



REPUBLIC OF NAURU

TRUSTS (AMENDMENT) ACT 2018

No. 34 of 2018

An Act to amend the Trusts Act 2018

Certified: 18th December 2018

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Trusts (Amendment) Act 2018*.

2 Commencement

This Act commences on certification by the Speaker.

3 Amendment of Trusts Act 2018

The Trusts Act 2018 is amended by the provisions of this Act.

4 Amendment of section 4

Section 4 is amended by:

(a) deleting:

‘beneficiary or beneficial owner’ in relation to an express trust, means a natural person exercising ultimate effective control over the trust or having the ultimate beneficial interest’; and

(b) inserting in alphabetical order:

‘beneficiary’ in relation to a registrable trust means a natural or legal person who is entitled to the benefit of the trust;

‘beneficial owner’ in relation to a registrable trust means a natural person including but not limited to a settlor, trustee, the protector (if any), the beneficiary:

(a) who has ultimate control, directly or indirectly, over the trust;

(b) who ultimately own, directly or indirectly, the trust; or

(c) on whose behalf a trust is created;

5 Insert a new section 4A

4A Application of the Custom and Adopted Laws Act 1971

Subject to this Act, the common law, statutes, rules, regulations and orders in England, adopted by sections 4 and 5 of the Custom and Adopted Laws Act 1971, shall apply to trusts under this Act.

6 Amendment of section 5

Section 5 is repealed and replaced as follows:

‘5 Registrable trust

A registrable trust is:

- (a) an express trust within the meaning of section 9;
- (b) a charitable trust within the meaning of section 10; or
- (c) a discretionary trust;
- (d) located in the Republic under section 6; and
- (e) not excluded under section 7.

7 Amendment of section 16

Section 16 is amended by deleting the words '*and Border Control*' where they appear.

8 Amendment of section 18

Section 18 is amended by inserting a new subsection (3) as follows:

'(3) A trustee who fails to comply with subsection (2) commits an offence and upon conviction is liable to a fine not exceeding \$5,000.'

9 Amendment of section 21

Section 21 is amended by:

(a) repealing subsection (1) and replacing it as follows:

'(1) The Registrar shall record an entry in the Register:

- (a) the information provided by the trustee for the registration of a registrable trust;
- (b) a change or variation:
 - (i) by the trustees at any time; or
 - (ii) in the annual return;
- (c) in accordance with a change of information notified to the Registrar in the annual return; or
- (d) otherwise if the Registrar is satisfied after proper inquiry that the information contained in the entry is incorrect.

and

(b) deleting '(b)' where it appears in the first instance in subsection (2) and substituting it with '(c)'.

10 Amendment of section 23

Section 23 is repealed and replaced as follows:

- ‘(1) The Registrar may remove a registered trust from the register if the Registrar is satisfied after proper inquiry that the trust:
- (a) has ceased to be a registrable trust; or
 - (b) is a dormant trust.
- (2) The Registrar shall give notice of the removal of a registered trust to the person who filed the most recent annual return and if the person fails to respond, the Registrar may remove the registered trust under subsection (1).
- (3) For the purposes of this section, a registered trust is deemed to be dormant where it fails to file annual returns for 3 consecutive years or the annual returns filed shows the trust not undertaking any activity.’

11 Amendment of section 32

Section 32 is amended by deleting the words ‘*and Border Control*’ where they appear in the first instance.