

REPUBLIC OF NAURU

NATIONAL HERITAGE BILL 2017

EXPLANATORY MEMORANDUM

The *National Heritage Bill 2017* is a Bill for the *National Heritage Act 2017*.

This memorandum provides an explanation of the Bill and is only intended to indicate the general effect.

EXPLANATION OF CLAUSES

PART 1 - PRELIMINARY

Clause 1 provides that, once enacted, the short title of the Bill will be the *National Heritage Act 2017*.

Clause 2 sets out when the Bill's provisions will commence. The commencement date is on certification by the Speaker.

Clause 3 is the definitional section which provides meaning of words used to assist in the interpretation of the Act.

Clause 4 provides the objects of the Act. This Act aims to establish an office of the Director of National Heritage which is tasked with maintaining a Register of all Nauruan Heritage sites and objects.

The Minister may on the recommendation of the Chief Secretary appoint a Deputy Director of National Heritage.

PART 2 – DIRECTOR OF NATIONAL HERITAGE

Clause 5 establishes the office of the Director of National Heritage. This clause requires the Director to maintain the Register and perform such other functions as deemed necessary in the proper administration of the Act.

This clause also allows the Minister to appoint a Deputy Director, on the recommendation of the Chief Secretary.

The functions and powers of the Deputy Director will be performed in accordance with the directions of the Director.

Clause 6 allows the establishment of a National Heritage Register. This Register is necessary to record all objects of heritage significance in the Republic. The Director will

be responsible for the Register. Before a person can inspect a Register during business hours and provided a copy of the same, the prescribed fees must be paid first.

Clause 7 outlines the responsibilities and duties of the Office of the Director. The Office of the Director is responsible for the administration, preservation and the management of objects of heritage significance, and its related matters.

It also requires the Director to recognise the interests of the owners in a particular historic place or area.

Clause 8 clearly specifies the powers of the Director. The Director in summary shall:

- (a) identify, record, investigate, assess, protect, enter and conserve such historic places or areas;
- (b) acquire, restore, conserve and manage historic places and historic areas;
- (c) assist any person or organisation to acquire, restore, conserve or manage area;
- (d) erect suitable signs and notices on historic places and historic areas, subject to the consent of the owner;
- (e) enter into agreements;
- (f) make buildings accessible to the public;
- (g) promote and supervise the investigation;
- (h) provide information;
- (i) charge for services; and
- (j) carry out other duties as prescribed under any other law.

This clause also requires the Director to recognise the interests of an owner in a particular historic place or area.

However, the Director cannot negotiate or agree with a person to acquire any land or interest in land.

No compensation is payable by reason of any provision of this Act.

PART 3 – VESTING OF NAURU HERITAGE OBJECTS TO THE REPUBLIC

Clause 9 provides that all objects of heritage vests in the Republic. Therefore, anyone in possession of any object of heritage must return the same to the Republic. A notice will be issued by the Director relating to the place and person to return the object to.

It will be an offence if a person fails to return the object, which earns the offender upon conviction a fine not exceeding \$20,000 or an imprisonment term not exceeding 12 month or both.

Clause 10 allows the Minister to issue an order specifying an amnesty period for the surrender of heritage objects to the Republic.

The length of the amnesty period will be specified in the order including the place where such objects are to be returned. Individuals who voluntarily return heritage objects in their possession within the amnesty period will not be prosecuted with any offence under this Act.

Clause 11 allows for the acquisition of object of heritage significance by the Minister through appropriated funds for the purpose of acquiring on behalf of the Republic. The Minister may establish a place for safe keeping of the objects.

Clause 12 requires any person who discovers or has reason to believe that there exists an object of heritage to report the discovery to the Director.

The Director shall take custody of the same and may return object if, upon examination, it is found that the object does not constitute an object of heritage.

PART 4 – PROTECTION OF AREA OF OBJECT OF HERITAGE

Clause 13 allows the Minister to, by order, declare any area around an object as a protected area, if he or she is satisfied that:

- (a) the site is, or may prove to be, a heritage site; and
- (b) on account of the historical, archaeological or artistic importance of the object, the site ought to be protected from unauthorised interference.

