

FOREIGN INVESTMENT

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Foreign Investment Act 2025

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Foreign Investment Act 2025

TABLE OF AMENDMENTS

The Foreign Investment Act 2025 No 14 was certified and commenced on 9 April 2025.

Amending Legislation	Certified	Date of Commencement
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An Act to promote and regulate foreign investment in the Republic and for related purposes.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title

This Act may be cited as the *Foreign Investment Act 2025*.

2 Commencement

This Act commences on the date it is certified by the Speaker.

3 Definitions

In this Act:

‘Authority’ means the Foreign Investment Authority established under Section 4;

‘business’ has the same meaning given to it under the Business Licences Act 2017;

‘Department’ means the Department responsible for commerce and foreign investment;

‘Director’ means the Director of Foreign Investment appointed under Section 11;

‘foreigner’ means a person who is not a Nauruan citizen;

‘foreign investment certificate’ means a foreign investment registration certificate granted to a foreign investor under Section 30;

‘foreign business’ has the meaning given to it under the Business Names Registration Act 2018;

‘foreign investor’ means:

- (a) a foreigner who does not reside in Nauru and operates a foreign business in Nauru;
- (b) a foreigner who resides in Nauru and operates a business in Nauru;
- (c) a body corporate in which 70% of the shares is held or controlled by a foreigner including a foreign body corporate; or
- (d) a body other than a body corporate, in which at least 70% of its members or partners are foreigners;

‘Minister’ means the Minister responsible for this Act;

‘nationalised’ means the compulsory transfer of property to the Republic whether by administrative measure or under any written law;

‘property’ means assets of any kind, whether real or personal, tangible or intangible;

‘Register’ means the Foreign Investment Certificate Register established under Section 28;

'reserved activity' means any activity in the Reserved List;

'Reserved List' means the list of business activities specified in the Schedule;
and

'Secretary' means the Secretary for the Department.

[The next page is 850,801]

PART 2 — ADMINISTRATION

4 Nauru Foreign Investment Authority

- (1) There shall be a Nauru Foreign Investment Authority.
- (2) The Authority shall consist of 3 members of which, 1 shall be the Chairperson.
- (3) The members shall be appointed by the Minister with the approval of the Cabinet.
- (4) The members of the Authority shall be:
 - (a) Chairperson of the Authority, who shall be a person who has knowledge, skill, qualification in commerce and business development and experience in foreign investment; and
 - (b) 2 other persons, who have knowledge, skill and qualification in commerce and business development and experience in foreign investment.
- (5) A member of the Authority appointed under subsection (4) shall not be a public servant.
- (6) The members of the Authority shall be appointed for a term of 3 years and are eligible for re-appointment.
- (7) The Director shall be the secretary to the Authority.
- (8) The members of the Authority shall report to the Minister.

5 Authority is a legal entity

The Authority shall constitute a legal entity which may:

- (a) sue and be sued;
- (b) enter into contracts and other legal obligations;
- (c) acquire, hold, manage and dispose of real or personal property; and
- (d) have the same powers as an individual to do all things necessary or convenient to carry out the objectives or purpose of the Authority or its functions under this Act or any other written law.

6 Functions of the Authority

The Authority shall perform the following functions:

- (a) promote the Republic as a desirable and attractive investment destination;
- (b) consider and approve an application for a foreign investment certificate made under this Act;
- (c) provide foreign investment advice to the Minister to encourage and secure foreign investment;
- (d) review the Reserved List for the purpose of recommending changes to such List;
- (e) monitor the development of foreign investment;
- (f) ensure that the foreign investor complies with the requirements of investment contained in the foreign investment certificate;
- (g) alter, amend or cancel a foreign investment certificate;
- (h) liaise with and promote cooperation with other departments or instrumentalities in planning and promoting foreign investment;

- (i) promote and facilitate public and private sector cooperation in the industry and other sectors for the production of goods and services for export; and
- (j) engage consultants or advisers as necessary, to assist the Authority in performing its functions.

7 Powers of the Authority

The Authority shall have the power to do all things necessary or convenient for the performance of its functions under this Act.

8 Procedure and meetings

- (1) The Authority shall determine its own procedure.
- (2) The Chairperson shall determine the times and places for the meetings of the Authority.
- (3) The quorum shall comprise 2 members, including the Chairperson.
- (4) In a meeting of the Authority where only 2 members are present and a majority decision is not reached, the Authority shall re-constitute with the 3 members to reconsider its decision.

