

RONPHOS

Table of Contents

	<i>Page</i>
<i>Principal</i>	
RONPHOS Act 2005	
Table of Provisions	945
Table of Amendments	947
RONPHOS Act 2005	949

RONPHOS Act 2005

TABLE OF PROVISIONS

Section

Title

PART 1 — PRELIMINARY

1	Short title
2	Commencement
3	Repeal [<i>Repealed</i>]
4	Parts [<i>Repealed</i>]
5	Definitions

PART 2 — RONPHOS

DIVISION 1 — ESTABLISHMENT OF CORPORATION AND BOARD

6	Establishment of Corporation
7	Board of directors
7A	Common seal and execution of documents
8	Head Office [<i>Repealed</i>]

DIVISION 2 — OBJECTS AND POWERS OF THE CORPORATION

9	Objects of the Corporation
10	Powers of the Corporation
11	Limitations

DIVISION 2A — BOARD

11A	Responsibilities and role of Board [<i>Repealed</i>]
11B	Minister may give directions to Board [<i>Repealed</i>]
11C	Meetings of Board [<i>Repealed</i>]
11D	Proceedings of Board meeting [<i>Repealed</i>]

DIVISION 2B — DIRECTORS

11E	Conditions of office of director [<i>Repealed</i>]
11F	Responsibilities and role of directors [<i>Repealed</i>]
11G	Director's duty to act honestly [<i>Repealed</i>]
11H	Conflict of interest [<i>Repealed</i>]
11I	Election candidates – Board of Directors [<i>Repealed</i>]
11J	Public service employees – exempt [<i>Repealed</i>]

DIVISION 3 — STAFF

12	Chief Executive Officer [<i>Repealed</i>]
12A	Delegation by Chief Executive Officer [<i>Repealed</i>]
13	Staff [<i>Repealed</i>]

<i>Section</i>	<i>Title</i>
13A	Election candidates - resignation [<i>Repealed</i>]
DIVISION 4 — FINANCE OF THE CORPORATION	
14	Capital of the Corporation [<i>Repealed</i>]
15	Subscription of the capital [<i>Repealed</i>]
16	Borrowing by the Corporation [<i>Repealed</i>]
17	Investment and guarantee [<i>Repealed</i>]
18	Bank accounts [<i>Repealed</i>]
19	Application of funds [<i>Repealed</i>]
20	Books of account [<i>Repealed</i>]
DIVISION 5 — BUDGET, REPORTS AND AUDIT	
21	Budget [<i>Repealed</i>]
22	Monthly reports [<i>Repealed</i>]
23	Further information [<i>Repealed</i>]
24	Director of audit [<i>Repealed</i>]
25	Annual report [<i>Repealed</i>]
26	Reports to Parliament [<i>Repealed</i>]
PART 3 — MISCELLANEOUS	
27	Transitional
28	Disclaimer of property
29	Damage or destruction of property
30	Regulations
31	Accrued royalties
	SCHEDULE 1 [<i>Repealed</i>]
	SCHEDULE 2 [<i>Repealed</i>]
	SCHEDULE 3 [<i>Repealed</i>]
	SCHEDULE 4 — AGGREGATE AMOUNT PAYABLE

RONPHOS Act 2005

TABLE OF AMENDMENTS

The RONPHOS Act 2005 No 3 was certified on 30 June 2005 and commenced on 1 July 2005 (s 2).

Amending Legislation	Certified	Date of Commencement
RONPHOS (Amendment) Act 2012 No 27	21 December 2012	1 March 2013
RONPHOS (Amendment) Act 2015 No 21	23 October 2015	23 October 2015
RONPHOS (Amendment) Act 2016 No 10	29 January 2016	29 January 2016
RONPHOS (Amendment) Act 2017 No 22	14 September 2017	14 September 2017
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 provide for the establishment of the RONPHOS Corporation and for other purposes.

[Long title subst and Preamble rep Act 27 of 2012 s 3 and Sch 1[1] and [2], opn 1 Mar 2013]

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title

This Act may be cited as the *RONPHOS Act 2005*.

2 Commencement

This Act shall come into operation on 1 July 2005.