The order by the Minister under this provision shall specify details relating to the site identified and the distance of the protected area.

An offence provision is provided under this clause as well which prohibits a person from tampering, damaging, removing any object or excavating without a licence on such site.

This provision is primarily for the protection of heritage objects.

The maximum penalty for an offence under this clause is a fine not exceeding \$20,000 or a term of imprisonment not exceeding 2 years or both.

Clause 14 allows the Minister to make an order published in the Gazette declaring an area around an object of heritage as a prohibited area if the object poses danger to life or property and needs to be protected from unauthorised interference.

This is for the safety of the public relating to objects that are identified as potentially dangerous.

PART 5 – PROHIBITION ON THE REMOVAL OF OBJECTS OF HERITAGE

Clause 15 prohibits the removal of object of heritage by any means. It is an offence if a person fails to adhere to this provision.

The maximum penalty for an offence under this clause is a fine not exceeding \$20,000 or a term of imprisonment not exceeding 2 years or both.

Clause 16 provides the procedure before a person may remove any objects of heritage. A person must apply in the prescribed form and provide reasons for such removal, which must then be submitted by the Director to the Minister for consideration.

The object of heritage may be removed if the Minister issues a certificate of removal, a copy of which will be provided to the Principal Customs Officer. The exporter has to provide the certificate and object 24 hours prior to the shipment to the Principal Customs Officer.

Clause 17 provides that an object of heritage may be forfeited to the Republic if there is any failure by a person to abide by any provisions of the Act. This will ensure that import or export of objects of heritage is properly declared. Failure to abide with any provision of this Act may result in the forfeiture of a heritage object for import or export to be forfeited to the Republic.

Cancellation of the forfeiture made under this provision may only be done by the Minister.

Clause 18 allows the Minister to prohibit the acquisition by purchase or otherwise of any objects of heritage by any person.

Clause 19 provides that a licence is required before an excavation operation may be carried out in the Republic. An application for a licence must be in writing to the Minister. The applicant must be properly equipped to carry out such excavations.

It is an offence if a person conducts an excavation operation without a licence, or does anything contrary to the conditions of the licence. Penalty – a maximum fine of \$500 or a term of imprisonment not exceeding 6 months or both.

PART 6 – OFFENCES AND PENALTIES

Clause 20 provides that it is an offence for any person who intentionally modifies or destroys objects of heritage.

Maximum fine upon conviction - \$20,000 or imprisonment not exceeding 2 years.

Clause 21 provides that it is an offence if a person refuses to let the Director or an authorised person access to an archaeological site or a historic place, for a purpose of carrying out any duties or functions provided under this Act. It is an offence if a person obstructs an authorised person who is exercising their powers under the Act.

Maximum fine upon conviction - \$5,000 or to a term of imprisonment not exceeding 12 months or both.

Clause 22 outlines other offences in respect of land or a place vested in, or under the control of, Director.

Maximum fine upon conviction - \$5,000 or to a term of imprisonment not exceeding 12 months or both.

Clause 23 provides for offences committed under the Act by corporations, firms, societies or other body of persons.

Maximum fine upon conviction:

- (a) in case of a corporation, firm, society or other body of persons a fine not exceeding \$100,000; and
- (b) in the case of a Director, manager, secretary or officer or a partner of the company, firm, society or other body of persons, a fine not exceeding \$20,000 or a term of imprisonment not exceeding 12 months or both.

Clause 24 exempts a person from prosecution under this Act, if he or she entered a protected or prohibited area if it was done as an act of emergency to either assist or rescue anyone.

Clause 25 provides that the District Court shall have jurisdiction to hear and determine all offence under this Act, including penalties or punishment to be imposed for offences under this Act.

Clause 26 provides that the Cabinet may make regulations prescribing all matters necessary or convenient to be prescribed to give effect to the Act.

Clause 27 is the provision which repeals the Antiquities Act 1935.