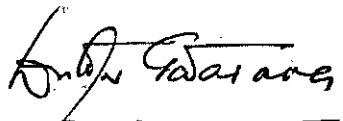


I HEREBY CERTIFY that the attached document is a fair print of an Act entitled the Banking (Amendment) Act, 1977 that has been made by Parliament and is now presented to the Speaker for his Certificate under Article 47 of the Constitution.

Clerk of Parliament
6th April, 1977

Pursuant to Article 35 (3) and 47 of the Constitution I, DAVID PETER GADARAOA, Speaker of Parliament, HEREBY CERTIFY that the Banking (Amendment) Act, 1977 a copy of which is attached has been passed by Parliament.


Speaker
6th April, 1977

REPUBLIC OF NAURU

BANKING (AMENDMENT) ACT 1977

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. The principal Act
3. Amendment of section 5 of the principal Act
4. Repeal and replacement of section 11 of the principal Act

REPUBLIC OF NAURU
(No. 5 of 1977)



AN ACT

To amend the Banking Act 1975.

(Certified : 6th April, 1977)

Enacted by the Parliament of Nauru as follows :

SHORT TITLE

1. This Act may be cited as the Banking (Amendment) Act 1977.

THE PRINCIPAL ACT

2. In this Act "the principal Act" means the Banking Act 1975.

AMENDMENT OF SECTION 5 OF THE PRINCIPAL ACT

3. Section 5 of the principal Act is amended by deleting from subsection (2) thereof all the words from and including the words "but not more than one of these activities" and by inserting in lieu thereof the words and punctuation "or any two or all three of these businesses."

REPEAL AND REPLACEMENT OF SECTION 11 OF THE PRINCIPAL ACT

4. Section 11 of the principal Act is repealed and replaced by the following new section 11 -

"RESTRICTION ON BUSINESS OF FINANCIAL INSTITUTIONS

11. A financial institution shall not lend money or any other thing to, or borrow or accept on deposit money or any other thing from, any natural person who is habitually resident in Nauru."

BANKING (AMENDMENT) BILL 1977

OBJECTS AND REASONS

Section 5 of the Banking Act 1975 authorises the issue of licences for the carrying-on of three types of "banking business", the business of a commercial and trading bank, the business of a savings bank and the business of a financial institution, but requires that separate licences be issued for each type of business. As no bank other than the Bank of Nauru will be permitted to carry on in Nauru the business of a commercial and trading bank or the business of a savings bank after the Bank of New South Wales has ceased business here, and as the Bank of Nauru is wholly owned by the Republic, there is no longer any useful purpose served by limiting individual licences to one class of banking business. This Bill, therefore, amends the Act so as to authorise the inclusion of all three classes or any two of them in one licence.

Section 11 of the Act prohibits a corporation or foreign corporation licensed under the Act as a financial institution from lending to or borrowing from natural persons habitually resident in Nauru or corporations incorporated in Nauru, other than corporations "related" to it. That provision was inserted primarily to protect Nauruans and other persons resident in Nauru but also to safeguard the interests of the commercial and trading bank (which it was envisaged would, in due course, be owned wholly or substantially by the Republic.) In practice the restriction on a financial institution lending to and borrowing from corporations unrelated to it is acting as a deterrent to persons overseas interested in incorporating in Nauru corporations to carry on business as financial institutions. In order to avoid liability for taxation elsewhere such a corporation, although doing all its business negotiations outside Nauru, has formally to transact its business in Nauru. Some of its customers are likely to incorporate corporations in Nauru to avoid liability for taxation elsewhere arising out of their transactions with the financial institution. Those transactions will, however, be prevented by section 11 if it remains as it is.

It is, therefore, considered to be in the best interests of the Republic to remove the prohibition on

financial institutions lending to and borrowing from corporations and to prohibit only lending to and borrowing from natural persons habitually resident in Nauru. For that purpose this Bill repeals the present section 11 of the Act and replaces it with a new section 11.

or a duplicate thereof is affixed shall be signed by two Directors or by a Director and another person appointed by the Board for that purpose.

(4) In this section the expression "Director" includes acting Director.

THE BANK'S ACCOUNTS

28. The Board shall cause to be kept such books of account and other records as are required to be kept by a corporation incorporated under the provisions of the Corporation Act 1972 and such other books of account and records as are necessary to show all the Bank's transactions, and those books of account and records shall at all times be open to the inspection of Directors and acting Directors.

(2) As soon as reasonably practicable within the period of sixty days next following the end of each financial year, the Bank shall submit to the auditor appointed under section 29 its annual accounts for that financial year together with a copy of the recommendation as to a dividend which it is making under subsection (2) of section 23 and a copy of the report made to the Minister by the Board under section 31 in respect of that financial year, and shall send to the Minister a copy of the annual accounts.

(3) The annual accounts shall bear a declaration by the Chairman verifying that they are, to the best of his knowledge and belief, complete and correct.

(4) The financial year of the Bank shall end on the thirtieth day of June in each year.

AUDIT OF THE BANK'S ACCOUNTS

29. (1) The Board shall, forthwith upon the commencement of this Act, appoint in writing an auditor who shall audit the annual accounts and the books of account, records, papers, securities and transactions of the Bank and report in writing to the Board and to the Minister thereon within thirty days after his appointment and thereafter each year within thirty days after the submission to him of the annual accounts and at such other times as he thinks fit or the Minister requires: Provided that no person shall be appointed to be an auditor unless either he is, or is acting as, the Director of Audit of the Republic or he is a registered corporation auditor.

(2) The person appointed by the Board under the preceding subsection, and any person subsequently appointed under this subsection, to be the auditor of the Bank shall cease to be the auditor of the Bank if -