

NAURU TRUSTEE CORPORATION

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Nauru Trustee Corporation Act 1972

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Nauru Trustee Corporation Act 1972

TABLE OF AMENDMENTS

The Nauru Trustee Corporation Act 1972 No 6 was certified on 16 February 1972 and commenced on 30 March 1972 (GN No 96/1972; Gaz 16/1972).

Amending Legislation	Certified	Date of Commencement
Order Rectifying Clerical Error in Written Law GN No 248/1972	21 August 1972	21 August 1972
Statute Law Revision Act 2011 No 8	15 April 2011	15 April 2011
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to provide for the incorporation of the Nauru Trustee Corporation and to prescribe its powers and duties and for purposes consequent thereon or incident thereto.

Enacted by the Parliament of Nauru as follows:

1 Short title and commencement

This Act may be cited as the *Nauru Trustee Corporation Act 1972* and came into effect on 30 March 1972.

2 Interpretation

In this Act:

'the Corporation' means the Nauru Trustee Corporation established by Section 3 of this Act.

3 Incorporation of the Nauru Trustee Corporation

The Nauru Trustee Corporation is hereby established and constituted as a corporation aggregate under that name with perpetual succession and a corporate seal, which may enter into contracts in its said corporate name and may sue and be sued in and by that name and may subject to the provisions of Section 28 take and hold any property real or personal.

[s 3 am GN No 248 of 1972, opn 21 Aug 1972]

4 Charter of the Corporation

The Corporation is hereby granted the charter set forth in Schedule 1 and invested with all the powers, facilities, functions and rights in this Act and in such charter set forth or pursuant thereto further granted to it:

Provided that the provisions of Clause 1 of the charter shall not take effect until the Minister has certified by notice in the Gazette that the Corporation has entered into an agreement of the type referred to in Section 35.

5 Obligations of the Corporation

The Corporation is hereby given the duties and fixed with the obligations in this Act and in such charter set forth.

6 Appointment by name or description

(1) The Corporation by its name, or by any other sufficient description, may be appointed as an agent, as executor of any will or as a trustee under any will, settlement or other instrument creating a trust, or to perform any trust or duty which it is authorised by this Act or its charter to undertake, and may be so appointed whether the will, settlement or instrument creating the trust or imposing the duty was made or came into operation before or after the commencement of this Act and either as an original or a new trustee or executor or as an additional trustee.

(2) The Corporation may, if authorised or required by any written law, be appointed or act as sole trustee, notwithstanding the terms of the trust instrument or the will as to the number of trustees.

7 Corporators of the Corporation

- (1) The corporations named in Schedule 2 are the corporators of the Corporation and shall be the first members.
- (2) The capital of the Corporation shall be such amount as the members decide from time to time, subject to the approval of the Minister, and shall be divided into shares each of \$1 which shall be payable in full on allotment.
- (3) An equal number of shares shall initially be allotted to every member and subsequent allotments shall be made in accordance with the Articles of the Corporation.
- (4) Every share shall carry such voting rights and equal rights to participate in the profits of the Corporation as is provided by the Articles and in the absence of any special provision relating thereto in the Articles each share shall carry equal voting rights and equal rights to participate in the profits.
- (5) The members of the Corporation shall not be personally liable for the debts or liabilities of the Corporation.
- (6) Shares in the Corporation shall be, and be deemed for all purposes to be, personal property situate in the Republic.

8 Corporator's interests transferable

- (1) Every member may, subject to the written approval of the Cabinet, transfer all or any of its shares in the Corporation to another person or corporation by instrument of transfer in writing and, upon notice of such transfer being given to the Corporation, the transferee shall become a member of the Corporation.
- (2) The provisions of this Section shall *mutatis mutandis* apply to the shares in any corporation which is a shareholder of a member and to the shares in any other corporation related within the meaning of Section 4 of the *Corporations Act 1972* to such first-mentioned corporation.

