

REPUBLIC OF NAURU

(No. 1 of 1999)

AN ACT

To dissolve the Nauru Island Council, to vest the assets of the Council in the Republic; to wind up the affairs of the Council; to make interim provision for the protection of employees; and for related purposes.

(Certified: 23rd April 1999)



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AN ACT

to dissolve the Nauru Island Council; to vest the assets of the Council in the Republic; to wind up the affairs of the Council; to make interim provision for the protection of employees; and for related purposes.

(Certified: 23rd April, 1999)

Enacted by the Parliament of Nauru as follows:

SHORT TITLE

1. This Act may be cited as the Nauru Island Council (Dissolution) Act 1999

INTERPRETATION

2. In this Act, unless the context otherwise requires —

"Cabinet" means the Cabinet established under Article 17;

"Council employee" means a person employed as Council staff under the Nauru Island Council Act 1992, but does not include a Councillor;

"Councillor" means a person who held the office of a member of the former Council;

"former Council" means the Nauru Island Council dissolved by this Act;

"Nauru Island Council" means the Nauru Island Council established by the Nauru Island Council Act 1992;

"repealed Act" means the Nauru Island Council Act 1992 repealed by section 2;

"subsidiary corporation" means a corporation the majority of the shares of which are beneficially owned by the former Council;

DISSOLUTION OF THE NAURU ISLAND COUNCIL

3. (1) Upon the commencement of this Act —

(a) the Nauru Island Council is dissolved; and

(b) the terms of office of all Councillors then current expire; and

(c) any money then held by or on account of the former Council shall vest absolutely in the Republic and shall be paid into the Treasury Fund; and

(d) all other assets of the former Council shall vest absolutely in the Republic and shall be dealt with as directed by the Cabinet.

(2) Any act, deed or writing required to be done by or on behalf of the former Council may be done as necessary or appropriate by the Cabinet.

(3) The common seal of the former Council may be affixed by or with the authority of the Cabinet and in the presence of the President and one other Minister.

REPEAL OF NAURU ISLAND COUNCIL ACT 1992

4. (1) Subject to subsection (2), the Nauru Island Council Act 1992 is repealed.

(2) Notwithstanding the repeal in subsection (1), the repealed Act shall remain in operation after the commencement of this Act to the extent necessary to give effect to the provisions of this Act in respect of —

- (a) the management and the winding up of the affairs of the former Council; and
- (b) the use and recognition of the common seal of the former Council; and
- (c) the payment of any money due and payable in respect of any benefits, entitlements and rights of Council employees in accordance with section 8.

(3) Nothing in this section shall operate so as to preserve the position or entitlements of any person elected as a Councillor before the commencement of this Act.

AUDIT OF ACCOUNTS AND REPORTS

5. (1) The Cabinet shall, as soon as practicable after the commencement of this Act, cause the books of account of the former Council and of each subsidiary corporation to be prepared and audited by the Director of Audit or by such other auditor as the Cabinet resolves to appoint.

(2) A report under subsection (1) may contain an annexure which draws attention to any matter or thing concerning the financial or other state of affairs of the former Council, any subsidiary corporation, and the financial activities and transactions done or made by the Cabinet under this Act.

REPORTS TO PARLIAMENT

6. (1) The Cabinet shall, within three months of the commencement of this Act, or on such later date as is approved by the Parliament by resolution, prepare and cause to be laid before the Parliament a report on —

(a) the financial state of the former Council, with reference to Council assets and their value, liabilities secured and unsecured, the businesses of the Council, including the businesses of any subsidiary corporation, and their viability, as they were found to be at the commencement of this Act; and

(b) the state of affairs, at the time of making the report, of the money and assets of the former Council vested in the Republic by virtue of this Act; and

(c) any financial and other transactions and activities made or done by Cabinet in accordance with this Act in relation to the money and other assets of the former Council and of each subsidiary corporation, including —

(i) any measures taken for the disposition of assets by way of abandonment, sale or by settlement with creditors by way of exchange for reduction or forgiveness of debt, or otherwise; and

(ii) the recovery of debts owed to the former Council and the writing off of bad debts; and

(d) the employees and agents of the former Council, their remuneration and terms of employment immediately before the commencement of this Act, and their benefits, entitlements and rights, and the steps taken or proposed for their re-employment, retrenchment or re-deployment; and

(e) the state of affairs, at the time of making the report, of each subsidiary corporation where the majority of shares of that corporation remain vested in the Republic; and

(f) any other information in relation to the matters in paragraphs (a) to (f) which the Cabinet considers should be included in the report.

- (2) The report under subsection (1) shall —
- (a) be prepared so as to present fairly and informatively the matters contained in it; and
 - (b) be signed by the Minister and one other member of the Cabinet, who shall certify that in their opinion any financial statements in the report present fairly and informatively the results of the financial transactions of the Cabinet in relation to the money and assets of the former Council and that they sufficiently explain the financial position of the Republic in relation to that money and those assets at the time of reporting; and
 - (c) state whether, at the date of signing referred to in paragraph (b), they were aware of any circumstances that would render any particulars included in the statements misleading or inaccurate and if so, the particulars of those circumstances; and
 - (d) have annexed to it the report of the auditor referred to in section 5(1), together with any annexure under section 6(2).