3 Repeal

[s 3 rep Act 27 of 2012 s 3 and Sch 1[3], opn 1 Mar 2013]

4 Parts

[s 4 rep Act 27 of 2012 s 3 and Sch 1[4], opn 1 Mar 2013]

5 Definitions

In this Act:

‘annual accounts’ means the balance sheet and profit and loss account of the Corporation for a financial year;

‘associate’

[def rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019]

‘beneficiary’ of a trust includes an object of a discretionary trust;

‘Board’ means the board of directors referred to in Section 7;

[def subst Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019]

‘Chair’ means the chairperson of the Board appointed in accordance with the *Public Enterprises Act 2019*;

[def subst Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019]

‘Chief Executive Officer’

[def rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Section 3 of the Public Enterprises Act 2019 applies.]

‘Corporation’ means the corporation, RONPHOS, established under Section 6(1);

‘director’

[def rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Section 3 of the Public Enterprises Act 2019 applies.]

‘Director of Audit’

[def rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 7, Div 1 of the Public Enterprises Act 2019 applies in relation to ‘Auditor-General’.]

'financial year' means a period of 12 months ending on 30 June.

[s 5 subst Act 27 of 2012 s 3 and Sch 1[5], opn 1 Mar 2013]

PART 2 — RONPHOS

DIVISION 1 — ESTABLISHMENT OF CORPORATION AND BOARD

[Div 1 heading am Act 27 of 2012 s 3 and Sch 1[6], opn 1 Mar 2013]

6 Establishment of Corporation

- (1) There is hereby established a Corporation by the name of RONPHOS.
- (2) The Corporation:
 - (a) is a body corporate;
 - (b) has perpetual succession and a common seal;
 - (c) is capable of acquiring, holding and disposing of both real and personal property; and
 - (d) may sue or be sued in its corporate name.
- (3) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the Corporation affixed to a document and shall presume that it was duly affixed.

[subs (2) am Act 27 of 2012 s 3 and Sch 1[7], opn 1 Mar 2013]

7 Board of directors

- (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 88 and Sch 2 cl 11, opn 11 June 2019]

7A Common seal and execution of documents

- (1) The common seal of the Corporation shall not be affixed to a document except in accordance with a decision of the Board, and the affixing of the seal shall be attested by the signature of the Chair or a person authorised under subsection (2).
- (2) The Corporation may, by instrument under its common seal, authorise a director, an employee whether nominated by name or by duties or position, or any other person to execute documents on behalf of the Corporation subject to conditions and limitations, if any, specified in the instrument.
- (3) Without limiting subsection (2), an authority may authorise 2 or more persons to execute documents jointly on behalf of the Corporation.
- (4) A document is duly executed by the Corporation if:
 - (a) the common seal of the Corporation is affixed to the document in accordance with this Section; or
 - (b) the document is signed on behalf of the Corporation by a person or persons in accordance with an authority conferred under this Section.

[s 7A insrt Act 27 of 2012 s 3 and Sch 1[8], opn 1 Mar 2013]

8 Head Office

[s 8 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019]

DIVISION 2 — OBJECTS AND POWERS OF THE CORPORATION

9 Objects of the Corporation

The objects of the Corporation are to:

- (a) maintain and operate the phosphate industry in the Republic in a safe, efficient and profitable manner;
- (b) establish, maintain and operate such activities as are, or may be ancillary to the maintenance and operation of the phosphate industry in the Republic; and
- (c) establish, maintain and operate such other activities that are included in the Corporation's business plan adopted by the Board in accordance with the *Public Enterprises Act 2019*.

[subs (3) subst Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019]

10 Powers of the Corporation

- (1) Subject to this Act and the *Public Enterprises Act 2019*, the Corporation has the power to do all things necessary, convenient or appropriate to be done, whether in the Republic or elsewhere, for the fulfillment of its objects.

[subs (1) am Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019]

- (2) Without limiting the generality of subsection (1), and subject to the provisions of this Act and any Regulations, the powers of the Corporation include the power to:
 - (a) enter into contracts in relation to any sale or disposal of phosphate or any other products of the Corporation;
 - (b) enter into contracts in relation to any service to be performed by the Corporation whether in connection with the sale of phosphate or other products or otherwise;
 - (c) purchase, lease, hire or otherwise acquire land, buildings, plant, machinery and any other capital assets;
 - (d) sell or dispose of any capital assets of the Corporation;
 - (e) appoint agents for the purpose of any business conducted by the Corporation and to terminate any such appointment;
 - (f) act as agent for other persons;
 - (g) surrender or return to the owners of land leased or acquired, but no longer required, for use in the phosphate industry;
 - (h) rehabilitate and develop lands, including through the removal of materials, scrap and structures used for the mining of phosphate, in line with environmental laws;
 - (i) compound, release or settle claims by or against the Corporation; and
 - (j) do anything incidental to any of its objects.