9 Winding-up of the Corporation

- (1) In the event of this Act being repealed or the charter of the Corporation being withdrawn or, in the opinion of its members, materially altered, the members may resolve that the Corporation be wound up and thereupon the Corporation shall be wound up as if it were a trading corporation incorporated under the *Corporations Act 1972* and the provisions of that Act relating to the voluntary winding-up of a trading corporation shall thereupon apply to the winding-up of the Corporation.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[110], opn 15 Apr 2011]

- (2) The Corporation may be wound up by the District Court under the provisions of the *Corporations Act 1972* upon the petition of the Minister or a creditor and, upon its being so wound up, the charter of the Corporation shall be deemed to have been withdrawn by the Minister.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[110], opn 15 Apr 2011]

10 Restrictions on the Corporation's activities

- (1) The Corporation shall not carry on any business other than such as is permitted by its charter or do any act contrary to its charter.

- (2) The Corporation shall not be subject to the general laws of the Republic relating specifically to corporations except as by this Act expressly extended to it.

11 Right to decline

The Corporation may decline, either absolutely or except upon conditions, to accept any trust or to act in any of the capacities specified in its charter.

12 Affidavit of officer

In all cases in which, if it were a natural person, the Corporation would be obliged or authorised to make any affidavit, declaration or statement, it may do so by any of its officers appointed for the purpose.

13 Corporation may exercise power of attorney by an officer

It shall be lawful for the Corporation to act, either alone or jointly with any other person, under any power of attorney by which the Corporation is appointed attorney and all the powers conferred, and the duties imposed, upon the Corporation by such power of attorney may be exercised or performed by such officer of the Corporation as may from time to time be appointed for the purpose, but in all cases the Corporation shall be liable for the due execution of the powers so conferred upon it.

14 Power to declare trusts

The Corporation shall have power itself by an instrument in writing to declare or create trusts of property, including trusts of property to be held by it upon the statutory purpose trusts or upon such trusts as varied in accordance with the provisions of Section 28(2).

15 Audit

- (1) The Corporation shall, within 12 months of this Act coming into force, appoint a registered corporation auditor to be its auditor and to audit its accounts at least once in every year and shall furnish a copy of the auditor's report to the Cabinet.
- (2) The Cabinet on its own initiative, or the Cabinet or the Resident Magistrate upon the application of a person claiming an interest under any trust, may appoint a person to examine any trust account, trust transaction, investment or trust security of the Corporation and to report to the Cabinet or the Resident Magistrate, as the case may be, thereon:
Provided that a copy of such report shall be furnished to the Corporation.
- (3) The Corporation shall comply with any written directions given to it by the Cabinet as to the manner of keeping its trust accounts or securing its trust investments pursuant to any recommendation of such examiner, not being contrary to its duty as trustee.
- (4) The fees of a person appointed under subsection (2) to make an examination and the expenses of the examination shall be paid in the first instance:
 - (a) where the appointment is made by the Cabinet on its own initiative, from the Treasury Fund; and

- (b) where the appointment is made on the application of a person, either by that person or from the Treasury Fund, or partly by that person and partly from the Treasury Fund, as the Cabinet or the Resident Magistrate, as the case may be, may direct, any sum payable from the Treasury Fund under this subsection shall be a charge upon the Treasury Fund.
- (5) Where it is established by an examination carried out pursuant to the provisions of subsection (2) that there has been any irregularity or impropriety in the management or handling of, or the accounting in respect of, the trust account, trust transaction, investment or trust security by the Corporation or by an officer or servant of the Corporation, the Resident Magistrate, upon the application of the Republic or the person who applied for the examination and after affording an opportunity to be heard to all persons liable to be affected by any order which may be made on the application, may order that the whole or any part of the amount paid under subsection (4) in respect of fees and expenses be reimbursed to the Treasury Fund or the person who applied for the examination, as the case may be, by the Corporation or by any officer or servant of the Corporation who was a party to the commission of the irregularity or impropriety or partly by the Corporation and partly by the officer or servant.
- (6) Any order made by the Resident Magistrate under subsection (5) shall be enforceable and appealable as though it were a judgment of the District Court.

16 Trust moneys

Subject to the provisions of this Act and the charter, the Corporation shall keep all trust moneys separate from its own moneys and shall account for them separately.

17 Report to Parliament

Within 18 months after the commencement of this Act and once each year thereafter, the Corporation shall report to the Minister as to the trusts undertaken and declined by it during the period preceding such report and every such report shall be laid before Parliament by the Minister within 14 days of its receipt, but the affairs of specific trusts shall not be disclosed in any such report.

18 Grant of power

In addition to the powers granted by the charter, the Corporation shall have all the powers of a trading corporation incorporated under the *Corporations Act 1972*.

