



REPUBLIC OF NAURU

## Ronwan Finalisation Act

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Act No. 19 of 2014

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**An Act to make provision for the orderly realisation of remaining assets and payment of the remaining funds of the Nauruan Land Owners Royalty Trust Fund to Beneficiaries, for the safeguarding of records of NPRT and for related matters.**

Certified September 2014

### PART 1 - PRELIMINARY MATTERS

**1. Short Title**

This Act may be cited as the *RONWAN Finalisation Act 2014*.

**2. Commencement**

This Act commences on the day it receives the certificate of the Speaker under Article 47 of the Constitution.

**3. Interpretation**

**3.1** Words and terms used in this Act shall, unless the contrary intention appears, have the same meaning as defined in the *Nauru Phosphate Royalties Trust Act 1968* and as defined in the *RONWAN Distribution Act 2013*.

**3.2** In this Act, 'the Nauru Rehabilitation Corporation' means the body known by that name established under *the Nauru Rehabilitation Corporation Act 1997*.

**4. Amendment of *Ronwan Distribution Act 2013***

**4.1** In the Definition of 'Secondary Vesting Date' in sub-section 3.15 of the *RONWAN Distribution Act 2013* replace 'the thirtieth of June, 2014' with '30 September 2014 or any earlier or later date stipulated under any Regulation made pursuant to this Act'.

**4.2** S. 9.2 (i) of the *Ronwan Distribution Act 2013* is repealed. Such repeal is effective from the commencement of the *Ronwan Act 2013*.

**4.3 4.3.1** Section 16 of the *Ronwan Distribution Act 2013* is repealed.

**4.3.2** Sub-sections 30.1, 31.1, 32.1, 33.1 and 34.1 of the *Ronwan Distribution Act 2013* are amended as follows-

*Remove the words 'other than any debt relinquished, discharged or waived or to be relinquished, discharged or waived pursuant to section 16'.*

**4.4** The original Sub-Section 18.2 of the *RONWAN Distribution Act 2013* is repealed. To the extent possible, such repeal is deemed to have taken effect from the commencement of the *RONWAN Distribution Act 2013*

**4.5** Insert a new sub-section 18.2 of the *RONWAN Distribution Act 2013* as follows:-

**18.2** Any actual debts or actual liabilities of the Trust, in its own right or on behalf of any of the Funds, which are not currently due or payable on behalf of the Trust on 15 September, 2014 or any earlier or later date stipulated under any Regulation made pursuant to this Act, shall be paid in full by 30 September, 2014 or any earlier or later date stipulated under any Regulation made pursuant to this Act.'

**4.6** Section 20 of the *Ronwan Distribution Act 2013* is amended by replacing the original section 20 with the following:-

**'20. Payment of Remaining Ronwan Interest**

**20.1** On or as soon as practicable after the Primary Vesting Date, all Ronwan Interest earned by the Nauruan Land Owners Royalty Trust Fund on or before 31 December 2013 which has not already been paid or distributed to Beneficiaries of such fund and representatives of Beneficiaries of such fund and Life Time Interest Only Holders in respect of such fund, shall:-

- (i) be paid and distributed to the Beneficiaries of such fund and where required the representatives of Beneficiaries of such fund, apportioned in accordance with the Beneficiaries' relative interests in Fund 2 in the financial years during which they were

beneficiaries, subject that in respect of the financial years where there is or has been a Life Time Interest Only Holder in respect of particular Phosphate Land, the amount of unpaid and undistributed Ronwan Interest in respect of such particular Phosphate Land shall be paid to the Life Time Interest Only Holders in respect of such financial years;

- (ii) be exempted from and excluded from the application of, the provisions of sub-sections: 19(2), 19(3), 19(4) and 19(5) of the *Nauru Phosphate Royalties Trust Act 1968*.

**20.2** On or as soon as practicable after 31 August 2014, all Ronwan Interest earned by the Nauruan Land Owners Royalty Trust Fund for the period 1 January 2014 to 30 June 2014, shall :-

- (i) be paid and distributed to the Beneficiaries of such fund and where required the representatives of Beneficiaries of such fund, apportioned in accordance with the Beneficiaries' relative interests in Fund 2 as at 31 December 2013, subject that where there was a Life Time Interest Only Holder in respect of particular Phosphate Land on 31 December 2013, the amount of unpaid and undistributed Ronwan Interest in respect of such particular Phosphate Land shall be paid to the Life Time Interest Only

Holders

in respect of such financial years;

- (ii) be exempted from and excluded from the application of, the provisions of sub-sections: 19(2), 19(3), 19(4) and 19(5) of the *Nauru Phosphate Royalties Trust Act 1968*.'

