust.

Acting
trustees.

6.-(1.) In the event of the inability of a member to attend meetings of the Trust (whether on account of illness or otherwise), the person by whom the member was appointed may appoint a person to be an acting member during the period of that inability.

(2.) An acting member has, during the period of the inability of the member in relation to whom he is appointed, all the powers and duties of a member.

Removal of
acting
members.

7.--(1.) The person by whom a member or acting member was appointed may, at any time, by notice in writing to the member or acting member, terminate his appointment as a member or acting member.

(2.) Where the appointment of a member is terminated under the last preceding sub-section during a period during which the member is unable to attend meetings of the Trust and another person has been appointed to be an acting member during the period of that inability, the termination of the appointment of the member terminates the appointment of the acting member.

Appointment
by the
Administrator.

8.--(1.) The Administrator shall not appoint a person to be a member or an acting member unless the person is an actuary or a person who is experienced in respect of the investment of moneys.

(2.) The Administrator shall not appoint a person to be a member or an acting member or terminate the appointment of a person appointed by him to be a member or an acting member unless the Council has agreed to the appointment or the termination of the appointment of that person, as the case may be.

Resignation
of members.

9.--(1.) A member or acting member may, by writing under his hand addressed to the person by whom he was appointed, tender his resignation as a member or acting member, as the case may be.

(2.) Where a member or acting member tenders his resignation, the resignation has effect upon being accepted by the person by whom he was appointed or upon the expiration of three months after the day on which the resignation is tendered, whichever first occurs.

(3.) Where the person by whom a member or acting member was appointed accepts the resignation of the member or acting member, he shall notify the member or acting member, and, unless the member is the Chairman, shall also notify the Chairman, of his acceptance of the resignation.

Remuneration
of members.

10. A member or acting member shall be paid such remuneration, by way of fees or otherwise, and such allowances as are prescribed.

Notification
of appointment,
etc.

11. Notice of the appointment of a person to be a member or acting member or of the termination of the appointment or resignation of a member or acting member shall be published in the Gazette.

Chairman of
the Trust.

12.-(1.) The Administrator in Council shall appoint one of the members to be the Chairman of the Trust.

(2.) The Chairman holds office as Chairman until the appointment of another member to be the Chairman, until the expiration of the period of his appointment as a member or until he otherwise ceases to be a member, whichever first occurs.

(3.) Where a member appointed to be the Chairman is, upon ceasing to be the Chairman by virtue of the expiration of the period of his appointment as a member,

re-appointed a member, he is eligible for re-appointment as the Chairman.

Acting
Chairman.

13.-(1.) In the event of the appointment of an acting member in place of a member who is the Chairman or of the office of Chairman becoming vacant, the Administrator in Council may appoint one of the members to act as Chairman while the acting member holds office or until a Chairman is appointed, as the case may be.

(2.) An acting Chairman has, while holding office as acting Chairman, all the powers, functions and duties conferred by this Ordinance on the Chairman.

PART III. - MEETINGS OF THE TRUST

• Interpretation.

14. In this Part, unless the contrary intention appears, "member" includes an acting member.

Convening of
meetings of
the Trust.

15.-(1.) Subject to this section, the Trust shall determine the manner in which meetings of the Trust are to be called and the places and times at which those meetings are to be held.

(2.) The Chairman -

(a) shall convene such meetings of the Trust as he considers necessary for the efficient conduct of its business; and

(b) shall, on receipt of a written request from one other member, convene a meeting of the Trust.

(3.) The Chairman shall ensure that a meeting of the Trust is held at least once in any period of three calendar months.

Presiding at meetings.

16.-(1.) The Chairman shall preside at a meeting of the Trust at which he is present.

(2.) In the event of the absence of the Chairman from a meeting of the Trust -

(a) if the acting Chairman is present at the meeting - the acting Chairman shall preside at the meeting; or

(b) in any other case - the members present shall elect one of the members, not being an acting member, to preside at the meeting.

Procedure at meetings.

17.-(1.) At a meeting of the Trust -

(a) three members constitute a quorum;

(b) a question arising at the meeting shall be decided by a majority of votes of the members present and voting; and

(c) the person presiding at the meeting has a deliberative vote and, in the event of an equality of votes, a casting vote.

