

REPUBLIC OF NAURU

DERELICT SITES MANAGEMENT BILL 2017

EXPLANATORY MEMORANDUM

The Derelict Sites Management Bill 2017 is a Bill for the *Derelict Sites Management Act 2017*.

EXPLANATION OF CLAUSES

PART 1 - PRELIMINARY

Clause 1 provides that, once enacted, the short title of the Bill will be *the Derelict Sites Management Act 2017*.

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

Clause 3 highlights the general objectives of the Act which are to make provision for the identification, control and management of dilapidated, abandoned and problem buildings and vehicles in the Republic.

Clause 4 is the definition section providing definitions of words used to assist in the interpretation of the Act.

Clause 5 ensures the Act applies to all properties, buildings and vehicles in the Republic.

Clause 6 the Act binds all persons including the Republic but it does not make the Republic liable for an offence.

PART 2 – AUTHORISED OFFICERS

Clause 7 allows the Minister responsible to appoint authorised officers who have the relevant expertise and experience necessary to carry out the duties and responsibilities provided under the Act.

Clause 8 provides that the authorised officers must either produce their identification cards for the responsible person's inspection, or display identification cards so that they are visible to the responsible person during the inspection of any vehicle or on entering any property or building.

Clause 9 permits the authorised officers to inspect any vehicle or enter any property or building at any reasonable time to determine whether the vehicle or property or building is a derelict site and to serve the responsible person with a notice contemplated in the Act.

Clause 10 makes it an offence for any person to obstruct or hinder an authorised officer in the exercise of his or her powers.

Clause 11 provides for the powers of the Minister to declare a property or a building or any part thereof or a vehicle as a derelict site. To be declared a derelict site, one or more of the following circumstances must exist in relation to a property or a building:

- (a) appears to have been abandoned by the registered owner or responsible person;
- (b) does not comply with any legislation and is not maintained in accordance with any health, fire safety or environmental standards;
- (c) is unhealthy, unsanitary, unsightly or objectionable as determined by the Department;
- (d) has no electricity supply;
- (e) has no water supply;
- (f) has overflowed or blocked sewage drains;
- (g) is subject to complaints of criminal activities including but not limited to drug dealings, prostitution, money laundering;
- (h) is occupied illegally;
- (i) where refuse, waste material, rubble, scrap or any similar material is accumulated, dumped, stored or deposited, unless so stored in terms of a valid approval by the Department;
- (j) is structurally unsound; or
- (k) is a threat or danger to the safety of the responsible person or the public in general.

For a vehicle to be declared a derelict site, the vehicle must:

- (a) appear to have been abandoned;
- (b) be partially or wholly disassembled; or
- (c) appear to be either inoperable or in a neglected condition.

The property may be declared a derelict site if it contains aside from the derelict buildings and vehicles, the presence, deposit or collection of litter, rubbish, debris or waste.

Notice in writing is required to be served on the responsible person before the property or building or vehicle is declared a derelict site. An opportunity is given to the responsible person to make representations as to why the building or property or vehicle is not to be declared a derelict site. The representations shall be considered and a written decision is to be provided to the responsible person.

PART 3 - NOTICES

Clause 12 provides for a notice to be served on the responsible person requiring the person to comply with the provisions of the Act within a specified time period. The responsible person must comply with the conditions of the notice within the specified time period otherwise the Department may take such steps it considers reasonable and necessary to give effect to the terms of the notice.

The cost of the removal of a derelict site shall be borne by the responsible person. Where the Department takes necessary action to give effect to the terms of the notice, the Department may recover any expense incurred for any action carried out from the responsible person as a simple contract debt in any court.

Clause 13 provides that notices served under this Act are considered served on a person when it is delivered personally to the person; when it has been accepted on behalf of the responsible person by someone over the age of 18 years who accepts it on behalf of the responsible person at the latter's residence or place of business and, where the responsible person's address is unknown, when it has been posted in a conspicuous place including but not limited to the front door or gate to the property to which it relates.

It shall be sufficient if the name of the responsible person is unknown but the authorised officer describes the responsible person of the property.

It is an offence for any person to remove, damage or deface a notice posted by an authorised officer regarding a derelict site.

PART 4 - MISCELLANEOUS

Clause 14 is the general offences and penalties provision which provides that any contravention of the Act or failure to comply with any notice issued under the Act is an offence resulting on conviction to a fine not exceeding \$10,000 and a term of imprisonment not exceeding 12 months.

Clause 15 is the indemnity provision which indemnifies the Department and authorised officers from liability for any damage caused for any act or omission done or made in good faith and in the exercise of reasonable care and diligence in the course of the discharge of the authorised officer's functions and powers

Clause 16 allows for exemptions to be made by the Department on any provision of the Act. A person seeking an exemption must apply in writing to the Department providing reasons as to why an exemption is being sought.

Clause 17 provides that Cabinet may make regulations prescribing all matters necessary or convenient to be prescribed to give effect to the Act.