

NAURU FISHERIES AND MARINE RESOURCES AUTHORITY

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Nauru Fisheries and Marine Resources Authority Act 1997

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Nauru Fisheries and Marine Resources Authority Act 1997

TABLE OF AMENDMENTS

The Nauru Fisheries and Marine Resources Authority Act 1997 No 17 was certified on 13 June 1997 and commenced on 1 July 1997 (GN No 260/1997; Gaz 56/1997).

Amending Legislation	Certified	Date of Commencement
Nauru Fisheries and Marine Resources Authority (Amendment) Act 2004 No 18*	26 November 2004	26 November 2004
Nauru Fisheries and Marine Resources Authority (Amendment) Act 2016 No 9	29 January 2016	29 January 2016
Public Enterprises Act 2019 No 11	11 June 2019	11 June 2019
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

* The amendments from this instrument have been incorporated but have not been validated against the original source.

An Act to establish a Nauru Fisheries and Marine Resources Authority, to provide for its powers and functions and for related purposes.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title and commencement

This Act may be cited as the *Nauru Fisheries and Marine Resources Authority Act 1997* and came into effect on 1 July 1997.

2 Interpretation

In this Act:

‘Acting Chief Executive Officer’ means the person appointed under Section 14A of this Act;

[def insrt Act 9 of 2016 s 4, opn 29 Jan 2016]

‘Annual accounts’

[def rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

‘Authority’ means the Nauru Fisheries and Marine Resources Authority established by Section 3;

‘Board’ means the board of directors referred to in Section 6;

[def subst Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

‘Chairperson’

[def rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

‘Chief Executive Officer’ means the chief executive officer of the Authority appointed in accordance with the *Public Enterprises Act 2019*;

[def subst Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

‘Director’

[def rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

‘document’ includes a piece of information which is electronically stored, transmitted and reproduced;

‘fisheries’ means the living aquatic resources of the internal waters, the territorial sea, the exclusive economic zone and any other waters over which the Republic claims jurisdiction;

‘marine resources’ means the living and non-living resources and the environment of the sea;

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

[def insrt Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

‘officer’ means a person appointed as an officer in the service of the Authority, and includes the Chief Executive Officer; and

‘Vice-Chairperson’

[def rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

PART 2 — ESTABLISHMENT OF THE AUTHORITY

3 **The Nauru Fisheries and Marine Resources Authority**

- (1) The Nauru Fisheries and Marine Resources Authority is hereby established.
- (2) The Authority:
 - (a) is a body corporate with perpetual succession;
 - (b) shall have a common seal;
 - (c) is capable of acquiring, holding and disposing of 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 Authority affixed to a document, and shall presume that it was duly affixed.
- (4) The functions and powers of the Authority shall be performed and exercised on behalf of the Republic.

4 **Objectives of the Authority**

The objectives of the Authority are to:

- (a) manage, develop, conserve and protect the fisheries and marine resources of the Republic in such a way as to conserve and replenish them as a sustainable asset for future generations;
- (b) promote the sustainable utilisation of the fisheries and marine resources of the Republic to achieve economic growth, improved social standards, improved nutritional standards, human resource development, increased employment and a sound ecological balance;
- (c) pursue effective strategies for managing the fisheries and marine resources of the Republic so as to maintain the integrity of marine ecosystems, to preserve biodiversity, to avoid adverse impacts on the marine environment, and to minimise the risk of long-term or irreversible effects of resource extraction operations; and
- (d) enhance the administrative, legal, surveillance and enforcement capacities of the Republic for the management, development, conservation and protection of the fisheries and marine resources of the Republic, in accordance with any written law relating to fisheries or marine resources.

5 **Functions of the Authority**

The functions of the Authority are to:

- (a) carry out and give effect to any policy directions of the Minister and the Cabinet on the utilisation, management, development, conservation and protection of fisheries and marine resources;
- (b) make recommendations and give advice to the Minister on matters connected with its objectives;
- (c) administer and enforce this Act and any other written law relating to fisheries or marine resources, to the extent required or permitted by law, and any related policy approved by the Cabinet;
- (d) advise and make recommendations to the Minister on the operation of this Act and of any other written law which relates to its objectives, and on

