
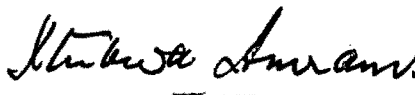


I HEREBY CERTIFY that the attached document is a fair print of an Act entitled the Nauru Phosphate Corporation Act 1969 that has been made by Parliament and is now presented to the Speaker for his Certificate, under Article 47 of the Constitution.

Pursuant to Article 35 (3) and 47 of the Constitution, I, ITUBWA ALFRED AMRAM, Speaker of Parliament, HEREBY CERTIFY that the Nauru Phosphate Corporation Act 1969, a copy of which is attached, has been passed by Parliament.


Acting Clerk of Parliament
4/3/1969


Speaker
4/3/1969

THE REPUBLIC OF NAURU

(NO. 1 of 1969)

AN ACT

Relating to the phosphate industry.

(Certified 4/3/1969)

WHEREAS by Clause 12 of an Agreement entered into on the Fourteenth day of November, 1967, between the Nauru Local Government Council of the one part and the Government of the Commonwealth of Australia, the Government of New Zealand and the Government of the United Kingdom of Great Britain and Northern Ireland of the other part, it was provided that a Corporation should be established, to be known as the Nauru Phosphate Corporation:

AND WHEREAS it is now expedient that the provisions of Clause 12 of that Agreement should be implemented:

Be it enacted by the Parliament of Nauru as follows:-

PART I - PRELIMINARY

Short title.

1. This Act may be cited as the Nauru Phosphate Corporation Act 1969.

Commencing date.

2. This Act shall come into operation on a date to be fixed by the Cabinet, by notice in the Gazette.

Parts.

3. This Act is divided into Parts, as follows:-

Part I - Preliminary (sections 1 - 4).

Part II - The Nauru Phosphate Corporation

Division 1 - Establishment of the Corporation

and the Board (sections 5 - 15).

Division 2 - Objects and Powers of

the Corporation (sections 16-18).

Division 3 - Staff (sections 19-20).

Division 4 - Finance of the Corporation

(sections 21-27).

Division 5 - Budget, Reports and Audit

(sections 28-33).

Part III - Miscellaneous (sections 34-36).

Definitions.

4. In this Act, unless the contrary intention appears -

- "annual accounts" means the balance sheet and profit and loss account of the Corporation for a financial year;
- "financial year" means a period of twelve months ending on the thirtieth day of June;
- "member" means a member of the Board, and includes the deputy of a member of the Board;
- "person" includes a body corporate or politic;
- "the Board" means the Board of Directors established by section 6 of this Act;
- "the Chairman" means the Chairman appointed under section 8 of this Act;
- "the Corporation" means the Nauru Phosphate Corporation;
- "the Managing Director" means the Managing Director appointed under section 19 of this Act;
- "the Minister" means the member of the Cabinet responsible for the business of Industry and Island Development;
- "the Vice-Chairman" means the Vice-Chairman appointed under section 8 of this Act.

PART II - THE NAURU PHOSPHATE CORPORATION

Division 1 - Establishment of the Corporation and the Board.

Establishment of Corporation.

5.-(1.) There shall be a Corporation by the name of Nauru Phosphate 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.

Board of
Directors.

6.-(1.) Subject to this Act, the business of the Corporation shall be controlled by a Board of Directors constituted by seven members appointed by the Cabinet.

(2.) The Board may act notwithstanding a vacancy in its membership and the presence or participation of a person not entitled to be present at, or to participate in, the proceedings of the Board does not invalidate those proceedings.

(3.) A member shall hold office for such period, not exceeding four years, as is fixed by the Cabinet at the time of his appointment.

(4.) A member is eligible for re-appointment.

Deputy
Member.

7.-(1.) In the case of the illness or absence of a member of the Board, the Minister may appoint a person to be the deputy of that member during his illness or absence.

(2.) The appointment of a deputy member shall terminate when the member for whom he is the deputy returns to duty.

(3.) The Minister may terminate the appointment of a deputy member.

Chairman
and Vice-
Chairman

8.-(1.) The Cabinet shall appoint a member to be Chairman, and another member to be Vice-Chairman, of the Board.

(2.) The Chairman shall exercise such powers and perform such functions as are prescribed.