[s 18 am Act 8 of 2011 s 12 and Sch 1[110], opn 15 Apr 2011]

19 The Corporation may obtain advice

- (1) The Corporation shall be entitled to obtain advice from a legal practitioner or from a person permitted to practise as a lawyer in any country the law of which may have to be applied or taken into account in respect of any trust, and the Corporation shall not be liable for any breach of trust or loss resulting from its acting in accordance with such advice, if it has exercised

reasonable care in choosing the legal practitioner or other person or in the circumstances no other legal practitioner or other person could reasonably have been chosen.

- (2) It shall not be a defence to any action by the Corporation to recover damages in respect of any loss arising out of its having acted upon or relied upon advice obtained by it from any legal practitioner, nor shall the amount of damages recoverable be reduced on the grounds that, the Corporation is not itself liable for such loss by reason of subsection (1) or is not liable otherwise for such loss.
- (3) Notwithstanding that the Corporation is not liable for any breach of trust or loss, it shall hold any money or property recovered, whether by action or otherwise, in respect of the loss upon the same trusts as the trusts upon which the property was held in respect of which the loss was suffered:
Provided that the Corporation shall be entitled to retain or pay out of moneys recovered, or to raise and retain or pay out of any property recovered, the costs, charges and expenses of and incident to the recovery.
- (4) Where the Corporation has available sufficient funds the subject of trusts for beneficiaries who have suffered loss as a result of the Corporation acting on advice of the type referred to in subsection (1), or sufficient funds for the purpose of bringing and continuing a claim or action against the person responsible for giving such advice are made available to the Corporation, the Corporation shall, subject to the following subsections, take all reasonable steps to recover the loss.
- (5) For the purposes of subsection (4), “*sufficient funds*” means that amount of money which will be sufficient to provide for the payment of the costs and expenses of the Corporation likely to be expended in attempting to obtain recovery of the loss and all costs and expenses which the Corporation may be ordered to pay in attempting to obtain recovery of the loss.
- (6) The Corporation is hereby empowered to expend moneys the subject of trusts for beneficiaries who have suffered loss as a result of its acting on advice of the type referred to in subsection (1) for the purpose of attempting to obtain recovery of such loss, notwithstanding that such trusts do not permit such expenditure.
- (7) The Corporation may in any case where it appears to it that it is expedient or desirable so to do apply to the Supreme Court for advice in relation to any matter affecting any trust and, if the Corporation acts in accordance with the advice of the Court, it shall be deemed, so far as regards its own responsibility, to have discharged its duty as trustee in the subject matter of the application, provided that it has not been guilty of any fraud or wilful concealment or misrepresentation in obtaining the advice, but the Corporation shall not be bound to act in accordance with the advice.
- (8) The jurisdiction of the Supreme Court under subsection (7) may be exercised by a Judge in Chambers or, if there is no Judge present in the Republic, by the Registrar of Courts and, for the purpose of Section 105 of the *Supreme Court Act 2018*, a Judge or the Registrar of Courts shall be deemed to be acting judicially in giving advice under this subsection.
- (9) The Republic shall not be liable for any consequences of the giving of advice by a Judge or the Registrar of Courts hereunder.

20 The Corporation may act as joint trustee with another

- (1) The Corporation may act as trustee, executor or agent jointly with another corporation or person if the instrument under which it acts so provides or if authorised or required to do so by any written law or if the Supreme Court so orders.
- (2) The Corporation shall not be liable for breach of trust or loss resulting from any act or omission of joint trustee, executor or agent with whom it is acting, unless the Corporation has itself actively participated in, or assented to, such breach of trust knowing it to be a breach of trust.

21 Power to obtain probate or act as administrator

The Corporation shall be entitled to apply in the Republic or elsewhere for probate of a will or re-seal thereof, if named therein as an executor, or for letters of administration or re-seal thereof in any estate and may be appointed as trustee of any will, trust or settlement whether nominated in such instrument or not and, where the instrument requires that 2 or more trustees shall act, the Corporation shall for the purposes thereof be deemed to be such number of trustees.