11 Limitations

The Corporation shall implement and act in a manner consistent with its business plan adopted by the Board in accordance with the *Public Enterprises Act 2019*.

[s 11 subst Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019]

DIVISION 2A — BOARD

[Div 2A insrt Act 27 of 2012 s 3 and Sch 1[11], opn 1 Mar 2013]

11A Responsibilities and role of Board

[s 11A rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 6, Division 2 of the Public Enterprises Act 2019 applies.]

11B Minister may give directions to Board

[s 11B rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 8, Division 1 of the Public Enterprises Act 2019 applies.]

11C Meetings of Board

[s 11C rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 6, Division 3 of the Public Enterprises Act 2019 applies.]

11D Proceedings of Board meeting

[s 11D rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 6, Division 3 of the Public Enterprises Act 2019 applies.]

DIVISION 2B — DIRECTORS

[Div 2B insrt Act 27 of 2012 s 3 and Sch 1[11], opn 1 Mar 2013]

11E Conditions of office of director

[s 11E rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 6, Division 1 of the Public Enterprises Act 2019 applies.]

11F Responsibilities and role of directors

[s 11F rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 6, Division 2 of the Public Enterprises Act 2019 applies.]

11G Director's duty to act honestly

[s 11G rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Section 47 of the Public Enterprises Act 2019 applies.]

11H Conflict of interest

[s 11H rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Section 53 of the Public Enterprises Act 2019 applies.]

11I Election candidates – Board of Directors

[s 11I rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Section 43 of the Public Enterprises Act 2019 applies.]

11J Public service employees – exempt

[s 11J rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019]

DIVISION 3 — STAFF**12 Chief Executive Officer**

[s 12 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Section 64 of the Public Enterprises Act 2019 applies.]

12A Delegation by Chief Executive Officer

[s 12A rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Section 65 of the Public Enterprises Act 2019 applies.]

13 Staff

[s 13 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019]

13A Election candidates - resignation

[s 13A rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Section 43 of the Public Enterprises Act 2019 applies.]

DIVISION 4 — FINANCE OF THE CORPORATION

14 Capital of the Corporation

[s 14 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 3, Divisions 2 and 3 of the Public Enterprises Act 2019 applies.]

15 Subscription of the capital

[s 15 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 3, Divisions 2 and 3 of the Public Enterprises Act 2019 applies.]

16 Borrowing by the Corporation

[s 16 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 3, Divisions 2 and 3 of the Public Enterprises Act 2019 applies.]

17 Investment and guarantee

[s 17 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 3, Divisions 2 and 3 of the Public Enterprises Act 2019 applies.]

18 Bank accounts

[s 18 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

19 Application of funds

[s 19 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

20 Books of account

[s 20 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

DIVISION 5 — BUDGET, REPORTS AND AUDIT

21 Budget

[s 21 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

22 Monthly reports

[s 22 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

23 Further information

[s 23 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

24 Director of audit

[s 24 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

25 Annual report

[s 25 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

26 Reports to Parliament

[s 26 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

PART 3 — MISCELLANEOUS

27 **Transitional**

- (1) The Corporation is vested with ownership of all the assets owned and managed by the former Nauru Phosphate Corporation, including leases, concessions, contracts, real and personal property, equipment and intellectual property rights to the full extent of the previous ownership by Nauru Phosphate Corporation.
- (2) The Corporation shall be responsible for liabilities and debts incurred by the former Nauru Phosphate Corporation, except those debts that have been written off by the Cabinet and notified to the creditor or creditors concerned.
- (3) All persons previously employed by the former Nauru Phosphate Corporation shall initially be considered to be appointed as temporary employees of the Corporation, but otherwise on the terms of their former employment with the former Nauru Phosphate Corporation and with any accrued rights and entitlements due from their employment under the former Nauru Phosphate Corporation.
- (4) The Corporation may offer appointment in a full-time, part-time or an on-call basis, to such temporary employees referred to in subsection (3) as it deems necessary.
- (5) Those persons not offered appointment to the Corporation shall be relieved of their temporary employment, whilst retaining any outstanding rights and entitlements, as and at such times as the Corporation deems necessary to effect an efficient and restructured management and staff organisational structure.

