

DEPUTY MINISTERS

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Deputy Ministers Act 2023

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Deputy Ministers Act 2023

TABLE OF AMENDMENTS

The Deputy Ministers Act 2023 No 11 was certified and commenced on 12 December 2023.

Amending Legislation	Certified	Date of Commencement
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An Act to repeal the *Deputy Ministers Act 2019*, to establish the office of Deputy Minister, to provide for the appointment of Deputy Ministers and the assignment of their functions and powers and for related purposes.

Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Deputy Ministers Act 2023*.

2 Commencement

This Act commences on the date it is certified by the Speaker.

3 Interpretation

In this Act:

'function' includes a duty and responsibility;

'instrument' includes:

- (a) an official document;
- (b) an agreement; and
- (c) a treaty or convention; and

'public enterprise' has the meaning given to it under Section 3 of the *Public Enterprises Act 2019*.

4 Office of Deputy Minister

- (1) The office of Deputy Minister is established.
- (2) The office of Deputy Minister is not an office of profit in the service of Nauru.

5 Appointment of Deputy Minister

- (1) The President may appoint a member of the Parliament to be a Deputy Minister.
- (2) An appointment made under subsection (1) shall be notified in the Gazette.
- (3) For the avoidance of doubt, the President, the Speaker and a Minister are not qualified to be appointed as a Deputy Minister.

6 Oath or affirmation of office

A Deputy Minister shall, upon being appointed under Section 5, subscribe to the oath or affirmation of office as set out in Schedule 1.

7 Assignment of functions and powers to Deputy Minister

- (1) The President may assign such functions and powers to a Deputy Minister, in the form as set out in Schedule 2, to assist a Minister in the administration of any business of the Government that has been assigned to the Minister.

- (2) The functions and powers assigned to a Deputy Minister under subsection (1) shall be notified in the Gazette.

8 Functions and powers of Deputy Minister

- (1) A Deputy Minister, in performing any functions or exercising any powers under Section 7, shall:
- (a) make recommendations to the Minister responsible for the portfolio for any efficiency or enhancement in the delivery of any services or administration of any business of the Government that has been assigned to the Minister in relation to the portfolio;
 - (b) upon the direction or approval of the Minister responsible for the portfolio, prepare and sign Cabinet submissions for Cabinet's consideration;
 - (c) upon the direction or approval of the Minister responsible for the portfolio, deliver ministerial statements in the Parliament in relation to the portfolio;
 - (d) upon the direction or approval of the Minister responsible for the portfolio, answer any questions raised in the Parliament in relation to the portfolio;
 - (e) attend official meetings, whether locally or abroad, on behalf of, or together with, the Minister responsible for the portfolio;
 - (f) attend official ceremonies and events, whether locally or abroad, on behalf of, or together with, the Minister responsible for the portfolio;
 - (g) execute instruments in accordance with Section 14;
 - (h) give lawful directions to the Secretary responsible for the portfolio or any employee of the relevant department;
 - (i) subject to any written law governing an instrumentality of the Republic that falls within his or her assignment, give lawful directions to any member or director of the Board or any employee of the instrumentality; and
 - (j) subject to the *Public Enterprises Act 2019*, give lawful directions to any director or employee of a public enterprise that falls within his or her assignment.
- (2) A Deputy Minister shall have the power to do all things necessary or convenient to be done for the performance of his or her functions under this Act or any other written law.
- (3) In the performance of functions and the exercise of powers under this Section, a Deputy Minister shall have access to, or make use of, the resources and facilities ordinarily provided by the Republic to a department, an instrumentality of the Republic, a public enterprise or any publicly funded facility that falls within his or her assignment.
- (4) A public service employee shall comply with all lawful directions given by a Deputy Minister within his or her assignment.
- (5) A member, director and employee of an instrumentality of the Republic that falls within a Deputy Minister's assignment shall comply with all lawful directions given by the Deputy Minister within his or her assignment.
- (6) A director and employee of a public enterprise that falls within a Deputy Minister's assignment shall comply with all lawful directions given by the Deputy Minister within his or her assignment.

9 Minister not prohibited from performing function or exercising power

- (1) The Minister responsible for a portfolio shall not be prohibited from personally performing a function or exercising a power by reason of the fact that the function or power is assigned to a Deputy Minister.
- (2) A Minister, in consultation with the President, may amend or alter a decision by the Deputy Minister.

10 Accountability of Deputy Minister to Minister

A Deputy Minister shall be responsible and accountable to the Minister responsible for the portfolio for:

- (a) any decision that he or she makes;
- (b) any instrument that he or she executes;
- (c) any direction that he or she gives to any public service employee or any member, director or employee of any instrumentality of the Republic or public enterprise; and
- (d) his or her performance of any other function or exercise of any other power under Section 8.

11 Accountability of Deputy Minister to Parliament

A Deputy Minister shall be responsible and accountable to the Parliament in relation to:

- (a) any ministerial statement that he or she delivers in the Parliament; and
- (b) any answer, whether oral or written, that he or she provides in response to a question that is raised in the Parliament.