9 Declaration of conflict of interest

- (1) A member of the Authority, who has a direct or indirect pecuniary or other interest in a matter before the Authority, shall as soon as practicable disclose such interest.
- (2) A disclosure made under subsection (1) shall be recorded in the minutes of the Authority and the member who made such disclosure may:
 - (a) not take part in any decision relating to the matter; and
 - (b) be disregarded for the purposes of constituting a quorum of the Authority in such matter.

10 Annual Report of the Authority

- (1) The Authority shall prepare and complete an annual report within 2 months from the end of the financial year.
- (2) The annual report of the Authority shall be submitted to the Minister within 14 days from the time the annual report is completed under subsection (1).
- (3) The Minister shall present the report to the Cabinet no later than 30 days from the receipt of the report.
- (4) The form and content of the annual report shall be determined by the Authority.

11 Director of Foreign Investment

- (1) There shall be a Director of Foreign Investment, who shall be the administrative head of the Authority.
- (2) The Director shall be appointed by the Minister on the advice of the Authority.

12 Functions and powers of the Director

- (1) The Director shall perform the following functions:

- (a) receive, compile and submit applications for foreign investment certificates to the Authority;
 - (b) assist an applicant for a foreign investment certificate by providing the necessary information required for an application, including forms prescribed under any other written law as may be required to accompany an application made under Section 29;
 - (c) coordinate with the relevant departments or instrumentalities to verify information in relation to forms referred to under paragraph (b);
 - (d) coordinate with the relevant departments or instrumentalities to obtain information that is necessary to perform the Authority's functions;
 - (e) where licences or approvals are required by a foreign investor under other written law, liaise with the relevant department or instrumentality to assist in securing the necessary licences and approvals; and
 - (f) perform all such directions given to him or her by the Authority.
- (2) The Director shall have the power to do all things necessary or convenient to perform his or her functions under this Act.

13 Staff of the Authority

The Authority shall have the power to employ persons to assist the Authority in the exercise of its powers and the performance of its functions on terms and conditions determined by the Authority.

14 Finance of the Authority

The funds of the Authority shall consist of monies appropriated by the Parliament and such funds shall be expended for the purposes of the performance of the functions and the exercise of powers under this Act.

[The next page is 851,001]

PART 3 — FOREIGN INVESTMENT GUARANTEES

15 Fair and equitable treatment

A foreign investor shall:

- (a) have access to justice;
- (b) not be subjected to change in the terms and conditions of the foreign investment certificate to adversely affect the investment; and
- (c) have protection against coercion, duress or harassment and the relevant authorities shall take appropriate action where necessary.

16 Foreign investment not to be nationalised or interfered with

- (1) The business of a foreign investor shall not be nationalised or interfered with.
- (2) A foreign investor shall not be compelled to assign or transfer the investment to another person.
- (3) Where the foreign investor leases a property or land, the proprietor of the property or land, shall allow the investor to have the freedom of enjoyment and use of the property for the purposes of the investment, for the full duration of the lease, except for the breach of any terms and conditions of such lease.
- (4) A foreign investor shall have reasonable access to the place of the investment.

17 Transfer of income generated from investment outside of the Republic

- (1) A foreign investor may transfer any income generated from the investment outside of the Republic.
- (2) Where a foreign investor employs any foreigner, the employee may transfer any remuneration or other benefits paid to him or her outside of the Republic.
- (3) Any transfer of funds shall be in compliance with any administrative or legislative requirements.

18 Non-intervention of the Government

The Government shall not intervene in the management and operations of a foreign investor's business.

19 Employment of foreign employees

- (1) A foreign investor may employ a foreigner:
 - (a) in any executive management position;
 - (b) where it is permitted under subsection (2);
 - (c) where there are no skilled persons in the Republic to undertake the necessary employment; or
 - (d) with the approval of the Authority.
- (2) The number of foreign employees may be fixed by the Authority at the time of the granting of a foreign investment certificate.

20 Visa for foreign investment

- (1) A visa category for foreign investment may be granted to foreign investors and the employment of any foreign employees.
- (2) The duration of a foreign investment visa may be prescribed or as granted by the Authority.

