

NAURU FIBRE CABLE CORPORATION

Table of Contents

	<i>Page</i>
<i>Principal</i>	
Nauru Fibre Cable Corporation Act 2017	
Table of Provisions	931
Table of Amendments	933
Nauru Fibre Cable Corporation Act 2017	935

Nauru Fibre Cable Corporation Act 2017

TABLE OF PROVISIONS

Section

Title

PART 1 — PRELIMINARY

1	Short title
2	Commencement
3	Objectives
4	Definitions

PART 2 — NAURU FIBRE CABLE CORPORATION

DIVISION 1 — GENERAL MATTERS

5	Establishment of Corporation
6	Chief Executive Officer [<i>Repealed</i>]
7	Board of directors
8	Vacation of office [<i>Repealed</i>]
9	Remuneration of the Board [<i>Repealed</i>]
10	Disclosure of interest [<i>Repealed</i>]
11	Procedures of Board Meetings [<i>Repealed</i>]
12	Voting by ex officio members [<i>Repealed</i>]

DIVISION 2 — POWERS AND FUNCTIONS OF THE CORPORATION

13	Functions of the Corporation – internet
14	General functions of the Corporation
15	Outsourcing arrangements

DIVISION 3 — FINANCIAL MANAGEMENT

16	Funds of Corporation
17	Approval of budget estimates [<i>Repealed</i>]
18	Approval required for certain contracts and transactions
19	Account keeping [<i>Repealed</i>]
20	Audit of accounts [<i>Repealed</i>]

DIVISION 4 — REPORTING REQUIREMENTS

21	Annual report [<i>Repealed</i>]
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DIVISION 5 — ADMINISTRATIVE AND LEGAL MATTERS

22	Staff members
23	Power of entry

<i>Section</i>	<i>Title</i>
24	Delegation [<i>Repealed</i>]
25	Protection from liability

PART 3 — MISCELLANEOUS

26	Breach of confidentiality [<i>Repealed</i>]
27	Liability of Directors [<i>Repealed</i>]
28	Election candidates – resignation [<i>Repealed</i>]
29	Election candidates – Board of Directors [<i>Repealed</i>]
30	Public service employees – exempt [<i>Repealed</i>]
31	Regulations

Nauru Fibre Cable Corporation Act 2017

TABLE OF AMENDMENTS

The Nauru Fibre Cable Corporation Act 2017 No 8 was certified and commenced on 5 May 2017 (GN No 303/2017; Gaz 71/2017).

Amending Legislation	Certified	Date of Commencement
Public Enterprises Act 2019 No 11	11 June 2019	Sch 2 clause 4: 11 June 2019
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to establish the Nauru Fibre Cable Corporation and for related purposes.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title

This Act may be cited as the *Nauru Fibre Cable Corporation Act 2017*.

2 Commencement

This Act commences upon certification by the Speaker and came into effect on 5 May 2017.

3 Objectives

The objectives of this Act are to:

- (a) ensure efficient international internet services are provided by the Nauru Fibre Cable Corporation;
- (b) enable the Corporation to operate efficiently and independently while allowing for necessary oversight by the Cabinet to ensure the Corporation is financially viable and performs its functions fully and effectively to maximise the benefits to its customers; and
- (c) ensure the powers and functions of the Corporation are exercised and performed according to best practices and industry standards.

4 Definitions

In this Act:

‘auditor’

[def rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019]

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

[def subst Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019]

‘Chief Executive Officer’ means the person from time to time holding or occupying the office of Chief Executive Officer of the Corporation as appointed in accordance with the *Public Enterprises Act 2019*;

[def am Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019]

‘Corporation’ means the Nauru Fibre Cable Corporation established under Section 5;

‘customers’ means persons to whom the Corporation supplies a product or provides a service under an agreement between the person and the Corporation;

‘director’ means a member of the Board of directors;

‘estimates’ means the budget estimates referred to in Section 17;

‘fee’ means a fee determined under Section 16(1)(e);

‘Minister’ means the Minister appointed as the Responsible Minister for the Corporation under the *Public Enterprises Act 2019*;

[def subst Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019]

'prescribed' means prescribed by regulations;

'product' means internet services provided by the Corporation; and

'staff member' means a person engaged under Section 22.

PART 2 — NAURU FIBRE CABLE CORPORATION

DIVISION 1 — GENERAL MATTERS

5 Establishment of Corporation

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

6 Chief Executive Officer

[s 6 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Section 64 of the Public Enterprises Act 2019 applies.]

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 Sch 2 clause 4, opn 11 June 2019]

8 Vacation of office

[s 8 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Section 41 of the Public Enterprises Act 2019 applies.]

9 Remuneration of the Board

[s 9 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Section 46 of the Public Enterprises Act 2019 applies.]

10 Disclosure of interest

[s 10 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Section 53 of the Public Enterprises Act 2019 applies.]

11 Procedures of Board Meetings

[s 11 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Section 62 of the Public Enterprises Act 2019 applies.]