(3) Upon the tabling of a report under this section, Parliament may by resolution direct the Cabinet to prepare and table a further report, at such time or after such period, and containing such matters and information of the kind referred to in subsection (1), as Parliament directs.

COSTS AND EXPENSES

7. All costs and expenses of the Republic in respect of the affairs of the former Council and the administration of this Act shall be paid from the Treasury Fund, which is appropriated accordingly.

EMPLOYEES OF THE FORMER COUNCIL

8. (1) All benefits, entitlements and rights of Council employees which were accrued as Council employees shall be recognised and given full effect.

(2) The Republic and all statutory corporations established for public purposes shall endeavour to find positions for as many of the Council employees as reasonably possible, and where such positions are found, their employment shall be transferred and all benefits, entitlements and rights accrued as Council employees shall be applied accordingly.

(3) The service of all other Council employees shall be terminated.

DEBTS AND LIABILITIES OF THE FORMER COUNCIL

9. Nothing in this Act shall make the Republic or any person or corporation liable for any debt of the former Council unless that liability —

- (a) was specifically and lawfully undertaken or incurred before the commencement of this Act; or
- (b) relates to the benefits, entitlements or rights of Council employees under section 8; or
- (c) is undertaken on behalf of the Republic by resolution of the Cabinet.

DELEGATION OF THE CABINET'S POWERS

10. (1) The Cabinet may, by instrument signed by the President, delegate to any person all or any of the powers, functions or duties of the Cabinet exercisable, conferred or imposed by this Act, other than the power conferred by section 3(3).

(2) An instrument of delegation under subsection (1) shall specify —

- (a) the power, function or duty which is delegated; and
- (b) the period of time during which the delegation may be exercised; and
- (c) any conditions or limitations to which the delegation is subject.

(3) A delegation under this section is revocable and does not prevent the exercise of any delegated power, function or duty by the Cabinet.

PROTECTION FROM LIABILITY

11. No —

- (a) Minister; or
- (b) officer or other person appointed or employed by the Council; or
- (c) person appointed by the Cabinet to be a director, secretary or other officer of a subsidiary corporation,

shall be subject to any personal liability, whether civil or criminal, for any matter or thing done in good faith in the exercise of powers or the performance of duties under this Act.

COOPERATION WITH THE CABINET

12. (1) All persons, including employees, Councillors, agents, contractors, directors, secretaries, officers of the former Council or a subsidiary corporation and any other persons having the custody, control or knowledge of the whereabouts of any property of the former Council or a subsidiary corporation, of whatever kind and wherever situate shall —

- (a) do everything reasonably necessary to preserve and protect that property; and
- (b) upon the request of the Cabinet or a Minister — deliver up or disclose the whereabouts of that property.

(2) A person who fails within a reasonable time to deliver up or disclose the whereabouts of any property in accordance with subsection (1) is guilty of an offence and is liable to a penalty of a fine not exceeding \$5,000 or imprisonment for a term not exceeding 12 months, or both.

(3) A person who, without the written approval of the Cabinet destroys, damages or wilfully conceals or interferes with any property of the kind referred to in subsection (1) or information about that property is guilty of an offence and is liable to a penalty of a fine not exceeding \$10,000 or imprisonment for a term not exceeding 2 years, or both.

(4) In this section, "property" includes all records, correspondence, memoranda, reports, accounts, ledgers, journals or other documents of a similar nature —

- (a) whether recorded in writing or by electronic or other media; and
- (b) whether originating in the former Council, a subsidiary corporation or elsewhere; and
- (c) whether situate in Nauru or elsewhere; and
- (d) in relation to correspondence and memoranda — whether sent to or from a Councillor, or servant or agent of the Councillor or a director, the secretary or other officer of a subsidiary corporation; and
- (e) whether or not in the care, custody or control of a Councillor, former Councillor or agent or employee of the former Council, or a director, secretary or other officer or employee of a subsidiary corporation.

REGULATIONS

13. The Cabinet may make regulations not inconsistent with this Act prescribing all matters, and in particular matters for and in relation to any incidental, supplemental, consequential or transitional provision, necessary or convenient to be prescribed for carrying out or giving effect to this Act.

I hereby certify that the above is a fair print of a Bill for an Act entitled Nauru Island Council Dissolution Act 1999 that has been passed by Parliament of Nauru and is now presented to the Speaker for his Certificate under Article 47 of the Consitution.



Clerk of Parliament
23rd April, 1999

Pursuant to Article 47 of the Constitution, I, LUDWIG D. KEKE, Speaker of Parliament HEREBY CERTIFY, that the Nauru Island Council Dissolutio Act 1999 has been passed by Parliament of Nauru.



Speaker
23rd April, 1999