21 Incentives

- (1) Subject to subsection (2) the Cabinet on the advice of the Minister may grant incentives to a foreign investor relating to tax regulated under the *Business Tax Act 2016*, *Employment and Services Tax Act 2014* or duty regulated under the *Customs Act 2014*.
- (2) The Minister shall before advising the Cabinet, consult with the Secretary for Finance and the Authority on the proposed incentive to be granted.
- (3) Where there is a conflict between this Act and the *Business Tax Act 2016*, *Employment and Services Tax Act 2014* or the *Customs Act 2014*, this Act prevails.

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PART 4 — OBLIGATION OF FOREIGN INVESTORS

22 Foreign investor to comply with the written laws

A foreign investor shall comply with the written laws of the Republic.

23 Foreign investor prohibited from conducting investment without a foreign investment certificate

A foreign investor shall not undertake or conduct an investment in the Republic, where the foreign investor has not been granted with a foreign investment certificate.

24 Foreign investor prohibited under the Reserved List

- (1) A foreign investor shall not invest in or conduct any business that is on the Reserved List.
- (2) A foreigner may be employed by a Nauruan conducting a business in the Reserved List, where the person meets the requirements under any other written law.

25 Employment of Nauruans

A foreign investor shall employ Nauruans a percentage of its total number of employees, which percentage may be fixed by the Authority.

26 Annual filing of information

Every foreign investor granted with a foreign investment certificate shall provide a report of its business in the Republic, including an audited financial report to the Authority no later than 8 months after the end of each financial year.

[The next page is 851,401]

PART 5 — RESERVED LIST

27 Reserved List

- (1) There shall be a Reserved List consisting of businesses or sectors that are reserved for Nauruans and the Republic.
- (2) The Authority shall approve the investment businesses that are placed on the Reserved List.
- (3) The Reserved List shall be kept and maintained by the Director.
- (4) Where an investor has been granted a foreign investment certificate for a business or activity, that business or activity shall not be affected by subsequent listing of the business or activity in the Reserved List.

[The next page is 851,601]

PART 6 — FOREIGN INVESTMENT CERTIFICATE

28 Foreign Investment Certificate Register

- (1) There shall be a Foreign Investment Certificate Register.
- (2) The Director shall maintain the Register.
- (3) The Register shall contain a record of:
 - (a) all foreign investment certificates granted under this Act; and
 - (b) any other information as may be prescribed.

29 Application for foreign investment certificate

- (1) A foreign investor intending to conduct a business in the Republic, shall apply to the Authority for a foreign investment certificate.
- (2) The application shall:
 - (a) be in the form as may be prescribed;
 - (b) provide information as may be prescribed including copies of documents required; and
 - (c) be submitted together with the fee as may be prescribed.
- (3) A person shall not provide false or misleading information in the application.

30 Grant or refusal of foreign investment certificate

- (1) The Authority shall consider each application and inform the applicant of its decision.
- (2) Subject to subsection (6), the Authority upon making a decision may approve a foreign investment certificate or refuse an application.
- (3) A foreign investment certificate shall not be granted to a foreign investor to invest in or conduct any investment business that is a reserved activity.
- (4) The Authority shall notify a foreign investor of the grounds upon which an application is refused under subsection (2).
- (5) Where the Authority approves the application, a foreign investment certificate shall be given under the hand of the Director.
- (6) Where the Authority decides to approve an application, the Authority shall first obtain Cabinet's endorsement prior to approving the application and issuing a foreign investment certificate.

31 Duration of certificate

- (1) The Authority may fix the duration of the foreign investment certificate.
- (2) A foreign investment certificate shall cease to be valid where:
 - (a) the foreign investment certificate is cancelled under Section 33; or
 - (b) the foreign investor's business for which the foreign investment certificate is granted does not commence within 12 months from the date the foreign investment certificate is granted, unless the period is extended by the Authority.

32 Extension of certificate

- (1) A foreign investor shall apply to the Authority for the extension of a foreign investment certificate, 3 months before it expires.
- (2) The Authority may extend or refuse to extend the foreign investment certificate.
- (3) Where the application for extension is refused, the Authority shall notify the foreign investor of the reasons and the grounds for refusal.
- (4) An application made under this Section shall be in accordance with the procedure and form and accompanied by the fee, as may be prescribed.

33 Cancellation of foreign investment certificate

- (1) A foreign investment certificate may be cancelled by the Authority where:
 - (a) the application contained any material misrepresentation or false statement;
 - (b) the foreign investor undertakes a reserved activity in contravention of this Act;
 - (c) any condition imposed under this Act or Regulations has been contravened; or
 - (d) the investment business or activity ceases its operation.
- (2) The Authority shall notify the holder of a foreign investment certificate of the reasons for which the foreign investment certificate has been cancelled.

