

NAURU AIR CORPORATION

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Nauru Air Corporation Act 1995

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Nauru Air Corporation Act 1995

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The Nauru Air Corporation Act 1995 No 9 was certified on 30 December 1995 and commenced on 1 July 1996 (GN No 224/1996; Gaz 33/1996).

Amending Legislation	Certified	Date of Commencement
Nauru Air Corporation (Amendment) Act 2006 No 6	11 August 2006	11 August 2006
Nauru Air Corporation (Amendment) Act 2007 No 3	16 April 2007	16 April 2007
Nauru Air Corporation (Amendment) Act 2016 No 5	29 January 2016	29 January 2016
Nauru Air Corporation (Amendment) Act 2018 No 6	6 March 2018	6 March 2018
Public Enterprises Act 2019 No 11	11 June 2019	Sch 2 clause 3: 11 June 2019
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to establish the Nauru Air Corporation, to make provision for the air services of the Republic and for related purposes.

Be it enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title

This Act may be cited as the *Nauru Air Corporation Act 1995*.

2 Commencement

This Act came into effect on 1 July 1996.

3 Parts

[s 3 rep Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

4 Definitions

In this Act:

‘Acting Chief Executive Officer’ means the person appointed under Section 23A;

[def am Act 5 of 2016 s 4, opn 29 Jan 2016]

‘Annual accounts’ means the financial statements as required by the *Public Enterprises Act 2019* of the Corporation for a financial year;

[def am Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

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

[def subst Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

‘Chairman’

[def rep Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

‘Chief Executive Officer’ means the chief executive officer appointed under the *Public Enterprises Act 2019*;

[def subst Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

‘Chief Financial Officer’ means the financial controller appointed by the Board under Section 25 as the Chief Financial Officer of the Corporation;

‘Corporation’ means the Nauru Air Corporation;

‘Financial year’ means the period of 12 months from the 1st day of July in one year to the 30th day of June of the next following year, both days included;

‘Member’

[def rep Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

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

[def subst Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

'net profits' means dividends recommended by the Board and accepted by Cabinet after the application of the funds of the Corporation in fulfilment of Section 32 (a), (b), (c) and (d);

'person' includes a body corporate or politic as well as an individual; and

'secretary' means the secretary of the Corporation appointed under Section 24.

'Vice-Chairman'

[def rep Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

PART 2 — THE NAURU AIR CORPORATION

DIVISION 1 — ESTABLISHMENT OF THE CORPORATION AND THE BOARD

5 Establishment of the Corporation

- (1) There shall be a Corporation to be known as the Nauru Air Corporation.
- (2) The Corporation:
 - (a) is a body corporate;
 - (b) shall have a common seal;
 - (c) is capable of acquiring, holding and disposing of both real and personal property; and
 - (d) may sue or be sued in its corporate name.
- (3) All courts, Judges, and persons acting judicially shall take judicial notice of the seal of the Corporation affixed to a document and shall presume that it was duly affixed.

6 Limitation on liability

As a result of the operation of air services conducted by the Corporation, where personal injury or death has occurred to a passenger, the liability of the Corporation shall be limited in terms of the provisions applicable to a carrier under the *Civil Aviation (Carriers' Liability) Act 1995*.

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 s 88 and Sch 2 clause 3, opn 11 June 2019]

8 Deputy member

[s 8 rep Act 11 of 2019 s 88 and Sch 2 clause 3(g), opn 11 June 2019. Part 6 Div 3 of the Public Enterprises Act 2019 applies.]

9 Chairman and Vice-Chairman

[s 9 rep Act 11 of 2019 s 88 and Sch 2 clause 3(g), opn 11 June 2019. Sections 39 and 61 of the Public Enterprises Act 2019 apply.]

10 Leave of absence

[s 10 rep Act 11 of 2019 s 88 and Sch 2 clause 3(g), opn 11 June 2019. Part 6 Div 3 of the Public Enterprises Act 2019 applies.]

11 Appointment of members

[s 11 rep Act 11 of 2019 s 88 and Sch 2 clause 3(g), opn 11 June 2019. Part 6 Div 1 of the Public Enterprises Act 2019 applies.]

12 Vacation of office

[s 12 rep Act 11 of 2019 s 88 and Sch 2 clause 3(g), opn 11 June 2019. Part 6 Div 1 of the Public Enterprises Act 2019 applies.]