22 Commission chargeable by the Corporation

- (1) Notwithstanding the commission or remuneration which may be payable to any other person in respect of any office or trust undertaken by the Corporation, the Corporation shall be entitled, in addition to all moneys properly expended by it and chargeable against the fund administered by it by virtue of that office or trust, to charge a commission of \$100 or at the rate of 5% upon the corpus of such fund entrusted to it upon its appointment whichever be the greater, or, if it thinks fit, at any lower rate, and to charge commission at the rate of 5% or, if it thinks fit, at any lower rate on all income and accretions to such fund.
- (1A) For the purpose of calculating the value of the corpus, the gross amount shall be taken without deduction for any debts, liabilities, duties or the like and for the purpose of calculating the commission upon income and accretions, the gross amount of income and accretions before deduction of costs, expenses and commissions paid or payable in getting in such income and accretions shall be taken as the amount upon which commission is to be calculated:
 - (a) provided that the Cabinet may by regulations authorise generally the charging of commission at rates higher than those authorised by this Section; and
 - (b) the Minister may, in any case where the settlor agrees, or all the beneficiaries agree, thereto, authorise by instrument under his or her hand that a higher rate be charged in that case.
- (2) The Corporation shall have the right, if it sees fit, to share the commission to which it is entitled under this Section with any other trustee or person other than a director, employee or member of the Corporation or the wife, parent or child of any such director, employee or member or a corporation of which such director, employee or member, or a wife, parent or child of such a director, employee or member, is a member or any corporation related to such a corporation.

- (3) In this Section, “*related corporation*” bears the same meaning as in Section 4 of the *Corporations Act 1972*.

[subs (3) am Act 8 of 2011 s 12 and Sch 1[108], opn 15 Apr 2011]

23 The Corporation may be appointed in lieu of named executor, etc

- (1) An executor or trustee may by instrument in writing appoint the Corporation, if it consents thereto, to be executor or trustee either in his or her place or in addition to himself or herself:

Provided that, where there are 2 or more executors or trustees, the appointment shall not take effect unless all the remaining executors or trustees consent in writing.

- (2) An appointment under subsection (1) by an executor may be made before or after grant of probate.
- (3) The Corporation may apply for and obtain letters of administration in any case in which a private individual may apply for and obtain letters of administration of the estate of a deceased person, such application may be made by the Corporation alone or jointly with any other person.
- (4) The Corporation may be appointed trustee, receiver, manager or guardian where any Court, Judge or other person has power to appoint a person to be trustee, receiver, manager or guardian.

24 Delegation to the Corporation

It shall be lawful for any executor or administrator, trustee or agent to delegate by deed or writing to the Corporation either alone or jointly with any other corporation or person, as his or her attorney, all such trusts and powers as may be lawfully delegated by him or her and all acts done by the Corporation as such delegate shall, in favour of a person dealing with the Corporation without notice of the revocation of such authority by such executor, administrator, trustee or agent, be valid and effectual notwithstanding such revocation.

25 Common trust funds

- (1) The Corporation may, if authorised by regulations made by the Minister, establish and keep in its books one or more funds to be known as common trust funds.
- (2) The Minister may make regulations to prescribe the manner in which common trust funds are to be established, the classes of investment which may be made in respect of such funds and the computation of the interests in such funds.

26 Valuation

- (1) Where for any purpose, including the ascertainment of the amount of its commission, the Corporation has to value any shares in corporations, whether incorporated in the Republic or elsewhere, it may adopt as the value of a share such sum as in the opinion of the Corporation the holder of that share would have received in respect of that share in the event of the corporation being voluntarily wound up on the date in respect of which the value of the share is to be ascertained and shall record the manner in which

the value has been calculated, and such record shall be available for inspection by any settlor, co-executor, co-administrator, co-trustee, beneficiary or such other person as the District Court may order.

- (2) A person aggrieved by a valuation made under subsection (1) may apply to the District Court within 3 months of the valuation for the court to review the valuation, and the court may thereupon, after giving an opportunity to the person aggrieved and the Corporation to be heard:
 - (a) confirm or vary the valuation as it thinks fit and make such order as to the costs of the application as it thinks fit; and
 - (b) every order of the District Court made upon such review shall, subject to the provisions of subsection (3), be final.
- (3) A Judge may grant leave to a person who was a party to proceedings in the District Court under subsection (2) to appeal to the Supreme Court; such leave shall be granted only where the application for leave is made without undue delay and the Judge considers that:
 - (a) the amount in issue is substantial; or
 - (b) a substantial matter of principle is involved.
- (4) Where leave to appeal to the Supreme Court is granted, the appeal shall be deemed to be an appeal from the District Court in its civil jurisdiction and be governed by the law relating to such appeals, save that for the purpose of determining whether or not an appeal has been made within the time allowed, the decision of the District Court shall be deemed to have been given on the date on which the leave to appeal was granted.
- (5) The decision of a Judge on an application under subsection (4) and the decision of the Supreme Court on an appeal under this Section shall be final and no appeal shall lie against any such decision.