28 **Disclaimer of property**

Upon the commencement of this Act the Executive Committee may within the 6 months following, disclaim any leasehold properties previously held by the Nauru Phosphate Corporation. Any leasehold property not so disclaimed shall remain an asset of the corporation and the corporation shall be liable for all of the obligations applicable thereto. If any leasehold property is disclaimed the Corporation may remove all fixtures and fittings erected or upon the land by the Nauru Phosphate Corporation or its predecessor in title the British Phosphate Commissioners, and upon completion of such removal the property shall revert to the owner thereof.

29 **Damage or destruction of property**

- (1) A person who removes, damages or otherwise interferes with any property of the Nauru Phosphate Corporation before the commencement of this Act or who does so after it becomes an asset of the Corporation or who attempts to prevent the removal of any fixtures or fittings in accordance with Section 28, commits an offence punishable by a fine of \$1,000 or 3 months imprisonment, or both.
- (2) Where a person is convicted of an offence against subsection (1) the Judge or magistrate may, in addition to the imposition of a penalty, order the

confiscation and sale of any property of the person convicted, including any interest in phosphate royalties payable now or in the future to the value of the property so removed, damaged or interfered with.

30 Regulations

The Cabinet may make regulations not inconsistent with this Act prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular, prescribing penalties not exceeding \$1,000 or imprisonment for a period not exceeding 3 months, or both, for offences against the regulations.

31 Accrued royalties

- (1) The aggregate amounts owed by the Corporation to individual owners of phosphate land (landowners) in their respective capacity as a beneficiary of the Nauruan Landowners Royalty Trust Fund (Fund 2) (or owed to their legal representatives or lawful heirs) in respect of phosphate royalties accrued as owning in the respective financial years ending 30 June 2007 to 30 June 2014 (both inclusive) are deemed to be as enumerated in Schedule 4.
- (2) Cabinet may make regulations prescribing the payment by the Corporation of the accrued royalties enumerated in Schedule 4 to the respective individual owners of phosphate land to whom such accrued royalties remain payable (or owed to their legal representatives or lawful heirs).
- (3) Subject to any Cabinet regulations, in the financial quarter ending 30 September 2016 and in each subsequent financial quarter (period ending of three calendar months) until the total of all accrued royalties enumerated in Schedule 4 have been fully repaid to the respective individual owners of phosphate land to whom such accrued royalties were payable, the Corporation shall pay to the landowner to whom such accrued royalties remain payable (or to their legal representatives or lawful heirs), the amount of \$5.32 in respect of each ton of phosphate shipped from Nauru during the immediately preceding financial quarter and such payment to each of such landowner individually shall be made by the Corporation in the proportion that that the amount of such accrued royalties owing to each such landowner represents as a proportion of the total aggregate amount of such accrued royalties owing to all such landowners collectively, without any preference in favour of any individual landowner(s).
- (4) To give full effect to subsection (3), the Corporation shall make provision for the payments provided for in subsection (3) in the Corporation's planned operations and estimates to be prepared pursuant to Section 21(1) in respect of the financial year ending 30 June 2017 and in respect of each subsequent financial year up to and including the financial year in which the balance of all of the accrued royalties enumerated in Schedule 4 shall have been fully repaid.

[s 31 insrt Act 21 of 2015 s 4, opn 23 Oct 2015]

SCHEDULE 1

[Section 7]

[Sch 1 rep Act 27 of 2012 s 3 and Sch 1[20], opn 1 Mar 2013]

SCHEDULE 2

[Section 26]

[Sch 2 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019]

SCHEDULE 3

[Section 26]

[Sch 3 rep Act 11 of 2019 s 88 and Sch 2 cl 11, opn 11 June 2019]

SCHEDULE 4

[Section 31]

AGGREGATE AMOUNT PAYABLE

[Sch 4 insrt Act 21 of 2015 s 5, opn 23 Oct 2015]

Financial Year	Aggregate Amount Payable
1 July 2012 to 30 June 2013	Nil
1 July 2011 to 30 June 2012	Nil
1 July 2010 to 30 June 2011	\$2,508,493
1 July 2009 to 30 June 2010	\$2,072,011.50
1 July 2008 to 30 June 2009	\$161,359.25
1 July 2007 to 30 June 2008	\$2,656,303
1 July 2006 to 30 June 2007	\$270,287.70