(2.) Subject to this Ordinance, the procedure at a meeting of the Trust shall be as the Trust determines.

(3.) The Trust shall keep a record of its proceedings at meetings.

PART IV. - FUNDS

Nauruan Community Long Term Investment Fund.

18.-(1.) A fund is hereby established, to be known as the Nauruan Community Long Term Investment Fund.

(2.) The moneys in the Nauruan Community Long Term Investment Fund shall not be paid out of that fund until after the Administrator, by notice published in the

Gazette, declares that the economic life of the phosphate deposits in Nauru is substantially ended and, after the publication of that notice in the Gazette, may be expended in such manner as is provided by or under Ordinance.

(3.) On receipt of a request in writing from the Trust, the Administrator shall pay to the Trust the moneys standing to the credit of the bank account with the Commonwealth Savings Bank known as "The Administrator of Nauru - Nauruan Community Long Term Investment Fund" and shall transfer to the Trust the securities held by him in the name of the Nauruan Community Long Term Investment Fund.

(4.) The Trust shall credit the moneys paid to it by the Administrator in pursuance of the last preceding sub-section to the Nauruan Community Long Term Investment Fund.

(5.) The securities transferred to the Trust by the Administrator in pursuance of sub-section (3.) of this section shall be deemed to be securities in which moneys standing to credit of the Nauruan Community Long Term Investment Fund have been invested and shall be administered by the Trust accordingly.

Nauruan Land
Owners Royalty
Trust Fund.

19.-(1.) A fund is hereby established, to be known as the Nauruan Land Owners Royalty Trust Fund.

(2.) Except as provided in sub-section (3.) of this Section moneys in the Nauruan Land Owners Royalty Trust Fund shall not be paid out of that Fund until after the thirtieth day of June, One thousand nine hundred and ninety-five.

(3.) On and after the first day of July, One thousand nine hundred and ninety-five, interest on moneys standing to the credit of the Fund referred in the last preceding sub-section shall be paid annually to a person who is a beneficiary of the Fund in such manner as is prescribed.

(4.) In this section "beneficiary" means a person who on or after the first day of July, One thousand nine hundred and sixty-seven, is entitled to beneficial interest in land in respect of which royalties for phosphate which has been or is mined on the land are held in the Fund.

(5.) On receipt of a request in writing from the Trust, the Administrator shall pay to the Trust the moneys standing to the credit of the bank account with the Commonwealth Savings Bank known as "The Administrator of Nauru - Nauruan Land Owners Royalty Trust Fund" and shall transfer to the Trust the securities held by him in the name of the Nauruan Land Owners Royalty Trust Fund.

(6.) The Trust shall credit the moneys paid to it by the Administrator in pursuance of the last preceding sub-section to the Nauruan Land Owners Royalty Trust Fund.

(7.) The securities transferred to the Trust by the Administrator in pursuance of sub-section (5.) of this section shall be deemed to be securities in which moneys standing to credit of the Nauruan Land Owners Royalty Trust Fund have been invested and shall be administered by the Trust accordingly.

Other funds.

20.-(1) The Trust shall, if requested to do so by the Council, establish another fund or other funds for the purposes of this Ordinance.

(2.) Where the Trust establishes another fund, the purposes for which the fund is established shall be the purposes determined by the Council and specified in the request furnished to the Trust by the Council under the last preceding sub-section, and moneys in the fund shall not be expended otherwise than for those purposes and as determined by the Council.

Payment into a fund.

21. There is payable into a fund established by or under this Ordinance -

- (a) the moneys allocated by the Council to the fund out of the net proceeds of the phosphate industry at Nauru in pursuance of the Nauru Phosphate Royalties (Payment and Investment) Ordinance 1968;
- (b) any other moneys allocated by the Council to the fund or for the purposes of the fund;
- (c) interest from the investment of moneys standing to the credit of the fund; and
- (d) such other moneys as are paid to the Trust for the purposes of the fund.

PART V. - FUNCTIONS AND POWERS OF THE TRUST

Interpretation. 22. A reference in this Part to a fund shall be read as a reference to -

- (a) a fund established by the Council and placed by the Council under the administration of the Trust; and
- (b) a fund established by or under this Ordinance.