12 Attendance and participation in Cabinet meetings

- (1) The President may issue an invitation, in the form as set out in Schedule 3, to a Deputy Minister to attend and participate in Cabinet meetings.
- (2) The President may give specific direction, in the form as set out in Schedule 3, to a Deputy Minister to not attend or participate in any Cabinet meeting, in which case the Deputy Minister shall not attend or participate in any such Cabinet meeting.
- (3) The President may withdraw an invitation issued to a Deputy Minister under subsection (1) as he or she deems necessary by issuing a withdrawal in the form as set out in Schedule 4.
- (4) A Deputy Minister shall have no voting rights when attending or participating in any Cabinet meeting.
- (5) Where a Deputy Minister is invited to attend and participate in any Cabinet meeting, he or she shall comply with the requirements of Cabinet confidentiality in the same manner as a Minister.

13 Vacancy in office

- (1) A Deputy Minister ceases to hold office:
 - (a) upon the election of a President;
 - (b) upon resigning from office under his or her hand and by delivering his or her written resignation to the President;
 - (c) upon being removed from office by the President;

- (d) upon ceasing to be a member of the Parliament; or
 - (e) upon dissolution of the Parliament.
- (2) A vacancy in the office of Deputy Minister under subsection (1) shall be notified in the Gazette.

14 Execution of instruments

- (1) An instrument that is executed by a Deputy Minister shall be signed by the Deputy Minister as directed and approved in writing by the President or the Minister responsible for the portfolio.
- (2) A Deputy Minister shall not execute an instrument without the prior direction and written approval of the President or the Minister responsible for the portfolio.
- (3) An instrument executed contrary to this Section is deemed to be void.

15 Obligations of secrecy and confidentiality

A Deputy Minister shall maintain secrecy and confidentiality on all matters and information to his or her knowledge as obtained in the performance of his or her functions or the exercise of his or her powers.

16 Regulations

- (1) The Cabinet may make regulations to prescribe matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.
- (2) Without limiting subsection (1), the Cabinet may make regulations to amend any of the functions and powers of a Deputy Minister under this Act.

17 Repeal

The *Deputy Ministers Act 2019* is repealed.

18 Savings and transitions

- (1) Any act done or any decision made as Deputy Ministers under the repealed Act shall be deemed to have been done or made, and continued as if done or made as Deputy Ministers under this Act.
- (2) Any reference in any other written law to an Assistant Minister is deemed to be a reference to a Deputy Minister.
- (3) The oaths or affirmations of office subscribed by Deputy Ministers under the repealed Act shall be deemed to have been subscribed under this Act.

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SCHEDULE 1

[Section 6]

OATH AND AFFIRMATION OF OFFICE

OATH OF OFFICE OF DEPUTY MINISTER

I, *[insert name]*, swear by the Almighty God that I will faithfully carry out my duties as a Deputy Minister and that I will not improperly reveal any matters of which I have become aware by reason of my attendance in Cabinet and in the performance of the functions and exercise of the powers of my office. So help me God!

AFFIRMATION OF OFFICE OF DEPUTY MINISTER

I, *[insert name]*, hereby affirm that I will faithfully carry out my duties as a Deputy Minister and that I will not improperly reveal any matters of which I have become aware by reason of my attendance in Cabinet and in the performance of the functions and exercise of the powers of my office.

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SCHEDULE 2

[Section 7(1)]

ASSIGNMENT OF FUNCTIONS AND POWERS TO DEPUTY MINISTER

In exercise of the powers conferred on me under Section 7(1) of the *Deputy Ministers Act 2023*, I, HE Hon....., MP, hereby assign to you the following portfolio and government business and such functions and powers as shall be necessary to enable you to assist the responsible Minister in the administration of such portfolio and government business:

DEPUTY MINISTER	PORTFOLIO	GOVERNMENT BUSINESS
<i>[insert name]</i>	<i>[insert portfolio]</i>	<i>[insert specific business under portfolio]</i>
<u>Example:</u> Hon John Doe, MP	<u>Example:</u> Border Control	<u>Example:</u> Immigration Passports Quarantine

The above assignment takes effect on *[insert date]*.

GIVEN UNDER MY HAND THIS DAY OF 20 .

HE Hon....., MP

President of the Republic of Nauru

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SCHEDULE 3

[Section 12(1) and (2)]

INVITATION TO DEPUTY MINISTER TO ATTEND CABINET MEETINGS

To: Hon....., MP
Deputy Minister for

In exercise of the powers conferred on me under Section 12(1) and (2) of the *Deputy Ministers Act 2023*, I, HE Hon....., MP, hereby invite you to attend and participate in all Cabinet meetings, except for any meeting where I may advise you not to attend.

HE Hon....., MP
President of the Republic of Nauru
...../...../20.....

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SCHEDULE 4

[Section 12(3)]

**WITHDRAWAL OF INVITATION TO DEPUTY MINISTER TO ATTEND
CABINET MEETINGS**

To: Hon., MP
Deputy Minister for

In exercise of the powers conferred on me under Section 12(3) of the *Deputy Ministers Act 2023*, I, HE Hon....., MP, hereby withdraw the invitation issued to you on *[insert date]* to attend Cabinet meetings. You are not to attend any Cabinet meetings in the future with effect from the date of this Notice.

HE Hon....., MP
President of the Republic of Nauru
...../...../20.....

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