- changes and amendments it considers necessary or desirable to be made to any written law in order to promote and further its objectives;
- (e) the greatest extent possible consistent with the performance of its functions under this Act or any other written law, to consult and cooperate with other government departments, branches and agencies, with non-governmental bodies and with international, regional and sub-regional organisations on matters connected with its objectives;
 - (f) secure, authorise and provide attendance and representation of the Republic at international, regional and sub-regional meetings, conferences, workshops and similar gatherings concerned with the development, management, conservation and protection of fisheries or marine resources;
 - (g) the extent provided by this Act and any other written law and with the approval of the Minister, to represent the Republic in the conduct of negotiations in respect of any international convention, treaty, agreement or similar arrangement, or any agreement with a foreign state or a body representative of the interests of a foreign state, relating to fisheries or marine resources;
 - (h) establish, initiate, maintain and engage in such other activities pertaining to its objectives as are determined by the Board from time to time, in accordance with any policy directions of the Minister; and
 - (i) carry out such other functions as are necessary to achieve its objectives or as are given to it under this Act or any other written law.

6 Board of Directors

- (1) The Authority 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 Authority shall be managed by, or under the direction or supervision of, the Board.

[s 6 subst Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

7 Chairperson and Vice-Chairperson

[s 7 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Sections 39 and 61 of the Public Enterprises Act 2019 apply.]

8 Leave of absence

[s 8 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Part 6 of the Public Enterprises Act 2019 applies.]

9 Vacation of office

[s 9 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Part 6 Div 1 of the Public Enterprises Act 2019 applies.]

10 Meetings of the Board

[s 10 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Part 6 Div 3 of the Public Enterprises Act 2019 applies.]

11 Meetings by telecommunications facilities

[s 11 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Part 6 Div 3 of the Public Enterprises Act 2019 applies.]

12 Delegation of powers

[s 12 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Section 65 of the Public Enterprises Act 2019 applies.]

13 Disclosure of interest

[s 13 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Section 53 of the Public Enterprises Act 2019 applies.]

14 Chief Executive Officer

[s 14 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Section 64 of the Public Enterprises Act 2019 applies.]

14A Appointment of Acting CEO

[s 14A rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Section 64(4) of the Public Enterprises Act 2019 applies.]

15 Delegation of powers of Chief Executive Officer

- (1) The Chief Executive Officer may by written instrument of delegation delegate to an officer any power, duty or function of his or her office other than this power of delegation.
- (2) A delegation under this Section is revocable and does not prevent the exercise of a power, duty or function by the Chief Executive Officer.

16 Service of the Authority

- (1) The Chief Executive Officer may, subject to any directions given to him or her by the Board, appoint to be officers or employees of the Authority such other persons as he or she considers necessary or appropriate for the efficient conduct of the business of the Authority.
- (2) The number of employees, terms and conditions of employment of officers and employees of the Authority, are as determined by the Board.
[subs (2) am Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]
- (3) The terms and conditions of employment of officers and employees shall resemble, as nearly as may be, the terms and conditions of employment at an equivalent level in the public service.
- (4) Where a person appointed as an officer of the Authority was a public officer, immediately before being appointed, any benefits, entitlements and rights he or she has accrued as a public officer, shall be recognised and applied in his or her employment with the Authority.
- (5) Subject to the provisions in subsection (2), the Chief Executive Officer may appoint such other support staff, whether temporary or permanent, as he or she thinks necessary for the purposes of the Authority, on such terms and conditions as he or she thinks proper.
- (6) The Chief Executive Officer and the other officers, employees and support staff appointed under this Section constitute the service of the Authority.

PART 3 — FINANCIAL

17 Funds of the Authority

- (1) All revenues and other monies raised or received by the Authority from licence fees shall be paid into the Treasury Fund.

[subs (1) am Act 18 of 2004, opn 26 Nov 2004]

- (2) The revenues of the Authority consist of:
- (a) all monies appropriated by Act from time to time for the purposes of the Authority;
 - (b) all monies received by the Authority for services provided by the Authority;
 - (c) all revenues and other monies payable to the Republic by any other state, any international or regional organisation or body, or any other person in respect of the management, development, utilisation, conservation or protection of any fisheries or marine resources of the Republic;
 - (d) all grants, bequests, gifts or other similar subscriptions made payable to the Authority or the Republic in respect of the management, development, utilisation, conservation or protection of any fisheries or marine resources;
 - (e) any interest earned on loans or investments made by the Authority;
 - (f) monies derived from the disposal of, or dealing with, real or personal property vested in or acquired by the Authority, in accordance with this Act or any other written law;
 - (g) all monies borrowed by the Authority; and
 - (h) any other monies received by or made payable to the Authority under any law and in the exercise and performance of its powers and functions.