13 Disclosure of interest

[s 13 rep Act 11 of 2019 s 88 and Sch 2 clause 3(g), opn 11 June 2019. Section 53 of the Public Enterprises Act 2019 applies.]

14 Meetings of the Board

[s 14 rep Act 11 of 2019 s 88 and Sch 2 clause 3(g), opn 11 June 2019. Part 6 Div 3 of the Public Enterprises Act 2019 applies.]

14A Delegate of ex officio member

[s 14A rep Act 11 of 2019 s 88 and Sch 2 clause 3(g), opn 11 June 2019. Part 6 Div 3 of the Public Enterprises Act 2019 applies.]

15 Voting

[s 15 rep Act 11 of 2019 s 88 and Sch 2 clause 3(g), opn 11 June 2019. Part 6 Div 3 of the Public Enterprises Act 2019 applies.]

15A Voting by ex officio members

[s 15A rep Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

16 Conduct of meetings

[s 16 rep Act 11 of 2019 s 88 and Sch 2 clause 3(g), opn 11 June 2019. Part 6 Div 3 of the Public Enterprises Act 2019 applies.]

17 Validity of proceedings

[s 17 rep Act 11 of 2019 s 88 and Sch 2 clause 3(g), opn 11 June 2019. Part 6 Div 3 of the Public Enterprises Act 2019 applies.]

18 Place of meetings

[s 18 rep Act 11 of 2019 s 88 and Sch 2 clause 3(g), opn 11 June 2019. Part 6 Div 3 of the Public Enterprises Act 2019 applies.]

19 Head Office

- (1) The Head Office of the Corporation shall be in the Republic.
- (2) The Corporation shall establish other offices at such places as the Board may, from time to time, determine.

19A Election candidates — resignation

Any employee, including the Chief Executive Officer of the Corporation who intends to submit a nomination as a candidate in the country's general elections, shall at least 3 months prior to submitting their nomination, resign from his or her employment in the Corporation.

[s 19A insrt Act 5 of 2016 s 12, opn 29 Jan 2016]

19B Election candidates — Board of Directors

Any Board Director, including the Chairman and Vice-Chairman, who intends

to submit a nomination as a candidate in the country's general elections, shall at least 3 months prior to submitting their nomination, resign from their position as a member of the Board.

[s 19B insrt Act 5 of 2016 s 13, opn 29 Jan 2016]

19C Public service employees — exempt

Despite Section 19B, public service employees who are members of the Board are subject only to the provisions in the *Public Service Act 2016*.

[s 19C insrt Act 5 of 2016 s 14, opn 29 Jan 2016]

DIVISION 2 — OBJECTIVES AND POWERS OF THE CORPORATION

20 Objectives of the Corporation

The objectives of the Corporation are to:

- (a) maintain and operate air services to and from the Republic and other services in safe, efficient and profitable manner through the national airline known as “Air Nauru”;
- (b) establish, maintain and operate such activities as are, or may be ancillary to the maintenance and operation of air services to and from the Republic and other services; and
- (c) establish, maintain and operate such other activities, including those recommended by the Board to the Cabinet and approved by the Cabinet.

21 Powers of the Corporation

- (1) Subject to this Act, the Corporation has power to do all things necessary, convenient or appropriate to be done, whether in the Republic or elsewhere, for the fulfilment of its objectives.
- (2) Without limiting the generality of subsection (1), the powers of the Corporation include the power to:
 - (a) enter into contracts connected with the operation of air services of the Corporation;
 - (b) enter into contracts for any ancillary services performed by the Corporation or for the purchasing or sale of any products relating to air services of the Corporation or otherwise;
 - (c) purchase, lease, hire or otherwise acquire aircraft, aircraft engines, land, buildings, plant, machinery and any other capital assets subject to limitations expressed in Regulations to this Act;
 - (d) sell or dispose of any capital assets of the Corporation subject to limitations expressed in Regulations to this Act;
 - (e) appoint agents for the purpose of any business conducted by the Corporation and to terminate any such appointment;
 - (f) act as agent for other persons;
 - (g) compound, release or settle claims by and against the Corporation whether in contract or tort; and
 - (h) do anything incidental to any of its objectives.

