

REPUBLIC OF NAURU

NAURU (RPC) CORPORATION (AMENDMENT) BILL 2017

EXPLANATORY MEMORANDUM

The *Nauru (RPC) Corporation (Amendment) Bill 2017* is a Bill for the *Nauru (RPC) Corporation (Amendment) Act 2017*.

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

EXPLANATION OF CLAUSES

Clause 1 provides that, once enacted, the short title of the Bill will be the *Nauru (RPC) Corporation (Amendment) Act 2017*.

Clause 2 provides when the Bill's provisions will commence.

Clause 3 is the enabling provision for the amendment of the Nauru (RPC) Corporation Act 2017.

Clause 4 amends section 24. The additions are:

- **Sub clause 1 (a)** requires all contracts for the provision of services to the RPC and Settlements to be authorised by the Cabinet.
- **Sub clause (1)(b)** – the word “either” and after 2012 and “or where the Republic is not a party, it has been endorsed by the Secretary” have been added. Under the Asylum Seekers (Regional Processing Centre) Act 2012, the Secretary is required to execute a contract for and on behalf of the Republic. This provision empowers the Secretary to endorse an authorised contract where the Republic is not a party to the contract. The endorsement is an acknowledgement of the Republic's commitment under the Memorandum of Understanding. Moreover, the endorsement certifies compliance with the Act.
- **Sub clause (1)(c)** – this is a new sub clause which allows Australia to appoint a representative, nominee or agent to execute an authorised contract. Further, under the Memorandum of Understanding, Australia is financially responsible for the provision of services to RPC and Settlements and as such may require an authorised contract to which Australia may not be a party to endorse the same.
- **Section 2** has been amended to a more strict liability offence for contravening section 24(1) of the Act.

- Section 3 is retained.
- ***Sub clause (4)*** - this sub clause provides the means to declare whether a contract is authorised under the Act or not. A certificate issued by the Secretary for Multicultural Affairs is conclusive evidence that the contract has been authorised and is in full compliance with the Act. The certificate will be admissible in any court of law.
- ***Sub clause (5)*** - this sub clause empowers the Cabinet or Secretary to withdraw the authorisation or endorsement given under the Act. However before the withdrawal the Cabinet or Secretary must give 3 months' written notice to the affected parties.
- ***Sub clause (6)*** - requires that where a service provider breaches or fails to comply with the terms and conditions of an authorised contract, the Corporation may issue a notice under section 25(2) or initiate proceedings under section 26(1) on receipt of a written request from Australia as the other party to the authorised contract.
- ***Sub clause (7)*** - this sub clause allows the making of specific regulations for any purposes so required for effecting section 24 of the Act. The only exception is an authorised contract under subclause (1)(c) which the Commonwealth of Australia will take responsibility of. This also empowers Cabinet to make regulations pertaining to persons, corporations or entities which may execute or endorse authorised contracts for the purposes of subclause (1)(b).