

Republic of Nauru – 20th Parliament

Provident Fund (Repeal) Bill 2012

EXPLANATORY MEMORANDUM

The *Provident Fund (Repeal) Bill 2012* is a Bill for an Act to repeal the *Provident Fund Act 1938* and to amend the *Nauru Police Force Act 1972*.

Explanation of clauses

Clauses 1 and 2 provide for the short title and commencement of the Act.

Clause 3 repeals the *Provident Fund Act 1938*. This will result in the abolition of the Provident Fund and the Provident (Employees) Fund established by the repealed Act.

Clause 4 vests the assets of the Provident Fund and Provident (Employees) Fund in the Republic on the date the Act commences.

Clause 5 enables the **Schedule**, which makes consequential amendments to the *Nauru Police Force Act 1972* to remove references to the repealed Act. Attached to this memorandum is a copy of the relevant provisions of the *Nauru Police Force Act 1972* with the proposed amendments marked.

Clause 6 expires the Act the day after it commences. The Act will do all it needs to do on commencement – repeal the *Provident Fund Act 1938*, transfer assets to the Republic and amend the *Nauru Police Force Act 1972*. The Act will then be spent, so there is no need for its continued existence.

Proposed amendments to Nauru Police Force Act 1972

6 Appointment of officers of the Force

- (1) The Director of Police shall be appointed by the Chief Secretary:

Provided that the Chief Secretary shall not appoint any person to be Director of Police unless he has obtained the consent of the Cabinet to his appointment.

- (2) The Superintendent of Police and Inspectors shall be appointed from among serving officers of the Force by the Director:

Provided that the Director shall not appoint any person to be an inspector unless he has obtained the consent of the Board to his appointment:

Provided further that the Director of Police shall not appoint any person to be the Superintendent of Police unless he has obtained the consent of the Minister to his appointment.

- (3) Non-commissioned officers shall be appointed from persons serving as constables by the Director.

- (4) Constables shall be appointed by the Director.

- (5) Officers already serving in the Force, may, instead of being appointed substantively to a higher rank, be appointed to act in such higher rank; any such appointment may be made by the person authorised by this Act to appoint persons substantively to that rank:

Provided that, save where the appointment to act in a higher rank is made because of the temporary absence of an officer of that rank or because any such officer is himself acting in a higher rank, no officer shall act in a rank higher than his substantive rank for an aggregate of more than twelve months in any period of thirty-six consecutive months.

- (6) Every person who immediately before the commencement of this Act was serving in the police force in any of the following ranks:

- (a) Director of Police;
- (b) inspector;
- (c) non-commissioned officer; and
- (d) constable;

shall upon such commencement be deemed to have been properly appointed under this Act to be an officer of the Force and to hold such rank as is the equivalent of that which he held substantively immediately before such commencement and for the purpose of ascertaining the length of any such officer's service for any purpose under this Act all his service in any rank in the police force before such commencement shall be deemed to have been service under this Act.

- (7) Every person appointed, or deemed to have been appointed, to be an officer of the Force under this Act shall, if directed by the Director to do so, perform the duties and functions of a prison officer under the *Nauru Prisons Act 1972*.
- (8) Where a person who is an officer of the public service is appointed under this section to be an officer of the Force and his resignation from the public service takes effect on the same day as that appointment takes effect, his service in the public service shall, for the purpose of ascertaining the length of his service in the Force for any purpose under this Act ~~or under the *Provident Fund Ordinance 1938-1967*~~, be deemed to have been service as an officer of the Force under this Act and to have continued without a break.

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9 Termination of service in the public interest

- (1) The service of any officer of the Force may be terminated by the Cabinet on the ground that having regard to the conditions of the Force, the usefulness of the officer thereto and all other circumstances of the case, such termination is desirable in the public interest:

Provided that, where the service of any officer is to be terminated under the provisions of this section, he shall first be suspended from his office and the Minister shall forthwith give notice to Parliament of such suspension and Parliament, if it thinks fit, may:

- (a) within fourteen days of receiving such notice appoint a committee of its members to review such termination; and
 - (b) if the committee considers that the officer's service should not have been terminated, direct that his suspension shall cease to have effect.
- (2) Where Parliament has directed under the last preceding subsection that a suspension is to cease to have effect, the termination of the officer's services shall be void.
 - (3) Where Parliament does not appoint a committee under the provisions of subsection (1) of this section within fourteen days of receiving notice of an officer's suspension from the Minister or, having appointed a committee, does not upon receiving the report of that committee direct that the suspension shall cease to have effect, the officer's services shall be deemed to have been terminated on the date on which he was suspended from his office.
 - (4) Where the service of any officer is terminated under the provisions of this section, he shall:
 - (a) if he held the office of Director and is not a Nauruan citizen, be entitled to such paid leave, passages, transport of personal effects and other benefits as he would have been entitled to receive if he had completed the full period of service under his contract of service; and
 - ~~(b) in any other case, be entitled:~~
 - ~~(i) [omitted]~~

- ~~(ii) if he is a contributor to the Provident Fund to receive such amount from the Provident Fund as is due to him under the provisions of the Provident Fund Ordinance 1938-1967.~~

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22A Salaries and Provident Fund

- (1) The salaries of police officers shall be paid out of the Treasury Fund from moneys appropriated for that purpose by Parliament on scales prescribed in regulations made by the Cabinet on the advice of the Minister.
- (2) The Director may from time to time grant to an officer of the Force such annual increment in salary as may be prescribed in regulations made in accordance with subsection (1):

Provided that such increments shall not be paid at intervals of less than one year.

- (3) The payment of an annual increment in salary to any officer may be postponed for a period of not more than six months if the Director considers that it should be so postponed on account of the unsatisfactory conduct, lack of diligence or efficiency or poor record of attendance for duty of the officer during the twelve months immediately preceding the date when the increment would otherwise have been granted, and in that event the officer shall not receive the increment in salary in respect of the period for which its payment is postponed.
- (4) Where the payment of an increment in salary is postponed under the last preceding subsection, the Director shall notify the officer concerned in writing of the reason for, and the period of, such postponement.
- (5) Notwithstanding the proviso to subsection (2), where payment of an increment in salary to any officer has been postponed under subsection (3), the next annual increment, if any is due, shall be granted on the anniversary of the date on which the increment which was postponed would normally have been granted, unless the payment of that next annual increment is itself postponed under subsection (3).
- (6) A person appointed as a constable may, on appointment, with the written approval of the Minister, be granted by the Director increments within the salary scale of his rank in recognition of relevant experience.
- (7) The Director may, with the written approval of the Minister, from time to time grant to an officer of the Force one or more increments in salary within the salary scale of his rank in recognition of outstanding service:

Provided that any such increment shall be granted at the same time as the annual increment is granted and shall be additional to it.

- ~~(8) For the purpose of interpreting the provisions of the Provident Fund Ordinance 1938-1967:~~
- ~~(a) the definition of 'officer' in that Ordinance shall be deemed to include an officer of the Force who:~~
 - ~~(i) is a Nauruan citizen; or~~

- ~~(ii) — not being a Nauruan citizen, is not the Director; and~~
- ~~(b) — an officer of the Force who, not being a Nauruan citizen, is the Director shall be deemed to be ‘a person who is employed by the Administration otherwise than as an employee in the Public Service of Nauru’.~~