22 Delegation of powers

[s 22 rep Act 11 of 2019 s 88 and Sch 2 clause 3(h), opn 11 June 2019. Section 65 of the Public Enterprises Act 2019 applies.]

DIVISION 3 — STAFF

23 Chief Executive Officer

[s 23 rep Act 11 of 2019 s 88 and Sch 2 clause 3(h), opn 11 June 2019. Section 64 of the Public Enterprises Act 2019 applies.]

23A Appointment of Acting Chief Executive Officer

- (1) The Cabinet may appoint a person to act in the position of Chief Executive Officer when the Chief Executive Officer is away from office or is unable to perform his or her duties by reason of illness.
- (2) The Acting Chief Executive Officer appointed under subsection (1), is responsible for the day to day management and control of the Corporation and for the implementation of Board policies until the return of the substantive Chief Executive Officer.
- (3) The terms and conditions of an appointment made under subsection (1), shall be determined by Cabinet at the time of appointment.
- (4) When an Acting Chief Executive Officer is appointed under this Section, all references in the Act to the Chief Executive Officer is a reference to the Acting Chief Executive Officer until the appointment expires or the substantive Chief Executive Officer has returned to office.

[s 23A insrt Act 5 of 2016 s 16, opn 29 Jan 2016]

24 Secretary

- (1) The Board shall appoint a person to be secretary of the Corporation.
- (2) The secretary of the Corporation is an officer of the Corporation.
- (3) The secretary of the Corporation is primarily responsible for:
 - (a) the preparation of agendas and papers of meetings of the Board;
 - (b) the maintenance of Board Minutes;
 - (c) matters relating to the Board; and
 - (d) records and official papers of the Board.

[subs (3) am Act 3 of 2007 s 3, opn 16 Apr 2007]

25 Chief Financial Officer

- (1) The Chief Executive Officer after consultation with the Board shall appoint a person to be the Chief Financial Officer of the Corporation.
- (2) The Chief Financial Officer shall not engage, or continue to engage, in any other paid remuneration or office except with the approval of the Board.

[subs (1) am Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

26 Officers and staff

- (1) For the conduct of its business, the Corporation shall establish and maintain an appropriate management structure.
- (2) The Corporation may:
 - (a) appoint, engage or employ;
 - (b) apply such terms and conditions of service in respect of; and
 - (c) dismiss or suspend,

such officers or staff as the Chief Executive Officer considers necessary or appropriate.

[subs (2) am Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

DIVISION 4 — FINANCE OF THE CORPORATION

27 Capital of the Corporation

The capital of the Corporation shall be such amount as the Cabinet from time to time determines.

28 Subscription of capital

- (1) The initial capital of the Corporation shall be subscribed by the Republic.
- (2) Where the Cabinet approves subscription of capital by persons other than the Republic, the Cabinet shall determine the amount of capital that may be subscribed and the terms and conditions under which it is to be subscribed.

29 Borrowings by the Corporation

[s 29 rep Act 11 of 2019 s 88 and Sch 2 clause 3(k), opn 11 June 2019. Part 3 of the Public Enterprises Act 2019 applies.]

30 Investment and guarantee

[s 30 rep Act 11 of 2019 s 88 and Sch 2 clause 3(k), opn 11 June 2019. Part 3 of the Public Enterprises Act 2019 applies.]

31 Bank accounts

- (1) The Corporation shall open and maintain an account or accounts with a bank or banks determined by the Board.
- (2) The Corporation shall deposit all moneys received by it into a bank account referred to in this Section.
- (3) All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Corporation shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Board determines by resolution from time to time.

32 Application of funds

The funds of the Corporation shall be applied as follows:

- (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Corporation;
- (aa) in payment of such fees, charges or levies as the Corporation may be required by regulations to pay into the Treasury Fund;
- (b) in payment of the remuneration and allowances of members of the Board;
- (c) in payment of principal and interest on borrowings of the Corporation;
- (d) in repayment of the capital of the Corporation;
- (e) in the creation of such reserves as may be determined by the Board and approved by the Cabinet; and

(f) in payment to the shareholders of dividends that may be declared from the accumulated net profits of the Corporation as recommended by the Board and approved by the Cabinet.

