

REPUBLIC OF NAURU
CORPORATIONS (AMENDMENT) BILL No. 2 2016

EXPLANATORY MEMORANDUM

The *Corporations (Amendment) Bill No. 2 2016* is a Bill for the *Corporations (Amendment) Act No. 2 2016*.

EXPLANATION OF CLAUSES

Clause 1 provides that, once enacted, the short title of the Bill will be the *Corporations (Amendment) Act No. 2 2016*.

Clause 2 sets out when the Bill's provisions will commence.

Clause 3 is the enabling provisions for the amendment of the Corporations Act 1972.

Clause 4 amends section 2 of the Act by substituting the current definition of Nauruan corporation with a new definition.

Clause 5 amends section 15 which relates to registration and incorporation. Subsections (13) and (14) are omitted and other references to these subsections are omitted to ensure consistency. Other subsections amended are (15), (17), (20) and (23).

Clause 6 amends section 29 by omitting the current subsection and substituting with a new subsection that places restrictions on holding corporations and removing the removing the provisions on bearer shares.

Clause 7 is an amendment to section 43 (1) (e) which relates to allotments and the information to be kept and removes those relating to bearer shares.

Clause 8 deals with an amendment to section 44 (2) relating to calls and forfeiture. This amendment removes any reference to bearer shares.

Clause 9 repeals and substitutes the current section 45 with a new section.

Clause 10 repeals and substitutes the current section 46 by restricting corporations from issuing bearer shares or share warrants.

Clause 11 amends section 51 by repealing the current provision and substituting with a new provision that removes references to bearer shares.

Clause 12 makes several changes to section 66 which relates to the register and votes of debenture holders and copies of trust deeds. Section 66 is a very large provision with several subsections that make references to bearer shares, debentures and share warrants.

These references are being removed by repealing subsections (7) through to subsection (11) and any references to these repealed subsections are also removed or amended.

Clause 13 amends section 74 by omitting the words 'other than debentures payable to bearer' anywhere they appear in section 74(1) (c) (i).

Clause 14 amends section 84 which relates to loss or destruction of certificate. An error in spelling is corrected by omitting the word 'subjection' and replacing it with the word 'subsection'. The second amendment again relates to the removal of any reference to bearer shares or debentures.

Clause 15 repeals and substitutes the current section 85 which relates to instruments of transfer.

Clause 16 amends section 87 by making several amendments the first is the removal of a reference to bearer shares and debentures.

The second amendment is the insertion of a new section 87(2A) which creates a requirement for all holders of bearer shares and debentures to convert their bearer securities or ordinary shares or debentures upon the commencement of this Act and prior to the next renewal of the respective corporation's annual registration.

Another addition is a new section 87 (2B) which states that any securities not converted according to section 87 (2A) will be forfeited and the corporation will cancel these securities and issue statements of cancellation,

A new section 87 (2C) provides that any securities cancelled will carry no right of reinstatement.

Clause 17 deals with the amendment of section 98 (2) which is amended by the repeal of the current subsection and substitution with a new subsection (2),

Clause 18 amends section 119 by repealing subsection (1)(c) and amending sections (1)(a) and (b) to cater for the removal of (c) and for the purpose of consistency.

Clause 19 amends section 126 (1) which deals with register and index of members. The amendment removes the reference to bearer shares as it appears in the subsection.

Clause 20 amends section 134 and the accounts to be kept by corporations. The amendments are being made to section 134 (1) (b), (d), (e) and (f). The amendments require corporations to keep records pertaining to both goods and services and that they retain any records for a minimum of 5 years.

Clause 21 amends section 162 (3) by omitting the words ‘other than the transfer of a bearer share’. This deletion is to ensure consistency with the other provisions of the Act.

Clause 22 amends section 187 (1) by omitting the words ‘in the case of a corporation which issued bearer shares’.

Clause 23 makes an amendment to section 190 which deals with circumstances in which holding corporations may be wound up voluntarily. The only amendment to this section is the removal of the words ‘whether bearer shares or’ and this is done to ensure consistency.

Clause 24 amends section 225 (1) (f), (g) and the insertion of (h) which states that section 134 will apply in its entirety to Foreign corporations.

Clause 25 amends Table B of the Second Schedule. There amendments made remove the reference to bearer shares in item 38 and in item 122(1) (b).