

# REPUBLIC OF NAURU

## DRONES BILL 2018

### EXPLANATORY MEMORANDUM

The *Drones Bill 2018* is a Bill for the *Drones Act 2018*

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 *Drones Bill 2018*.

**Clause 2** provides that this Bill commences upon certification by the Speaker.

**Clause 3** provides for the objective of the Act which is to regulate the importation, sale and use of drones in the Republic.

**Clause 4** is the definition section which provides and defines the key terms used in the Bill.

##### **PART 2 – ADMINISTRATION**

**Clause 5** outlines the powers of the Secretary under the Act which includes issuing, varying, suspending or revoking permits for importers, sellers and operators of drones; the monitoring and enforcement of the terms and conditions of the permits issued and licences granted under the Act; establishing and maintaining a register of all permits or licences issued or granted for drones imported and being sold.

**Clause 6** allows the Secretary to delegate his or her powers under the Act with or without conditions to any person.

##### **PART 3 – PERMITS AND LICENCES**

**Clause 7** prohibits the importation or sale of drones without a permit or licence having been issued under the Act.

Penalty – a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 12 months or to both.

**Clause 8** provides that any person intending to import a drone shall apply for a permit in the prescribed form and the applicant must pay the prescribed fee before the permit is issued.

**Clause 9** provides that a permit issued under clause 8 is subject to requirements and conditions either specified in the permit or as may be prescribed. The prescribed requirements will be prescribed by regulations which will supplement the Bill.

Penalty on conviction of an offence – a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 6 months or to both.

**Clause 10** provides that any person intending to sell drones shall apply for a licence in the prescribed form upon payment of the prescribed fee prior to the licence being granted.

**Clause 11** provides that a licence granted under clause 10 is subject to requirements and conditions either specified in the licence or as may be prescribed by regulations.

Penalty on conviction of an offence – a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 12 months or to both.

**Clause 12** allows the Secretary to revoke, limit or suspend a permit or licence where there has been a breach of any requirement or condition of the permit or licence.

#### **PART 4 – PROHIBITION ON USE**

**Clause 13** prohibits the use of drones for taking photographs or filming or recording of any event whether social, sporting, official without a permit issued by the Secretary in the prescribed form; an area declared to be a protected area under clause 17; or any person without such person's consent.

The penalty for an offence under this clause is a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 12 months or to both.

**Clause 14** prohibits the flying of drones in a manner which is likely to endanger the safety of any person, property or animal. The penalty for an offence under this clause is a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 12 months or to both.

**Clause 15** prohibits a person from flying or causing to fly a drone over private property. This clause aims to ensure that the privacy of a person in their own home is protected. This clause does not prevent a person from flying or operating a drone over his or her own house.

Penalty on conviction of an offence – fine not exceeding \$20,000 or to a term of imprisonment not exceeding 12 months or to both.

**Clause 16** prohibits a person from flying or causing to fly a drone which carries out surveillance at or over a residential premises or the land immediately surrounding the residential premises. This further ensures the privacy of a person in his or her own home.

The penalty for an offence under this clause is a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 12 months or to both.

**Clause 17** allows the Minister to declare an area or place as a protected area. Flying a drone over a protected area is prohibited.

Penalty on conviction for an offence – a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 12 months or to both.

## **PART 5 – AUTHORISED OFFICERS**

**Clause 18** allows the Minister to authorise an officer of the Department or a police officer to be an authorised officer for the implementation of the Act. The authorisation of authorised officers shall be by notice in the Gazette.

All Police officers and Customs officers are authorised officers and may exercise all such powers as may be necessary for the enforcement of the Act.

**Clause 19** provides for that the authorised officer, apart from a Police officer or Customs officer, shall be issued with identification card which:

- contains his or her name and recent photograph;
- states that he or she is an authorised officer for the purpose of this Act;
- provides the period of validity of the identification card;
- states any condition in his or her instrument of appointment that limits his or her powers as an authorised officer; and
- shall be produced for the purposes of inspection or performance of any duties under the Act.

Where an authorised officer is a Police officer or a Customs officer, he or she shall produce for inspection his or her Police or Customs identification card. This is for verification purposes.

**Clause 20** provides for powers of authorised officers. The authorised officers may seize and detain a drone and any component of such drone where:

- the owner, operator or seller does not have or cannot produce a permit or licence as required under the Act;
- the drone is being flown or operated in a manner in contravention of the Act.

In exercising the power to seize and detain a drone, this clause allows an authorised officer to:

- direct any person having control of the drone to land the drone;
- assume control of the drone; or
- force the drone to land or cease flight.

It is an offence for any person to not comply with a direction of an authorised officer and the penalty for which is: a fine not exceeding \$20,000 or to a term of imprisonment not exceeding 12 months or to both.

## **PART 6 – MISCELLANEOUS**

**Clause 21** requires the payment of penalty by a drone owner or operator seized under clause 20 by:

- paying the prescribed penalty; and
- paying the permit or licence fee as appropriate.

**Clause 22** requires the Department to release the drone to its owner on the payment of the prescribed penalty and the permit or licence fee. The prescribed penalty will be prescribed by regulations.

**Clause 23** provides for offences committed by corporations and where at the time of the commission of an offence a person who was a Director, manager, secretary or officer or a partner of the company, firm, society or other body of persons who acted in that capacity shall be guilty of an offence unless it is proven that the offence was committed without the consent of or collusion by the person and that the person did his or her best to prevent the commission of the offence having regard to the nature of the person's functions and to all circumstances.

The court may on conviction fine a corporation, firm, society or other body of persons an amount not exceeding \$100,000. 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** vests jurisdiction in the District Court to hear and determine offences under the Act and to impose the full penalties in respect of the said offences. This is necessary given that the proposed penalties under the Act are beyond the jurisdiction of the District Court. Under section 18 of the Courts Act 1972, the District Court may be vested jurisdiction by any other written law and this clause accordingly vests that jurisdiction in the District Court.

**Clause 25** empowers the Cabinet to make regulations prescribing all matters necessary or convenient to be prescribed to give effect to the Act.