[s 32 am Act 6 of 2006 s 2, opn 11 Aug 2006]

33 Books of account

[s 33 rep Act 11 of 2019 s 88 and Sch 2 clause 3(k), opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

DIVISION 5 — BUDGET, REPORTS AND AUDIT

34 Budget

[s 34 rep Act 11 of 2019 s 88 and Sch 2 clause 3(k), opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

35 Monthly reports

[s 35 rep Act 11 of 2019 s 88 and Sch 2 clause 3(k), opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

36 Further information

[s 36 rep Act 11 of 2019 s 88 and Sch 2 clause 3(k), opn 11 June 2019. Part 8 Div 1 of the Public Enterprises Act 2019 applies.]

37 Audit

[s 37 rep Act 11 of 2019 s 88 and Sch 2 clause 3(k), opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

38 Annual report

[s 38 rep Act 11 of 2019 s 88 and Sch 2 clause 3(k), opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

39 Reports to Parliament

[s 39 rep Act 11 of 2019 s 88 and Sch 2 clause 3(k), opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

PART 3 — MISCELLANEOUS

40 Transitional exercise of powers and functions of Board

[s 40 omitted by the Law Revision Commission under powers authorised by Act 10 of 2019]

41 Recognition of accrued rights in transitional employment provisions

Transitional employment provisions relating to staff previously employed in the public service of Nauru who are offered appointment by the Corporation will be determined by the Corporation in association with the Public Service Commissioner on the basis that any accrued rights will be given full recognition.

42 Saving of contracts

The Corporation is the successor party in any contract where previously the Republic of Nauru when carrying on business as Air Nauru was the party.

43 Assets

All properties and assets which, immediately before the commencement of this Act, were vested in the Republic when carrying on business as 'Air Nauru', shall hereafter vest in the Corporation and the Corporation shall be liable to pay for the said properties and assets at their proper value to the Republic.

44 Assignment of contract

Where the Republic has assigned to the Corporation the benefit of the contract for the sale of services, the Republic shall pay any proceeds received by it under that contract following the coming into operation of this Act less any expenses incurred by the Republic to the Corporation and the Treasury Fund is hereby charged.

45 Regulations

The Cabinet may make regulations not inconsistent with this Act prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, prescribing penalties not exceeding \$1,000 or imprisonment for a period not exceeding 3 months, or both, for offences against the regulations.

46 Regulations may impose fees or levies

The Cabinet may make regulations prescribing fees or levies payable by the Corporation which fees or levies may be recovered from passengers by means of additional charges on tickets sold or by an increase in the price of tickets as the Corporation may see fit.

[s 46 insrt Act 6 of 2006 s 3, opn 11 Aug 2006; am Act 8 of 2011 s 9, opn 15 Apr 2011]

SCHEDULE 1

[Sch 1 rep Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

SCHEDULE 2

[Sch 2 rep Act 11 of 2019 s 88 and Sch 2 clause 3, opn 11 June 2019]

Our Airline (Departure Tax) Regulations 2008

TABLE OF PROVISIONS

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Our Airline (Departure Tax) Regulations 2008

TABLE OF AMENDMENTS

The Our Airline (Departure Tax) Regulations 2008 were notified on 14 July 2008 and commenced on 1 July 2008 (reg 1(2)).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

IN EXERCISE of the powers conferred upon it by Section 42 of the *Nauru Air Corporation Act 1995*, the Cabinet makes the following Regulations:

1 Citation and commencement

- (1) These Regulations may be cited as the *Our Airline (Departure Tax) Regulations 2008*.
- (2) These Regulations come into effect from 1 July 2008.

2 Interpretation

In these Regulations:

'Act' means the *Nauru Air Corporation Act 1995*;

'departure tax' means the tax that individuals are required to pay when departing the Republic;

'Our Airline' is the name of the commercial airline operations of the Corporation at the time of these Regulations and from time to time whether or not the name changes; and

'the Corporation' means Nauru Air Corporation.

3 Departure tax collection

- (1) The Corporation may collect the departure tax from a passenger by the addition of the departure tax as a separate charge added to the price of a ticket.
- (2) The Corporation shall identify the departure tax as a separate item on the ticket.
- (3) The Corporation shall collect this departure tax for all tickets involving departure from the Republic issued on or after 1 July 2008.
- (4) This Regulation does not affect the exemptions allocated by law to certain individuals from this departure tax.