27 Land trusts

The Corporation shall not accept any trust of land in the Republic or of any interest in land in the Republic without the prior consent of the President.

28 Statutory purpose trusts

- (1) Where the instrument under which property is held by the Corporation requires such property to be held upon the statutory purpose trusts, such property shall, subject to the provisions of subsection (2), be held upon the trusts set out in Schedule 3 and the Corporation shall have the powers in respect thereof which are set out in Schedule 3.
- (2) The trusts set out in Schedule 3 may be varied at the time of creation of the trusts property the subject of such trust, shall be held on the statutory purpose trusts as so varied.

29 Bond not required of the Corporation

No bond, recognizance or other security for the proper discharge of the duties of the Corporation shall be required to be given by it or on its behalf.

30 Shares and stock

Where a trust fund administered by the Corporation consists wholly or partly of shares, stock or property in any body or corporation, then, notwithstanding any law or contract to the contrary, the Corporation shall be entitled to be registered

as the proprietor of such shares, stock or property and the liability of the Corporation in respect of such shares, stock or property shall not exceed the value of the other assets held by the Corporation upon the same trusts as the shares, stocks or property are held at the time when actual notice in writing of the amount of the liability is received by the Corporation.

31 Assets may be applied in discharge of expenses of administrator notwithstanding notice

Notwithstanding the receipt of actual notice, the Corporation shall be entitled to apply assets of the fund in discharge of the expenses of administration thereof and in payment of any debts incurred by it in the administration of the trust fund and in payment or appropriation of any commission due to it and shall not be under any liability except to the extent of assets of the fund remaining in its hands from time to time after making such applications, payments or appropriations.

32 Charge for remuneration

The Corporation shall have a first charge upon the assets of any trust or estate administered by it for any commission, fees or remuneration due to it and any disbursements made by it in the administration of the trust or estate.

33 Secrecy

The Corporation and the officers, servants and auditor, and every person appointed under Section 15(2) to examine any trust account, trust transaction, investment or trust security of the Corporation shall not, without the leave of the Resident Magistrate, make any disclosure of the identity of the creator of any particular trust or of the identity of any beneficiary under any particular trust otherwise than is necessary for the purposes of administering such trust or investing or recovering or getting in the assets or as authorised by this Act.

34 Insurance

- (1) The Minister may make regulations requiring the Corporation to insure against its liabilities for any breach of trust for such amount of indemnity as he or she considers reasonable.
- (2) Notwithstanding the provisions of subsection (1), the Corporation shall not be obliged to insure its liabilities as required thereby if it transfers to, and maintains in, a Liability Reserve Fund established by it under subsection (3) such sum of money as is prescribed, not being more than the Minister considers to be reasonably necessary to enable the Corporation to function as a trustee corporation, at the time or times prescribed in those regulations and, if a smaller amount than the sum prescribed is paid into, and maintained in, the Fund, the amount of the indemnity in which insurance of its liabilities is required by those regulations shall be reduced by the same proportion as the amount paid into, and maintained in, the Fund bears to the sum prescribed.
- (3) The Corporation may, if it thinks fit, establish a Liability Reserve Fund, which shall be the property of the Corporation, and the assets of the Fund shall be kept apart and accounted for separately from the other assets of the Corporation and shall not form part of the general assets of the Corporation

or, subject to the provisions of subsections (5) and (6), be used by the Corporation for any purpose other than the discharge of any liability to a beneficiary of a trust administered by the Corporation for any breach of trust and such assets shall not be available to the general creditors of the Corporation, the beneficiaries of any trust or the members of the Corporation, nor shall any judgment be executed against the assets of the Fund, except as provided for in this Section.