(3.) The powers and functions of the Chairman shall be exercised and performed by the Vice-Chairman where -

- (a) the office of the Chairman is vacant; or
- (b) the Chairman is for any reason unable to exercise those powers or perform those functions.

Leave of
Absence.

9. The Minister may, upon such terms and conditions as he determines, grant leave of absence to a member of the Board.

Appointment
of Members.

10. A Member of the Board shall be appointed on such terms and conditions as are prescribed.

Vacation
of Office.

11.-(1.) The Cabinet may terminate the appointment of a member of the Board.

(2.) Where a member -

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) resigns his office by writing under his hand addressed to the Minister;
- (c) is absent, except on leave granted by the Minister, from three successive meetings of the Board;
- (d) fails to comply with his obligations under the next succeeding section;
- (e) is considered by a Board consisting of not less than three legally qualified medical practitioners, appointed by the Minister, to be incapable of performing his duties efficiently; or
- (f) is convicted of any offence involving fraud or dishonesty punishable on conviction with imprisonment for three months or more,

the Cabinet shall, by notice in the Gazette, declare the office of that member to be vacant and thereupon the office shall become vacant.

Disclosure
of interest.

12.-(1.) A member of the Board who is directly or indirectly interested in a contract made or proposed to

be made by the Corporation, otherwise than as a member (and in common with the other members) of an incorporated company consisting of not less than twenty-five persons, shall disclose the nature of his interest at a meeting of the Board as soon as possible after the relevant facts have come to his knowledge.

(2.) A disclosure under the last preceding subsection shall be recorded in the minutes of the Board and the member -

(a) shall not take part after the disclosure in any deliberation or decision of the Board in respect to that contract; and

(b) shall be disregarded for the purposes of constituting a quorum of the Board in that deliberation or decision.

Meetings of
the Board.

13.-(1.) The Board shall hold such meetings as, in the opinion of the Chairman, are necessary for the efficient conduct of its business.

(2.) The Chairman shall, on the receipt of a written request signed by not less than two members, call a meeting of the Board not later than one month after he receives that request.

(3.) At a meeting of the Board, four members shall constitute a quorum.

(4.) The Chairman shall preside at meetings of the Board.

(5.) Where both the Chairman and the Vice-Chairman are absent from a meeting of the Board, the members present shall appoint one of their number to preside at that meeting.

(6.) The member presiding at a meeting of the Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

Place of
Meetings.

14.-(1.) The Board shall meet at such places as it shall from time to time determine.

(2.) Where the place for a meeting has not previously been determined, the meeting shall be held at a place appointed by the Chairman.

(3.) The Board shall meet at the Head Office of the Corporation not less than once in each financial year.

Head Office.

15.-(1.) The Head Office of the Corporation shall be at Nauru.

(2.) The Corporation may establish other offices at such places as the Board shall, with the approval of the Minister, from time to time determine.

Division 2 - OBJECTS AND POWERS OF THE
CORPORATION

Objects of
the Corpor-
ation.

16. The objects of the Corporation, to be pursued always in the light of the best interests and welfare of the Nauruan people are -

- (a) to maintain and operate the phosphate industry at Nauru;
- (b) to establish, maintain and operate such activities as are, or may be, ancillary to the maintenance and operation of the phosphate industry at Nauru; and
- (c) to establish, maintain and operate such other activities, including those recommended to the Board by the Cabinet, as the Board shall, with the approval of the Cabinet from time to time determine.

Powers of
the Corpor-
ation.

17.-(1.) Subject to this Act, the Corporation has power to do all things necessary, convenient or appropriate to be done, whether at Nauru or elsewhere, for the fulfilment of its objects.

(2.) Without limiting the generality of the last preceding sub-section, the powers of the Corporation include the power -

- (a) to enter into contracts for the sale or disposal of phosphate or any other products of the Corporation;
- (b) to enter into contracts in relation to any service to be performed by the Corporation whether in connection with the sale or disposal of phosphate or other products or otherwise;
- (c) to purchase, lease, hire or otherwise acquire land, buildings, plant, machinery and any other capital assets;
- (d) to sell or dispose of any capital asset of the Corporation;
- (e) to appoint agents for the purpose of any business conducted by the Corporation and to terminate any such appointment;
- (f) to act as agent for other persons;
- (g) to surrender or return to the owners thereof land leased or acquired, but no longer required, for use in the phosphate industry;
- (h) to rehabilitate and develop lands used for the mining of phosphate;
- (i) to compound, release or settle claims by or against the Corporation, whether in contract or in tort;
- (j) to do anything incidental to any of its objects.

