

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

EXPLANATORY MEMORANDUM

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

EXPLANATION OF CLAUSES

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

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

Clause 3 is the enabling provisions for the amendment of the *Partnership Act 1976*

Clause 4 amends section 2 by inserting the definition of 'partner'.

Clause 5 amends section 28 by:

(1) amending subsection (1) as follows:

- (a) omitting the words 'are bound to' and substituting with the words 'must render';
and
- (b) inserting the word 'to' after the word 'or' and before the word 'his',

(2) amending section 28(2) with the inclusion of the words "including underlying documentation such as invoices and contracts" which widens and clarifies the types of accounts and records that must be kept by the partnership;

(3) amending section 28(2)(a) by substituting the word 'corporation' with the word 'partnership' as it is the more appropriate term for this Act.

The clause, with the amendments underlined will read:

(1) Partners must render true accounts and full information of all things affecting the partnership to any partner or to his or her legal representatives.

(2) Every partnership must keep and maintain proper accounts and records including underlying documentation such as invoices and contracts with respect to:

- (a) all sums of money received and expended by the partnership, specifically the items or matters in respect of which the receipt took place;

Clause 6 creates a new **Part IVA (Registrar of Partnerships)**. This Part will be inserted between section 44 and section 45 and its purpose is to cater for the new provisions relating to the creation of the Registrar of Partnership, Deputy Registrars and other details relating to the registration of partnerships.

Clause 7 inserts a new section 44A which provides for the registration of partnerships and the appointment of a Registrar and Deputy Registrars for Partnerships. The President may appoint a Registrar or Deputy Registrars and other officers required for the purposes of the Act.

Clause 8 inserts a new section 44B which introduces registers for partnerships. This section allows for any person to pay a fee to either inspect any document filed or lodged with the Registrar; or, to require any certificate issued under the Act or a copy or extract of any document to be given or certified by the Registrar. **This clause also deals with the issues surrounding the admissibility of the Registrar's certificate in any legal proceedings. The clause states that a certificate from the Registrar is prima facie evidence of the fact specified in the certificate.**

Clause 9 inserts a new section 44C which makes it mandatory for all partnerships having a place of business in or carrying out a business in Nauru, to register with the office of the Registrar of Partnerships.

Clause 10 creates a new section 44D which provides for the particulars to be furnished by a partnership to the Registrar on an annual basis.

The particulars to be provided to the Registrar include:

- partnership name;
- the split of the ownership if partnership not on an equal basis;
- general nature and purpose of partnership;
- copy of the partnership agreement;
- statement of assets and liabilities at the date of registration; and.
- date of commencement of the partnership and completion date if applicable.

Clause 11 inserts a new section 44E which provides for the particulars to be furnished to the Registrar within fourteen days after the partnership has been issued a business license. Renewal is also an important factor and this clause requires that partnerships renew their partnership registration annually. The date of renewal is based on the date that the partnership was initially registered. Therefore, if the partnership was first registered on 16/08/2015 then the registration is up for renewal on 16/08/2017.

Clause 12 inserts a new section 44F which provides for the registration of changes in a partnership. Whenever changes occur in any of the particulars registered under section 53, the partnership has fourteen days to register the changes. The partnership may apply to the Minister either before or after the expiration the fourteen day period for an extension of time to file information on the changes to the partnership.

Clause 13 allows partnerships to lodge any lost documents with the Registrar of Partnerships through the creation of a new section 44G. Should a person's original documents be destroyed or lost, and the Registrar is satisfied that the said documents are destroyed or lost, then the Registrar may certify and direct that the copies of the documents be lodged.

Clause 14 inserts a new section 44H which introduces procedures to be followed by a person where there is no form or procedure prescribed in the Act. These procedures are to be provided by the Registrar as directions and these shall be deemed as valid performance of those procedures.

Clause 15 inserts a new section 44I which creates an offence for a partnership that defaults in furnishing the Registrar with particulars of the partnership required under Clause 44D. Each partner commits an offence and is liable to a penalty of ten dollars for every day during which the default continues. The Registrar may order the partnership to furnish to the Registrar within a specified time, a statement of the required particulars or changes to the particulars.

Clause 16 inserts a new section 44J which provides for general offences committed against the Act. A person who commits an offence against the Act is liable to a penalty of one thousand dollars.

The section also provides for specific offences committed against sections 28 and 44A. Section 28 provides for the duty of partners to render accounts. Section 44A provides not only for the registration of partnerships, appointment of the Registrar, it also makes it an offence for a partnership or an officer of the partnership to obstruct or hinder the Registrar in the exercise of his or her powers under the Act.

Clause 17 inserts a new section 44K to create a regulation making power for Cabinet. Cabinet may make regulations to:

- (a) prescribe fees for matters under this Act;
- (b) prescribe the forms to be used under this Act;
- (c) provide for further particulars and other requirements for registration under this Act;
- (d) prescribe penalties for breaches of the regulations; and
- (e) prescribe all matters and things required for carrying out or giving effect to this Act.