- (4) The assets of the Liability Reserve Fund shall be available to any beneficiary of a trust in respect of any liability of the Corporation to him or her for any breach of such trust and a judgment obtained, or a foreign judgment registered, in the Republic in respect of any such liability may be executed against those assets.
- (5) Where at any time the assets of the Liability Reserve Fund exceed the sum required by regulations made under this Section to be maintained in the Fund, those assets which are surplus to such requirement may be transferred out of the Fund so as to become part of the general assets of the Corporation and may thereafter be used by the Corporation for any lawful purpose and be available to creditors and members of the Corporation:
Provided that the Minister may direct the corporation to transfer out of the Liability Reserve Fund any such surplus assets but such direction shall require a transfer out of the Fund only to the extent that such surplus exceeds the aggregate of amounts which were transferred to the Fund in accordance with regulations made from time to time.
- (6) The Corporation shall maintain a bank account at a bank approved by the Minister in writing into which the amount standing to the credit of the Liability Reserve Fund shall be paid:
Provided that the Minister may authorise the investment of the whole or any part of the amount standing to the credit of the Fund in such manner as he or she may approve and the value of such investments shall, for the purpose of determining whether the provisions of this Section are being complied with by the Corporation, be deemed to be their market value from time to time.
- (7) Any income earned from investment of the Liability Reserve Fund shall not accrue to the Fund but shall form part of the general income of the Corporation.
- (8) For the purpose of ascertaining the nett profits of the Corporation in any accounting period, the transfers to the credit of the Liability Reserve Fund shall be deemed to be expenditure and transfers of amounts from the credit of the Fund so as to become part of the general assets of the Corporation shall be deemed to be income.
- (9) The Minister may by notice in writing require the Corporation to furnish him or her with evidence that it has complied with any regulations made under this Section and, if the Corporation fails to satisfy him or her of such compliance, he or she shall direct it to do so forthwith.
- (10) Where within 60 days of any such direction being given under subsection (9), the Corporation has not complied with the regulations to the satisfaction of the Minister, he or she may notify the Chief Justice of such default and the Chief Justice shall forthwith appoint a suitable person to be

receiver and manager of the Corporation and such person shall be deemed to be a receiver and manager appointed under the provisions of the *Corporations Act 1972*.

[subs (10) am Act 8 of 2011 s 12 and Sch 1[110], opn 15 Apr 2011]

- (11) A receiver and manager appointed under subsection (10) shall cause the Corporation to comply with any regulations made under this Act and shall retire upon having done so.
- (12) Where the Corporation is persistently in breach of regulations made under this Section or a person who has been appointed under subsection (10) to be receiver and manager of the Corporation reports that there is no reasonable prospect that it will be able to comply with the regulations, the Corporation may, upon the application of the Minister, be wound up.
- (13) Any regulations made under this Section shall have force and effect only during such period as the Corporation is the sole corporation, entity or person carrying on the business of trustee in the Republic.

35 Agreement with the Republic

The Corporation shall have power to enter, and shall enter, into an agreement or agreements with the Republic providing for payment by the Corporation to the Republic of a fee or fees calculated as a percentage or percentages of its annual profits payable at such times and for such periods as may be provided in such agreements.

36 Corporations Act 1972 not to apply to the Corporation

The provisions of the *Corporations Act 1972* shall not apply to the Corporation except insofar as such provisions are expressly made applicable to the Corporation by this Act.

[subs (3) am Act 8 of 2011 s 12 and Sch 1[109], [110], opn 15 Apr 2011]

37 Corporation deemed not to be a moneylender

For the purposes of the *Moneylenders Acts 1900 to 1927* of England in their application to the Republic the Corporation shall be deemed not to be a moneylender and the provisions of those Acts in their application to the Republic shall not apply to the Corporation or to any transaction of the Corporation.

38 Certain provisions of applied statutes not to apply to the Corporation

The provisions of the *Prevention of Fraud (Investments) Act 1958* and the *Protection of Depositors Act 1963* of England in their application to the Republic, other than the provisions of Section 13 of the former Act and Section 1 of the latter, shall not apply to the Corporation, its officers, servants and agents as such or a person acting on its behalf.