**4.7** In section 21 of the *Ronwan Distribution Act 2013*:-

**4.7.1** Replace 'Final Vesting Date' with 'Secondary Vesting Date'.

**4.7.2** Replace 'NPRT' with 'the Trust'.

**4.8** In section 23 of the *Ronwan Distribution Act 2013*, replace 'On 27 June, 2014 or any later date stipulated under any Regulation made pursuant to this Act' with 'the Secondary Vesting Date'.

**4.9** Insert new section 23A in the *Ronwan Distribution Act 2013* (immediately after section 23) as follows:-

**'23A Distribution of any Subsequent Capital Receipts**

**23A.1** Within 2 months, or any shorter or longer period stipulated under any Regulation made pursuant to this Act, after the receipt or realisation of money, after the Secondary Vesting Date, in respect of any capital of the Trust on behalf of Fund 2, in excess of \$100,000.00 or any larger or lesser sum stipulated under any Regulation made pursuant to this Act, all surplus monies held by

the

Trust which are not required to meet the expenses and liabilities of the Trust, shall be paid and distributed to the Beneficiaries of such

relative fund and where required the representatives of Beneficiaries of such fund, apportioned in accordance with the Beneficiaries' interests in Fund 2 as at 31 December 2013. Other than Ronwan Interest, no monies shall be payable or shall be paid from Fund 2, by virtue of, or in respect of, any lifetime interest in Phosphate Land.'

**4.10** Section 24 of the *Ronwan Distribution Act 2013* is amended as follows:-

**4.10.1** Delete 'either' in the sentence 'All payments made pursuant to this Act, shall be made by either:-'

**4.10.2** Insert immediately after part (ii)-

'(iii) By Cash to the respective Beneficiary or Lifetime Interest Only Holder or to a representative for the time being acting on behalf of such Beneficiary or Lifetime Interest Only Holder, subject to the signing by such recipient of a written acknowledgement of receipt of such cash payment;'

**4.10.3** Insert immediately after part (iii)-

'(iv) By Electronic funds transfer to a bank account directed or nominated in writing by the respective Beneficiary or Life time Interest Only Holder or a representative for the time being acting on behalf of such Beneficiary or Lifetime Interest Only Holder; or'

**4.10.4** Insert immediately after part (iv)-

'(v) By Electronic funds transfer to a bank account directed or nominated in writing by the Minister'.

**4.11** The amendments to Section 24 of the *Ronwan Distribution Act 2013*, provided for in sub-section 4.10 shall, to the extent possible, for all purposes, be deemed to have taken effect retroactively and retrospectively from the commencement of the *Ronwan Distribution Act 2013*.

**4.12** Sub-section 28.2 of the *Ronwan Distribution Act 2013* is re-numbered as sub-section 28.2.1.

**4.13** *Sub-Section 28.2.2* is inserted in the *Ronwan Distribution Act 2013* as follows:-

'**28.2.2** All formalities ordinarily associated with assignments of debt are deemed to have taken place in respect of the matters provided for in sub-section 28.2.1. Nothing provided for in sub-section 28.2.1 shall be held invalid or ineffective for want of service of any notice of assignment or for want of any other formality or action.'

