



REPUBLIC OF NAURU

PUBLIC FINANCE (CONTROL AND MANAGEMENT) (AMENDMENT) ACT 2019

No. 9 of 2019

An Act to amend the *Public Finance (Control and Management) Act 1997*.

Certified: 11th June 2019

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Public Finance (Control and Management) (Amendment) Act 2019*.

2 Commencement

This Act commences on 1 July 2019.

3 Amendment of the Public Finance (Control and Management) Act 1997

The *Public Finance (Control and Management) Act 1997* is amended by the provisions of this Act.

4 Amendment of section 15B

Section 15B is amended by deleting and replacing '**procurement agent**' as follows:

'procurement agent' means:

- (a) an independent procurement agent which shall be independent of the Government of Nauru; or
- (b) an instrumentality of the Republic or State owned enterprise, statutory or other Government corporations appointed by the Cabinet;

5 Amendment of section 15C

Section 15C is deleted and replaced as follows:

15C Procurement agent

- (1) The Republic may engage a procurement agent with the function of conducting procurement operations on behalf of public authorities as required or contemplated by this Act.
- (2) The independent procurement agent must be selected following a competitive tendering process conducted jointly by:
 - (a) the Chief Secretary;
 - (b) the Secretary for Finance; and
 - (c) one other person (who is not a public officer) nominated by Cabinet.

- (3) The Cabinet in appointing a Government instrumentality or a State owned enterprise, statutory or other Government corporation as a procurement agent:
 - (a) may prescribe terms and conditions to satisfy the objective of procurement under section 15A of this Act prior to appointment as procurement agent;
 - (b) may appoint such Government instrumentality or State owned enterprise, statutory or other Government corporation for a period of 5 years or such other period the Cabinet may deem fit.
- (4) A procurement agent appointed under subsection (1) shall be engaged for a period not exceeding 5 years.
- (5) An independent procurement agent appointed under subsection (2) may be engaged for a further period not exceeding 5 years without a further competitive tendering process, where the Secretary for Finance is satisfied that the agent has met the performance criteria specified in the agent's contract for the previous period of engagement and Cabinet approves the engagement of the agent.
- (6) An independent procurement agent shall not be engaged for a period in excess of a cumulative period of 10 years unless such procurement agent has been selected at subsequent competitive tendering processes.
- (7) The procurement agent's terms and conditions of engagement:
 - (a) must require procurement operations to be conducted on behalf of public authorities in accordance with this Act;
 - (b) must set out standard terms under which the agent will conduct procurement operations on behalf of a public authority at the request of the public authority;
 - (c) must require the agent to provide reports to Cabinet and to each public authority relating to the conduct of procurement operations;
 - (d) must require at least 1 representative of the agent to be a resident of Nauru at all times during the term of the contract;
 - (e) must contain provisions designed to enhance the skills of the employees of public authorities in

relation to procurement operations, including through training to be provided by the agent; and

(f) may contain any other provisions.