SCHEDULE 1

[Section 4]

CHARTER OF THE NAURU TRUSTEE CORPORATION

[Sch 1 am Act 8 of 2011 s 12 and Sch 1[110], opn 15 Apr 2011]

1 Powers of the Corporation

The Nauru Trustee Corporation (hereinafter called “the Corporation”) shall have the following powers:

- (a) to carry on the business of trustee, executor, administrator, receiver, manager, guardian and agent in Nauru or elsewhere or in relation to transactions entered into in or with respect to property in or governed by the laws of Nauru or elsewhere;
- (b) to acquire and dispose of any property real or personal and any interests therein and to deal in the same;
- (c) to borrow and lend money;
- (d) to give or take guarantees or indemnities;
- (e) to enter into contracts or arrangements of whatsoever lawful kind or nature;
- (f) to employ servants and engage agents;
- (g) to employ, use or avail itself of the services of a person or corporation;
- (h) to give services of whatsoever lawful kind or nature incidental to the carrying on of its business;
- (i) to draw, accept, make, endorse, negotiate or become party to negotiable instruments of whatsoever lawful kind or nature;
- (j) to issue or give debentures or charges and to take the same;
- (k) to insure by insurances of whatsoever nature;
- (l) to apply for representation in the estate of any deceased person in Nauru or elsewhere and to act as such representative;
- (m) to establish, acquire or administer any retirement, superannuation or benefit fund or trust whether for the benefit of its own directors, servants or employees or otherwise;
- (n) to enter into partnership with a person or corporation in carrying out any of its powers or duties;
- (o) to hold shares, stock, debentures or other securities, in any corporation whether incorporated in Nauru or elsewhere and to acquire, dispose of or deal in the same; and
- (p) to do any other lawful act or thing which in the opinion of the directors may be incidental or conducive to, or expedient for, the carrying on of any aspect of the business of a corporate trustee.

2 Articles

- (1) The members may by unanimous resolution in writing signed by them or, with their authority, on their behalf or at a meeting attended by all of them by themselves or their authorised representatives adopt articles of association for the management and administration of the Corporation and its business and may, in like manner or in the manner provided in such articles, from time to time amend such articles or adopt new articles of association. Before adopting any articles or making any amendment thereto

the Corporation shall give seven days' written notice of the proposed articles, or amendment to the Minister and adopt only any article, or make only any amendment, of which notice has been given and of which it has not within the said time received written notice of disapproval from the Minister.

- (2) The Corporation shall have a secretary appointed by the members or in the manner provided in such articles and shall have a head office in Nauru which shall be open for at least two hours on each normal business day.
- (3) The Corporation shall file with the Registrar of Corporations particulars of the appointment of its secretary, of the situation of its head office in Nauru and of any change therein and a copy of its articles and any amendments from time to time made therein and such particulars and copies shall be open to inspection as if the Corporation were a trading corporation incorporated under the *Corporations Act 1972*.

3 Accounts

The Corporation shall keep proper accounts of all moneys coming into its hands as such and of all dealings by it with such moneys and with securities or shares in respect of the investment of such moneys. Such accounts shall be open to the inspection of a person beneficially or legally entitled to any moneys or investments held by the Corporation in respect of which such accounts are kept.

SCHEDULE 2

[Section 7]

NAMES OF THE CORPORATORS

Aiwo Holding Corporation

Yaren Holding Corporation

Boe Holding Corporation

Ibya Holding Corporation

SCHEDULE 3

[Section 28]

STATUTORY PURPOSE TRUSTS

Where property is held upon the statutory purpose trusts:

- (1) it shall be held upon trust to hold the property the subject of the trust and any income or accretions thereto to be applied for such purposes as the person transferring the property to the trustee or making the disposition thereof in favour of the trustee, such person hereinafter being called “the transferor”, may from time to time direct or upon the direction of such other person as the transferor may direct, such other person hereinafter being called “the nominee”;
- (2) the trustee shall be entitled but shall not be bound to invest the trust property by lending the same to any instrumentality of the Republic upon such terms as to interest and to date of repayment as it sees fit or by investing the same in any other investment for the time being declared by any written law or regulations made thereunder to be trustee investments or by investing the same in accordance with the directions of the transferor or the nominee;
- (3) the trust of the property shall, unless the transferor otherwise directs, cease and determine upon, and the property then comprising the same shall be paid in accordance with, the direction of the transferor or the nominee named by the transferor for that purpose;
- (4) any directions given by the transferor or the nominee may be given to take effect immediately or at a future date or upon a future event and may be made by or under a deed delivered to the trustee or by or under a will admitted to probate in Nauru or in respect of which letters of administration have been granted in Nauru.