Limitations.

18.-(1.) Subject to sub-section (3) of section 28 of this Act the Corporation shall not -

- (a) purchase, lease, hire or otherwise acquire, sell or dispose of any capital asset having a cost value in excess of Five thousand dollars, but not exceeding Twenty thousand dollars except with the approval of the Minister;

(b) purchase, lease hire or otherwise acquire, sell, or dispose of any capital asset having a cost value in excess of Twenty thousand dollars except with the approval of the Cabinet.

(2.) The Corporation shall not enter into any contract for the sale or disposal of phosphate or any phosphate product with any person, unless the Minister has, having consulted the Cabinet on the matter of the contract price approved the terms and conditions of such contract.

(3.) The Corporation shall not for any business purpose, appoint any agent or terminate any agency, except after consultation with the Minister.

(4.) The Corporation shall not commence to rehabilitate or develop lands except as directed by the Minister after consultation with the Cabinet.

Division 3 - STAFF

Managing
Director,

19.-(1.) The Cabinet shall appoint a member of the Board to be Managing Director of the Corporation.

(2.) The Managing Director shall be the chief executive officer of the Corporation.

(3.) The Board may delegate to the Managing Director such of its powers or functions under this Act as it shall determine.

(4.) The Managing Director shall not engage, or continue to engage, in any other paid remuneration or office except with the approval of the Minister.

Officers,
staff and
labour.

20. The Corporation may, unless otherwise directed by the Minister -

- (a) appoint, engage or employ;
- (b) apply such terms and conditions of service in respect of; and
- (c) dismiss or suspend

such officers, staff or labour, as the Board considers necessary or appropriate for the conduct of the Corporation's business.

Division 4 - FINANCE OF THE CORPORATION

Capital of
the Corpor-
ation.

21.-(1.) The capital of the Corporation shall be such amount as the Cabinet from time to time prescribes.

(2.) The capital of the Corporation shall be repaid to the Republic at an annual rate sufficient to reduce it, by the thirtieth day of June, 1995, to an amount not exceeding Two million dollars.

Subscription
of capital.

22. The capital of the Corporation shall be subscribed by the Republic, and shall bear interest at the rate or rates from time to time prescribed by the Cabinet.

Borrowings
by the
Corporation.

23.-(1.) Subject to this section, the Corporation may borrow money on such terms and conditions, and in such amounts, as the Board determines.

(2.) The Corporation shall not charge, pledge or grant a lien over any of its assets, or acquire any asset subject to a charge, pledge or lien, except with the approval of the Cabinet.

Investment
and
Guarantee.

24. The Corporation shall not -

(a) lend moneys;

(b) invest moneys, otherwise than by placing them on deposit with a bank approved by the Minister; or

(c) act as guarantor for other persons, except in accordance with the approval of the Cabinet.

Bank
Accounts.

25.-(1.) The Corporation shall open and maintain an account or accounts with a bank or banks approved by the Minister.

(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.

Application
of Funds.

26. The funds of the Corporation shall be applied -

- (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Corporation;
- (b) in payment of the remuneration and allowances of the members of the Board;
- (c) in making payments in accordance with the Nitru Phosphate Royalties (Payment and Investment) Act 1968;
- (d) in payment of interest on the capital of the Corporation;
- (e) in repayment of the capital of the Corporation;
- (f) in the creation of such reserves as may be prescribed; and
- (g) in payment to the Republic of the net profits of the Corporation.

Books of
Account.

27. The Corporation shall keep proper books of account and records in accordance with accounting principles generally accepted and applied in commercial practice and in such manner as may be prescribed.

Division 5 - BUDGET, REPORTS AND AUDIT

Budget.

28.-(1.) The Corporation shall, before the commencement of each financial year, submit to the Minister a report on its planned operations for that financial year incorporating -

- (a) projected balance sheets;
- (b) projected profit and loss accounts;
- (c) projected source and application of funds statements; and

(d) its budget, including capital expenditure and movable plant expenditure, for that financial year.

(2.) The Corporation's budget and planned operations for a financial year are subject to approval by the Cabinet.

