



REPUBLIC OF NAURU

# COMMERCIAL OPERATIONS AND SERVICES FUND BILL 2018

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No. of 2018

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A Bill for an Act to establish the Commercial Operations and Services Fund and for related purposes

Certified: [ ]

## Table of Contents

<b>PART 1 – PRELIMINARY</b> .....	<b>2</b>
1 Short Title .....	2
2 Commencement.....	2
3 Objective.....	2
4 Interpretation.....	2
<b>PART 2 – COMMERCIAL OPERATIONS AND SERVICES FUND</b> .....	<b>3</b>
5 Establishment and purpose.....	3
6 Withdrawals from the Fund .....	3
7 Audit of Fund.....	4
<b>PART 3 – MISCELLANEOUS</b> .....	<b>4</b>
8 Regulations.....	4

Enacted by the Parliament of Nauru as follows:

## PART 1 – PRELIMINARY

### 1 Short Title

This Act may be cited as the *Commercial Operations and Services Fund Act 2018*.

### 2 Commencement

This Act commences on certification by the Speaker.

### 3 Objective

The objective of this Act is to establish a 'specific purpose fund' under Article 58 of the Constitution:

- (a) for the purposes of Commercial Operations and Services at the Regional Processing Centres and Settlements;
- (b) as separate and distinct from the Treasury Fund;
- (c) providing for the depositing and withdrawal of funds; and
- (d) providing for the periodic reporting of the Fund.

### 4 Interpretation

In this Act:

**'Commercial Operations and Services Fund'** means any monies received by the Republic for the purpose of the commercial operations and services of the Regional Processing Centres and Settlements but does not include any sum of monies received:

- (a) as revenue from a fee, charge, levy or tax imposed by the Republic or an instrumentality of the Republic; or
- (b) as revenue from the sale of a product or the provision of a service by the Republic or an instrumentality of the Republic; or
- (c) for the purpose of general budget support;

**'Contract sum'** means sum of monies payable for the purposes of the Commercial Operations and Services;

**'Minister'** means the Minister for Multicultural Affairs;

**'Operations'** means the Regional Processing Centres and Settlement Commercial service;

**'Secretary'** means the Secretary for Multicultural Affairs;

**'the Fund'** means the Commercial Operations and Services Fund established under section (5).

## **PART 2 – COMMERCIAL OPERATIONS AND SERVICES FUND**

### **5 Establishment and purpose**

- (1) The Commercial Operations and Services Fund is established for the purpose of making provisions for:
  - (a) the payment of contractual or other amount of monies by the Commonwealth of Australia to the Republic of Nauru for the provision of commercial operations and services by Eigigu Solutions Corporation or any other instrumentality of the Republic; and
  - (b) the withdrawal of contractual or other amount of monies in subsection (3) from the Fund.
- (2) All contractual or other amounts for commercial operations and services shall be paid directly into the Fund without being first paid into the Treasury Fund.
- (3) The Fund consists of the following:
  - (a) contractual or other amounts paid into the Fund under subsection (2);
  - (b) any amount appropriated for the Fund from the Treasury Fund;
  - (c) any amount received by the Republic by way of interest from the deposit of the Fund in an interest-bearing account with a financial institution in the Republic or a foreign country; or
  - (d) any amount received in reimbursement of an amount withdrawn from the Fund.

### **6 Withdrawals from the Fund**

- (1) No person shall withdraw or authorise or permit a withdrawal of, an amount from the Fund unless:
  - (a) the withdrawal is for the purpose for which the Fund is established;
  - (b) the purpose of the withdrawal has been authorised by the Minister after approval by the Secretary;
  - (c) the Secretary and the Secretary for Finance are authorised co-signatories of the Fund; and
  - (d) the procedures for the withdrawal prescribed by the regulations have been complied with.

- (2) The Cabinet may approve a withdrawal of an amount from the Fund for the sole purpose of paying into the Treasury Fund.

## **7 Audit of Fund**

- (1) The Fund is subject to inspection and audit by qualified auditor.
- (2) The Fund in a financial year shall be audited:
  - (a) within 2 months after the end of the financial year; or
  - (b) another period determined by Parliament.
- (3) The Auditor shall:
  - (a) audit the accounts; and
  - (b) report to the Cabinet on the accounts within:
    - (i) 3 months after receiving the accounts; or
    - (ii) another period determined by Parliament Annual reporting requirements.
- (4) The Minister shall lay the Audit report in Parliament as soon as practicable on receipt of such report.

## **PART 3 – MISCELLANEOUS**

## **8 Regulations**

- (1) Cabinet may make regulations under this Act.
- (2) Without limiting subsection (1), Cabinet may make regulations prescribing the following:
  - (a) the procedures that must be followed before and after an amount is withdrawn from the Fund, including the form in which Cabinet approval of the purpose of the withdrawal must be evidenced;
  - (b) additional reports that must be given about the operation of the Fund; and
  - (c) give a person discretion to decide a matter (other than a matter that must be decided by a person under this Act).