- 4.14** The heading in Section 29 of the *RONWAN Distribution Act 2013* shall be changed to:-
- ‘Winding Up of the Nauruan Land Owners Royalty Trust Fund (Fund 2)’.**
- 4.15** Sub-section 30.3 of the *RONWAN Distribution Act 2013* is repealed.
- 4.16** The heading in Section 31 of the *RONWAN Distribution Act 2013* shall be changed to:-
- ‘Custodianship of the Long Term Investment Fund’.**
- 4.17** In Sub-Section 31.1 of the *RONWAN Distribution Act 2013*, replace ‘Government of Nauru’ with ‘the Nauru Rehabilitation Corporation’ and insert at the end of sub-section 31.1 ‘The Trust shall on 30 September 2014 cease to administer the Long Term Investment Fund.’
- 4.18** The original Sub-Section 31.2 of the *RONWAN Distribution Act 2013* is repealed. To the extent possible, such repeal is deemed to have taken effect from the commencement of the *RONWAN Distribution Act 2013*.
- 4.19** A new sub-Section 31.2 of the *RONWAN Distribution Act 2013* shall be inserted as follows:-
- ‘From 30 September 2014, the Nauru Rehabilitation Corporation shall be the custodian of the Long Term Investment Fund established pursuant to S. 62(1) of the Constitution.
- 4.20** In Sub-Section 32.1 of the *RONWAN Distribution Act 2013*, replace ‘Government of Nauru’ with ‘the Nauru Rehabilitation Corporation’ and insert at the end of sub-section 31.1 ‘The Trust shall on 30 September 2014 cease to administer the Nauru Housing Fund.’
- 4.21** The original Sub-Section 32.2 of the *RONWAN Distribution Act 2013* is repealed. To the extent possible, such repeal is deemed to have taken effect from the commencement of the *RONWAN Distribution Act 2013*.
- 4.22** A new sub-Section 32.2 of the *RONWAN Distribution Act 2013* shall be inserted as follows:-
- ‘From 30 September 2014, the Nauru Rehabilitation Corporation shall be the custodian of the Nauru Housing Fund.’
- 4.23** In Sub-Section 33.1 of the *RONWAN Distribution Act 2013*, replace ‘Government of Nauru’ with ‘Republic of Nauru’.
- 4.24** In Sub-Section 34.1 of the *RONWAN Distribution Act 2013*, replace ‘Government of Nauru’ with ‘Republic of Nauru’.
- 4.25** In Section 35 of the *RONWAN Distribution Act 2013*, replace the words ‘on the Primary Vesting Dare’ with ‘on the Primary Vesting Date’.

**4.26** The heading in Section 36 of the *RONWAN Distribution Act 2013* shall be changed to:-

**'Dissolution of the Trust'.**

**5. Amendment of *Nauru Phosphate Royalties Trust Act 1968***

**5.1** Section 5(1) of the *Nauru Phosphate Royalties Trust Act 1968* is replaced with the following:-

**'5(1)** The Trust shall until dissolution, consist of four members appointed by Cabinet. The Chairman and the other members holding office at the time of the commencement of the *Ronwan Finalisation Act 2014* shall each remain in office subject to the termination of their appointment by Cabinet or their resignation however such Chairman and such other members shall be deemed for the purposes of part II of the *Nauru Phosphate Royalties Trust Act 1968* to have been appointed by Cabinet.

**5(2)** Cabinet may appoint a member of Cabinet to act as Chairman and/or Trustee of the Trust however a Cabinet member so holding office shall not receive any remuneration nor profit by virtue of holding such office.

**5(3)** For the purposes of part II of the *Nauru Phosphate Royalties Trust Act 1968*:-

**5(3)(1)** Any reference to 'the person by whom the member was appointed' and any like phrase shall be deemed to be a reference to the Cabinet.

**5(3)(2)** Any reference to 'the person by whom the member or acting member was appointed' and any like phrase shall be deemed to be a reference to the Cabinet.

**5(3)(3)** Any reference to 'Administrator' shall be deemed to be a reference to Cabinet.

**5(3)(4)** Any reference to 'Administrator in Council' shall be deemed to be a reference to Cabinet.'

**5.2** Section 8 of the *Nauru Phosphate Royalties Trust Act 1968* is repealed.

**5.3** A new sub-section 17(4) is inserted in the *Nauru Phosphate Royalties Trust Act 1968* as follows:-

**'17(4)** Meetings of the Trust may be conducted by telephone, voice over IP, circulation of a written Resolution or by any other means the members shall think fit.'

**5.4** Section 32 of the *Nauru Phosphate Royalties Trust Act 1968* is amended as

follows:-

**5.4.1** Sub-section 32(6) of the *Nauru Phosphate Royalties Trust Act 1968* is amended by inserting at the beginning of that sub-section '*Until 30 June 2014*'.

**5.4.2** Insert a new sub-section 32(6) as follows:-

'After 30 June 2014, if the Trust has insufficient income to meet costs and expenses, the outstanding balance of such costs and expenses shall be paid from monies at hand in respect of capital or corpus of the Funds held by NPRT.'