(3.) Where the Cabinet approves the Corporation's budget for a financial year, the Minister and the Cabinet shall, in addition, be deemed to have approved, for the purposes of section 18 of this Act, the purchase, lease, hire, acquisition, sale or disposal of any capital asset in the manner specified in that budget.

Monthly Reports.

29. The Corporation shall, on or before the twenty-fifth day of each month, submit to the Minister -

(a) a balance sheet;

(b) a profit and loss account; and

(c) a source and application of funds statement,

for the last accounting month, together with a report comparing the results achieved by the Corporation to the end of that accounting month with the corresponding information in the budget and projected accounts for that financial year submitted pursuant to the last preceding section.

Further Information.

30. The Corporation shall submit to the Minister such additional information relating to its operations, or its planned operations, as he may from time to time require.

Audit.

31.-(1.) The Corporation shall, in respect of each financial year, appoint auditors approved by the Cabinet to inspect, audit and report upon the annual financial statement, accounts and records of the Corporation.

(2.) The auditors shall submit to the Minister such additional reports as he may from time to time require.

Annual
Report.

32.-(1.) The Corporation shall, as soon as practicable in the period of sixty days following the close of each financial year, or within such further period as the Minister may allow, submit to the auditors its annual accounts for that financial year, duly annotated in accordance with the First Schedule to this Act, together with a report by the Board signed by the Chairman and another member and reviewing the activities of the Corporation for that year.

(2.) The annual accounts shall bear a declaration by the Chief Accountant of the Corporation verifying that they are, to the best of his knowledge and belief, correct.

(3.) The auditors shall, as soon as practicable within the period of ninety days after the close of each financial year or within such further period as the Minister may allow -

(a) make a signed report on their examination of the Corporation's annual accounts and annotations thereon, including the matters specified in the Second Schedule to this Act; and

(b) submit the annual accounts and annotations thereon and those reports to the Minister.

Reports to
Parliament.

33. The Minister shall lay the annual accounts and annotations thereon and reports referred to in the last preceding section before Parliament, not later than one month after he receives them.

Part III - MISCELLANEOUS

Transit-
ional.

34. The powers and functions of the Board may, until four members of the Board are first appointed, be exercised and performed by the Managing Director.

Assignment
of Contract.

35. Where the Republic assigns to the Corporation the benefit of a contract for the sale of phosphate, the

Republic shall pay any proceeds received by it under that contract, less any expenses incurred by the Republic in relation to the contract, to the Corporation and the Treasury Fund is hereby charged accordingly.

Regulations.

36. 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 Two hundred dollars or imprisonment for a period not exceeding three months, or both, for offences against the regulations.

THE SCHEDULES

FIRST SCHEDULE

S.32,-(1.)

The Board shall annotate the annual accounts of the Corporation so as to show, inter alia -

- (a) the total of any outstanding capital expenditure commitments;
- (b) the total cost, or valuation and the basis of such valuation, together with accumulated depreciation or amortisation and also the net value as at 30th June in the financial year under review of -
 - (i) the capital of the Corporation;
 - (ii) freehold and leasehold land;
 - (iii) structures and housing;
 - (iv) equipment;
 - (v) construction work in progress;
 - (vi) any interest applicable to construction;
- (c) the cost and market value of any investments quoted on a generally recognised stock exchange;
- (d) the cost and the Board's valuation on any investment not quoted on a generally recognised stock exchange;
- (e) the method by which inventories have been valued;
- (f) details of any adjustments application to previous years;
- (g) details of any contingent liabilities;
- (h) the total amount of any provision for doubtful debts;
- (i) the total amount written off during the year in respect of bad debts; and
- (j) such further matters as the regulations may require.

SECOND SCHEDULE

S.32.--(3.) (a)

The report of the auditors on their examination of the Corporation's annual accounts and annotations thereon shall state whether their examination was in accordance with generally accepted auditing standards and included such tests of the accounting records and such other auditing procedures as they considered necessary and whether, in their opinion -

- (a) the balance sheet and profit and loss account are properly drawn in accordance with accounting principles generally accepted and applied in commercial practice and the provisions of this Act;
- (b) there are any inconsistencies in accounting principles applied between the balance sheet and profit and loss account and those of the previous year;
- (c) whether or not the balance sheet and profit and loss account give a true and fair view of the state of affairs and results of the Corporation; and
- (d) adequate accounting and other related records, including registers, of the Corporation have been properly kept,

and shall state their opinion on such further matters as the regulations may require.