34 Foreign investment certificate holder to be heard

A foreign investment certificate granted under this Act may only be cancelled, where the holder of such is first given an opportunity to be heard by the Authority, as to why such foreign investment certificate should not be cancelled.

[The next page is 851,801]

PART 7 — APPEALS

35 Authority's decision may be appealed

- (1) A foreign investor may appeal the following decisions to the Minister:
 - (a) a decision by the Authority to refuse an application under Section 30;
 - (b) a decision by the Authority to refuse the extension of a foreign investment certificate under Section 32; or
 - (c) a decision by the Authority to cancel a foreign investment certificate under Section 33.
- (2) Where an appeal is made for the purposes of subsection (1)(c) the cancellation of the foreign investment certificate relating to the appeal shall be suspended pending the outcome of the Minister's decision.
- (3) An appeal shall be submitted to the Minister:
 - (a) in writing; and
 - (b) within 14 days of receiving notification under Section 30(4), 32(3) or 33(2).
- (4) The procedure and manner in which an appeal to the Minister is made and determined shall be prescribed.

[The next page is 852,001]

PART 8 — MISCELLANEOUS

36 Nauruan citizen with dual citizenship not eligible for foreign investment certificate

A Nauruan citizen shall not be eligible to apply for a foreign investment certificate.

37 Enforcement

- (1) The Director, may for the purpose of ensuring compliance with this Act:
 - (a) conduct an onsite inspection of a foreign investor's business premises;
 - (b) request information relating to the foreign investor's business from a foreign investor including an employee or representative of such foreign investor; and
 - (c) make copies of information received.
- (2) A person who refuses to provide information requested under subsection (1)(b) commits an offence and shall be liable upon conviction for an individual, to a fine not exceeding \$5,000 or to an imprisonment term not exceeding 2 years or to both.

38 Offence and penalty

A foreign investor who contravenes any provision of this Act other than Section 37, commits an offence and shall be liable upon conviction:

- (a) for an individual, to a fine not exceeding \$50,000 or to an imprisonment term not exceeding 2 years or to both; or
- (b) for a body corporate or other body, to a fine not exceeding \$150,000.

39 Protection from liability

The Minister, member of the Authority, the Director or any other employee of the Authority, in the exercise of a power or performance of a function or duty, done in good faith under this Act or any other written law, shall not:

- (a) be liable for any loss or damage arising from such; or
- (b) be subject to any criminal prosecution and civil claims.

40 Confidentiality

A member of the Authority or any other person delegated a function or power under this Act, shall maintain the confidentiality of any matter such person becomes aware of, in the performance of a function or exercise of a power under this Act.

41 Transitional provision

This Act shall not apply to any foreign person conducting a business in the Republic at the commencement of this Act.

42 Regulations

- (1) The Cabinet may make regulations to prescribe matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed, for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.

- (2) Without limiting the generality of subsection (1), regulations may be made for the following purposes:
- (a) the inclusion, deletion, amendment or clarification of any business activity in the Reserved List;
 - (b) prescribing conditions which may apply generally or to a particular business activity;
 - (c) prescribing the procedure for making an application for a foreign investment certificate;
 - (d) the fees payable under this Act; and
 - (e) the forms required under this Act.

[The next page is 852,201]

SCHEDULE

(Section 3)

RESERVED LIST

- 1 Phosphate Industry.
- 2 Airline Industry.
- 3 Shipping Industry.
- 4 Utilities (Power and Water).
- 5 Land Rehabilitation Services.
- 6 Underwater Fibre Optic Cables.
- 7 Products derived from stones or pinnacles in Nauru.
- 8 Products derived from trees in Nauru.
- 9 Grocery Retail and Wholesale.
- 10 Hotel and accommodation not less than \$5,000,000 capital investment.
- 11 Agriculture.
- 12 Cultural attractions (including cultural performances).
- 13 Café, bakeries or pastry shops.
- 14 Ownership of galleries for paintings or other visual arts.
- 15 Restaurants.
- 16 Retail of traditional or cultural handicrafts and artefacts (including commercial reproductions).
- 17 Taverns or public or kava bars.
- 18 Laundry or dry-cleaning.
- 19 Places offering Internet access (eg internet cafés).
- 20 Audio or video production, hire, or sale.
- 21 Hair dressing salons, beauty parlours or health spas.