## **5.5 Sunset Provision**

A new section 36 is inserted into the *Nauru Phosphate Royalties Trust Act 1968* as follows:-

**36.** The obligations imposed under this Act shall cease to be binding as from 30 June 2014.'

## **6. Repeal**

**6.1** One day after the dissolution of the Trust (Nauru Phosphate Royalties Trust), the *Nauru Phosphate Royalties Trust Act 1968* shall be repealed. All words and terms used in the *Nauru Phosphate Royalties Trust Act 1968* shall, unless the contrary intention appears, continue to have the same meaning in the *RONWAN Distribution Act 2013* and in this Act.

## **7. Nauru Phosphate Royalties (Payment and Investment) Act 1968**

**7.1** The First Schedule to the *Nauru Phosphate Royalties (Payment and Investment) Act 1968* is amended as follows effective from 1 January 2014-

7.1 .1 In the First Schedule to the *Nauru Phosphate Royalties (Payment and Investment) Act 1968*, in the column numbered 13, in the row in respect of the Nauruan Land Owners' Royalty Trust Fund (in the row containing Nauruan Land Owners' Royalty Trust Fund in column 1), replace '\$6.50' with '\$0'.

**7.2** S. 6(4) of the *Nauru Phosphate Royalties (Payment and Investment) Act 1968* is repealed.

**7.3** All amounts payable in respect of the period from 1 January 2014 pursuant to the *Nauru Phosphate Royalties (Payment and Investment) Act 1968* in respect of the Long Term Investment Fund, the Nauru Housing Fund and the Nauru rehabilitation Fund shall be paid to the Nauru Rehabilitation Corporation.

## **8. Amendment of Nauru Rehabilitation Corporation Act 1997**

**8.1** S.4 of the *Nauru Rehabilitation Corporation Act 1997* is amended by inserting a new part (e) as follows -

**‘4(e)** to manage and administer the moneys and assets of each of the Long Term Investment Fund and the Nauru Housing Fund, in each case separately and distinctly from the other moneys and assets of the Corporation.’

**8.2** S.6 of the *Nauru Rehabilitation Corporation Act 1997* is amended by inserting the following at the end thereof -

‘The Corporation in dealing with any fund which constitutes moneys of the Republic including with the Long Term Investment Fund, the Nauru Rehabilitation Fund and the Nauru Housing Fund does so for the benefit of the citizens of Nauru and is responsible to the Parliament through Cabinet for the administration of such fund. Any assets and monies under the Nauru Rehabilitation Fund may be utilised in pursuance of any function or power of the Corporation under parts (a) to (d) of S.4 of this Act’

**8.3** S.16A is inserted into the *Nauru Rehabilitation Corporation Act 1997* (immediately after s.16) as follows –

**‘16A** From and after the date of commencement of the *Ronwan Finalisation Act 2014*, all assets and monies of each of the Long Term Investment Fund and the Nauru Housing Fund shall be transferred to and vest in the Corporation without further assurance, and the Corporation shall have all the powers necessary to take possession of, recover and deal with such assets and monies for the purposes and objects of the Long Term Investment Fund and the Nauru Housing Fund respectively.’

## **9. Regulations**

**9.1** Any and all of the dates specified in the RONWAN Distribution Act 2013 and in this Act, may before, on or after any such date, be substituted or varied by Cabinet Regulation subject that Cabinet shall not substitute or vary a date stipulated for the winding up of a fund or the dissolution of NPRT after any such winding up or dissolution has already in fact occurred.

**9.2** The Cabinet may make regulations prescribing any matter or thing required or authorised by this Act to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## **10. Record Retention**

From the date being one calendar month earlier than the date specified as the date of dissolution of NPRT in Section 36 of the RONWAN Distribution Act 2013, as - may be - varied, Cabinet shall be responsible to procure the retention and storage of records of NPRT in accordance with and for the period:-

**10.1** As prescribed by any applicable laws; and

**10.2** Further as Cabinet may from time to time see fit.

**11. RONWAN Portal**

**11.1** From the date of commencement of this Act, Cabinet shall be responsible to procure the hosting and support of the RONWAN On-Line Information Portal for access by Beneficiaries on-line for a minimum period of 12 months and for any such further period as Cabinet may from time to time see fit.

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