Function of the Trust.

23.--(1.) The function of the Trust is to administer the funds.

(2.) For the purposes of performing its function under this Ordinance, the Trust has the powers conferred on it by this Ordinance and such other powers as are necessary for the performance of its function.

Bank accounts.

24.--(1.) The Trust shall open and maintain an account, with a bank approved by the Administrator in Council, for each fund.

(2.) The Trust shall pay all moneys received by it in respect of a fund into the account opened in accordance with the last preceding sub-section for that fund.

(3.) Payment of moneys into the account opened for a fund under this section shall be deemed to be payment of the moneys into the fund.

Investment of funds.

25. Moneys standing to the credit of a fund shall be invested by the Trust -

- (a) in securities of, or guaranteed by, the Commonwealth or a State;

- (b) in such other securities, or in securities included in such other classes of securities, as the Administrator in Council approves;
- (c) on fixed deposit in a bank approved by the Administrator in Council; or
- (d) in such other manner as the Administrator in Council approves.

Report concerning investments.

26.--(1.) The Trust shall, before the thirtieth day of June in each year, submit to the Administrator a report concerning each fund setting out -

- (a) particulars of the investments held on behalf of the fund;
- (b) the extent to which and the manner in which the Trust proposes to vary those investments during the period of twelve months next following that date; and
- (c) the manner in which the Trust proposes to invest moneys paid into the fund during that period.

(2.) The Administrator shall submit the report furnished to him in accordance with the last preceding sub-section to the Executive Council at the next meeting of the Executive Council that is held after the date on which the report is received by him.

Secretary to the Trust.

27.--(1.) The Trust may appoint a member or some other person to be the Secretary to the Trust.

(2.) The terms and conditions of appointment (including remuneration) of a member or other person appointed to be Secretary to the Trust are such as are determined by the Trust.

Employment
of staff.

28.--(1.) The Trust may employ such persons as it thinks necessary to enable it to exercise its powers and perform its function under this Ordinance.

(2.) The terms and conditions of employment (including remuneration) of persons employed under this section are such as are determined by the Trust.

PART VI. - AUDIT AND REPORTS

Audit.

29.--(1.) The accounts and records of financial transactions of the Trust shall be audited by an auditor appointed by the Administrator.

(2.) The auditor shall inspect and audit the accounts and records of the Trust and draw the Administrator's attention to any irregularity revealed by the inspection and audit which, in the opinion of the auditor, is of sufficient importance to justify his doing so.

(3.) The auditor, or a person authorized by him, is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Trust relating directly or indirectly to the receipt, investment or payment of moneys by the Trust.

(4.) The auditor, or a person authorized by him, may make copies of or take extracts from any such accounts, records, documents or papers.

(5.) The auditor may require a member, the Secretary or an employee of the Trust to furnish him with such information in the possession of that person or to which that person has access as the auditor considers necessary for the purposes of an inspection or audit under this Ordinance, and that person shall comply with the requirement.

(6.) In the last preceding sub-section, "auditor" shall be read as including a reference to a person authorized by the auditor.

Annual
report
by the
Trust.

30.-(1.) The Trust shall, not later than the thirtieth day of September in each year, submit to the Administrator a report relating to the administration, including the investment, of all funds administered by the Trust.

(2.) The Administrator shall -

- (a) submit the report referred to in the last preceding sub-section to the Executive Council at the next meeting of the Executive Council that is held after the date on which the report is received by him;
- (b) lay that report before the Legislative Council at the next meeting of the Legislative Council that is held after the date on which the report is received by him;
- (c) publish, or cause to be published, a summary of that report in the Gazette; and
- (d) furnish a copy of that report to the auditor appointed under the last preceding section.

Trust to
furnish
information.

31. The Trust shall furnish to the Administrator and to the Legislative Council such information relating to its operations as the Administrator in Council or the Legislative Council from time to time requires.

PART VII. - MISCELLANEOUS

Cost of
management
of Trust.

32. The administrative and other expenses relating to the operations of the Trust are payable out of moneys appropriated out of the Public Moneys of the Territory for that purpose.

Regulations.

33. The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters that by this Ordinance are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.