12 Voting by ex officio members

[s 12 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Part 6, Division 3 of the Public Enterprises Act 2019 applies]

DIVISION 2 — POWERS AND FUNCTIONS OF THE CORPORATION

13 Functions of the Corporation – internet

The functions of the Corporation in relation to the supply of international internet services for the Republic are to:

- (a) acquire, maintain, manage and provide telecommunication services;
- (b) represent the Republic as a member of the East Micronesia Cable consortium agreement;
- (c) manage the international internet capacity supply via the East Micronesian Cable to the Republic;
- (d) undertake, maintain, operate and repair any works, system, facilities, apparatus or equipment required for any function mentioned in paragraphs (a) and (c);
- (e) provide open access to the Nauru Cable Landing Station to duly licence telecommunications operators in the Republic and sell international internet capacity on a fair, non-discriminatory, transparent and equal price basis to duly licenced telecommunications operators in the Republic, despite normal volume discount; and
- (f) do anything that the Corporation determines to be conducive or incidental to the performance of its functions.

14 General functions of the Corporation

- (1) The Corporation has any other functions that are conferred on it by this Act or any other written law.
- (2) The Corporation may do anything:
 - (a) necessary or expedient for the performance of its functions; or
 - (b) specified in this Act or any other written law.

15 Outsourcing arrangements

The Corporation may, with the approval of Cabinet, make an arrangement with another person for the person to exercise a power or perform a function of the Corporation.

DIVISION 3 — FINANCIAL MANAGEMENT

16 Funds of Corporation

- (1) The funds of the Corporation consist of the following:
 - (a) funds appropriated for the Corporation from the Treasury Fund;
 - (b) funds received directly by the Corporation;
 - (c) income from investments by the Corporation;
 - (d) proceeds from the disposal of the Corporation's property;
 - (e) funds received by the Corporation in payment of fees for the supply of its services; and
 - (f) any other funds that become payable to the Corporation under any other written law.
- (2) The funds of the Corporation shall be paid into an account with a financial institution that has been approved by the Minister.

17 Approval of budget estimates

[s 17 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Part 5, Division 1 of the Public Enterprises Act 2019 applies.]

18 Approval required for certain contracts and transactions

The Corporation shall not do any of the following, or enter into a contract to do any of the following, except in accordance with the approval of the Minister:

- (a) borrow or otherwise raise funds;
- (b) lend funds;
- (c) invest funds; or
- (d) acquire or dispose of property or an interest in property.

[s 18 am Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019]

19 Account keeping

[s 19 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Part 7, Division 1 of the Public Enterprises Act 2019 applies.]

20 Audit of accounts

[s 20 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Part 7, Division 1 of the Public Enterprises Act 2019 applies.]

DIVISION 4 — REPORTING REQUIREMENTS

21 Annual report

[s 21 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Part 7, Division 2 of the Public Enterprises Act 2019 applies.]

DIVISION 5 — ADMINISTRATIVE AND LEGAL MATTERS

22 Staff members

The Corporation may employ persons to assist the Corporation in the exercise of its powers and performance of its functions on terms and conditions determined by the Chief Executive Officer.

23 Power of entry

- (1) An authorised staff member may enter land or a building and remain there for as long as necessary to exercise a power or perform a function of the Corporation.
- (2) The staff member may enter land or a building:
 - (a) during business hours; and
 - (b) except with the consent of the occupier of the land or building, at least 24 hours after written notice of the entry has been given to the occupier by the Chief Executive Officer.
- (3) Where the entry is necessary to take action in an emergency to prevent injury to a person or damage to property, the staff member may enter the land or building:
 - (a) at any time; and
 - (b) without the consent of the occupier or giving notice to the occupier.
- (4) No person shall obstruct a staff member exercising a power of entry, or performing a power or function of the Corporation, under this Section.

- (5) A person who contravenes subsection (4), commits an offence and is liable on conviction to a fine not exceeding \$10,000 and to a term of imprisonment not exceeding 12 months.

24 Delegation

[s 24 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Section 65 of the Public Enterprises Act 2019 applies.]

25 Protection from liability

- (1) This Section applies to a person who is or has been a staff member.
- (2) The person is not civilly or criminally liable for an act done or omitted to be done by the:
 - (a) person in good faith in the exercise of a power or the performance or purported performance of a function, under this Act; or
 - (b) Corporation in the exercise or purported exercise of a power or the performance or purported performance of a function, under this Act.
- (3) Subsection (2) does not affect any liability the Corporation would have for such act or omission.

PART 3 — MISCELLANEOUS

26 Breach of confidentiality

[s 26 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Section 52 of the Public Enterprises Act 2019 applies.]

27 Liability of Directors

[s 27 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Part 6, Division 2 of the Public Enterprises Act 2019 applies.]

28 Election candidates – resignation

[s 28 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Section 43 of the Public Enterprises Act 2019 applies.]

29 Election candidates – Board of Directors

[s 29 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019. Section 43 of the Public Enterprises Act 2019 applies.]

30 Public service employees – exempt

[s 30 rep Act 11 of 2019 Sch 2 clause 4, opn 11 June 2019]

31 Regulations

The Cabinet may make regulations prescribing all matters necessary or convenient to be prescribed for giving effect to this Act.