4 Accounting for departure tax

- (1) The Corporation shall within 4 weeks of the end of each month forward to the Secretary for Finance a statement showing the:
 - (a) total number of passengers departing the Republic in the previous month;
 - (b) number of passengers departing the Republic by whom the departure tax was payable; and
 - (c) total departure tax collected from all passengers departing the Republic by whom the departure tax was payable.
- (2) The statement shall be accompanied by payment or evidence of payment to the Treasury Fund of the departure tax in respect of those passengers.
- (3) The statement under subregulation (2) shall reconcile any passengers who depart the Republic in respect of whom the departure tax has already been collected.

Nauru Air Corporation (Passenger Levy) Regulations 2011

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Title</i>
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6	Cabinet may grant exemption
7	Levy recoverable as debt to Republic
8	Repeal and validation [<i>Repealed</i>]
9	Savings and transition [<i>Repealed</i>]

Nauru Air Corporation (Passenger Levy) Regulations 2011

TABLE OF AMENDMENTS

The Nauru Air Corporation (Passenger Levy) Regulations 2011 SL 5 were notified and commenced on 4 July 2011 (reg 2).

Amending Legislation	Notified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

The Cabinet makes the following Regulations under Section 46 of the *Nauru Air Corporation Act 1995*:

1 Citation

These Regulations may be cited as the *Nauru Air Corporation (Passenger Levy) Regulations 2011*.

2 Commencement

These Regulations commence with effect from 4 July 2011.

3 Definitions

In these Regulations:

‘journey’ means a journey by air;

‘levy’ means the levy mentioned in Regulation 4(1);

‘non-scheduled international flight’ means an international flight that is not operated as part of a scheduled international air service;

‘scheduled international air service’ means a series of flights performed:

- (a) by aircraft for the transport of passengers, cargo or mail on a particular route; and
- (b) on such a regular or frequent basis that the flights constitute a systematic service, whether or not they are performed under a published timetable and open to use by a person;

‘Secretary’ means the head of the department responsible for finance;

‘ticketed sector’ means an unbroken journey for which a ticket has been issued by the Corporation, but does not include a journey that consists only of travel on:

- (a) a service operated by the Corporation on behalf of another airline or person; or
- (b) a non-scheduled international flight that does not include Nauru as a point of origin or destination.

[Example for definition of ‘ticketed sector’

For example, a ticket issued for a return journey from the Republic of Nauru to Brisbane and back contains two ticketed sectors: the Republic of Nauru to Brisbane, and Brisbane to the Republic of Nauru.]

‘transit stop’, in relation to a journey, means a stop at which the passenger carried on the journey:

- (a) remains on board the aircraft; or
- (b) disembarks for a short period and remains in transit before reboarding the aircraft; and

‘unbroken journey’ means a journey that:

- (a) does not include any stops; or
- (b) includes only transit stops.

4 Passenger levy

- (1) The Corporation shall pay to the Republic a levy of \$25 in respect of each passenger carried on a ticketed sector.

- (2) The Corporation may recover the levy from the passenger by adding the levy to the price of a ticket.

5 Accounting for levy

The Corporation shall, within 4 weeks after the end of each calendar month, give the Secretary a statement showing:

- (a) the total number of passengers carried on ticketed sectors in the month;
- (b) of the passengers mentioned in paragraph (a), the number of passengers in respect of whom no levy is payable;
- (c) the total amount of levy payable by the Corporation in the month; and
- (d) evidence of payment to the Republic of the amount mentioned in paragraph (c).

6 Cabinet may grant exemption

The Cabinet may, by Gazette notice, grant the Corporation an exemption from the requirement to pay the levy in respect of a specified class of persons.

[Examples for Regulation 6:

For Regulation 6, examples of a specified class of persons are: full-time students; passengers travelling on a specified route, flight, class of ticket or fare; and passengers travelling at or during a specified period of time.]

7 Levy recoverable as debt to Republic

The levy may be recovered as a debt due to the Republic.

8 Repeal and validation

[reg 8 omitted by the Law Revision Commission under powers authorised by Act 10 of 2019]

9 Savings and transition

[reg 9 omitted by the Law Revision Commission under powers authorised by Act 10 of 2019]