18 Borrowings by the Authority

- (1) Subject to this Section, the Authority may borrow money on such terms and conditions, and in such amounts, as the Board, determines, provided it is consistent with the adopted business plan and is in accordance with the *Public Enterprises Act 2019*.

[subs (1) am Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

- (2) The Authority shall not grant a security over any of its assets, or acquire any asset subject to a security, unless it has been disclosed in the business plan adopted by the Board in accordance with the *Public Enterprises Act 2019*.

[subs (2) subst Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

19 Application of funds

- (1) The funds of the Authority shall be applied for:
- (a) the payment of remunerations and allowances payable under this Act;
 - (b) the payment or discharge of any other expenses, charges, fees, subscriptions and obligations incurred or undertaken by the Authority;

- (c) the payment of interest and principal on borrowings of the Authority; and
 - (d) any other payments which are required or permitted to be made under this Act or any other written law.
- (2) Any surplus at the end of any financial year of the Authority's revenues over the sums required by the Authority for that year for meeting its obligations and performing its functions under this Act or any other written law may be applied by the Board to:
- (a) a reserve fund of the Authority, in accordance with subsection (4);
 - (b) an investment as approved by the Cabinet under Section 21(4);
 - (c) a payment to the Republic in accordance with subsection (3); or
 - (d) any other purpose provided by or under this Act.
- (3) The Authority shall pay to the Republic out of the profits of the Authority for a financial year, such amount in relation to that financial year as the Minister, with the approval of the Cabinet, determines.
- (4) In making a determination under subsection (2)(a), regard shall be had to any advice furnished by the Minister to the Board regarding the financial affairs of the Republic.

20 Powers of the Authority

- (1) The Authority has, in addition to the powers conferred on it by this Act and any other written law, full powers to do all things that are necessary or convenient to be done, whether in the Republic or elsewhere, for or in connection with the performance of its functions and the attainment of its objectives.
- (2) Without limiting the generality of subsection (1), but subject to Section 21, the powers of the Authority include the power to:
- (a) purchase, lease, hire or otherwise acquire any land, buildings, plant, machinery and other capital assets;
 - (b) sell or otherwise dispose of any land, buildings, plant, machinery and other capital assets of the Authority;
 - (c) purchase or otherwise acquire goods and services connected with its objectives, whether for its own use or for resale or redistribution;
 - (d) sell or otherwise provide goods and services connected with the fisheries and marine resources industries to persons in the Republic, in such manner and on such terms as the Board thinks fit;
 - (e) exercise any powers conferred on it by this or any other Act; and
 - (f) do anything incidental to any of its objectives.

21 Limitations on powers of the Authority

- (1) Notwithstanding Section 20, the Authority shall not:
- (a) purchase or acquire by way of lease or hire arrangement or otherwise, or sell or dispose of by way of lease or hire arrangement or otherwise, any asset having a price, value or annual rental cost exceeding \$5,000, but not exceeding \$100,000, or such other price, value or annual rental cost as may be prescribed, except with the approval of the Minister; or
 - (b) purchase or acquire by way of lease or hire arrangement or otherwise, or sell or dispose of by way of lease or hire arrangement or otherwise, any asset having a price, value or annual rental cost exceeding

\$100,000, or such other price, value or annual rental cost as may be prescribed, except with the approval of the Minister.

[subs (1) am Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

- (2) Where more than one asset is purchased, acquired, sold or disposed of in a single transaction or as part of a series of related transactions, the dollar limitations prescribed in subsection (1), shall apply to that purchase, acquisition, sale or disposal of those assets as if those assets constituted one asset.
- (3) An approval for a sale under subsection (1), may include a direction that the sale shall, be by way of public auction or by public tender.
- (4) The Authority shall not, except with the approval of the Minister:
 - (a) lend monies;
 - (b) invest monies, except in an interest-bearing bank account in accordance with Section 23(2); or
 - (c) act as guarantor for other persons.

[subs (4) am Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

22 Operation of corporate ventures

- (1) The Authority may, with the approval of the Cabinet:
 - (a) [repealed]
 - (b) enter into an agreement with a person or organisation, including an international, regional or subregional organisation, for a cooperative arrangement,
for the purpose of the management, development, utilisation, conservation or protection of fisheries or marine resources.

[subs (1) am Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019]

- (2) Without limiting the generality of the matters that may be dealt with in an agreement entered into in respect of a cooperative arrangement referred to in subsection (1), the agreement shall specify:
 - (a) the objectives of the arrangement;
 - (b) the expected duration of the arrangement;
 - (c) the nature and extent of any contribution to be made by the Authority and the other party towards the arrangement; and
 - (d) the basis for the distribution of profits or other benefits derived from the arrangement.

23 Accounts of the Authority

- (1) The Authority shall manage its finances and keep proper books of accounts and records in accordance with sound accounting principles consistently accepted and applied internationally and shall ensure as far as possible that its revenue is sufficient to meet its expenditures properly chargeable to revenue.
- (2) The Authority shall open and maintain such bank accounts, with a bank or banks approved by the Minister for the purpose, as are necessary for the exercise and performance of its powers and functions, and shall pay into them all monies received by the Authority in the exercise and performance of its powers and functions.
- (3) All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Authority

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.

24 Annual budget

[s 24 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

25 Audit

[s 25 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

26 Report

[s 26 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Part 7 of the Public Enterprises Act 2019 applies.]

26A Election candidates — resignation

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

[s 26A insrt Act 9 of 2016 s 9, opn 29 Jan 2016]

26B 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 general elections, must at least 3 months prior to submitting their nomination, resign from their position as a member of the Board.

[s 26B insrt Act 9 of 2016 s 10, opn 29 Jan 2016]

26C Public service employees — exempt

Despite Section 26B, public service employees who are members of the Board are subject only to the provisions in the *Public Service Act 2016*.

[s 26C insrt Act 9 of 2016 s 11, opn 29 Jan 2016]

PART 4 — MISCELLANEOUS

27 Breach of confidentiality

[s 27 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Section 52 of the Public Enterprises Act 2019 applies.]

28 Liability of directors

[s 28 rep Act 11 of 2019 s 87 and Sch 2 clause 5, opn 11 June 2019. Part 6 Div 2 of the Public Enterprises Act 2019 applies.]

29 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.

PART 5 — TRANSITIONAL AND SAVINGS

30 Transfer of property to the Authority

All property which was held or occupied by the Department of Fisheries and Marine Resources or by the Republic on behalf of or in favour of the Department of Fisheries and Marine Resources immediately before the commencement of this Act is, on that commencement, transferred to and becomes property of the Authority, without the need for any further conveyance, transfer, assignment or assurance.

31 Contracts and agreements

- (1) All contracts and agreements entered into, made with or addressed to the Republic through the Department of Fisheries and Marine Resources, insofar as they relate to the functions of the Authority under this Act, are, to the extent that they were, immediately before the commencement of this Act, binding on and of full force and effect against or in favour of the Republic are, on that commencement, binding on and of full force and effect against or in favour of the Authority as fully and effectually as if, instead of the Republic, the Authority has been a party to them or bound by them or entitled to the benefit of them.
- (2) Where the Republic continues to receive any proceeds under a contract or agreement of the kind referred to in subsection (1) following the commencement of this Act, the Republic shall pay to the Authority proceeds received by it under that contract, less any expenses incurred by the Republic in relation to or as a result of that contract.

32 Saving of actions, acts and omissions

Where, immediately before the commencement of this Act, any action, arbitration or proceeding relating to any asset, right or liability referred to in this Part was pending or existing by or against the Republic, it does not, on that commencement, abate or discontinue, or be in any way affected by any provision of this Act but it may be prosecuted, continued and enforced by, against or in favour of the person or body as if this Act had not been made.

33 Exercise of powers of the Board

The powers and functions of the Board may, until 3 Directors of the Board are first appointed, be exercised and performed by the Minister.

34 Transfer of service of the Authority

A person who, immediately before the commencement of this Act, held an office in the Department of Fisheries and Marine Resources shall, on that commencement, be deemed to hold a similar office under this Act, on similar terms and conditions, until such time as appointments are made under this Act.

35 Application of Acts and other instruments

Where:

- (a) any written law other than this Act; or

(b) any document or instrument wherever made or executed, contains a reference, express or implied, to the Department of Fisheries and Marine Resources, or the Department responsible for fisheries and marine resources matters, that reference shall, on the coming into operation of this Act, except where the context otherwise requires, be read and construed and have effect as a reference to the Authority.