



REPUBLIC OF NAURU

# TRUSTS (AMENDMENT) ACT 2018

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No. 34 of 2018

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An Act to amend the Trusts Act 2018

Certified: 18<sup>th</sup> December 2018

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Enacted by the Parliament of Nauru as follows:

**1 Short title**

This Act may be cited as the *Trusts (Amendment) Act 2018*.

**2 Commencement**

This Act commences on certification by the Speaker.

**3 Amendment of Trusts Act 2018**

The Trusts Act 2018 is amended by the provisions of this Act.

**4 Amendment of section 4**

Section 4 is amended by:

(a) deleting:

*'beneficiary or beneficial owner'* in relation to an express trust, means a natural person exercising ultimate effective control over the trust or having the ultimate beneficial interest'; and

(b) inserting in alphabetical order:

*'beneficiary'* in relation to a registrable trust means a natural or legal person who is entitled to the benefit of the trust;

*'beneficial owner'* in relation to a registrable trust means a natural person including but not limited to a settlor, trustee, the protector (if any), the beneficiary:

(a) who has ultimate control, directly or indirectly, over the trust;

(b) who ultimately own, directly or indirectly, the trust; or

(c) on whose behalf a trust is created;

**5 Insert a new section 4A**

**4A Application of the Custom and Adopted Laws Act 1971**

Subject to this Act, the common law, statutes, rules, regulations and orders in England, adopted by sections 4 and 5 of the Custom and Adopted Laws Act 1971, shall apply to trusts under this Act.

**6 Amendment of section 5**

Section 5 is repealed and replaced as follows:

**'5 Registrable trust**

A registrable trust is:

- (a) an express trust within the meaning of section 9;
- (b) a charitable trust within the meaning of section 10; or
- (c) a discretionary trust;
- (d) located in the Republic under section 6; and
- (e) not excluded under section 7.

**7 Amendment of section 16**

Section 16 is amended by deleting the words '*and Border Control*' where they appear.

**8 Amendment of section 18**

Section 18 is amended by inserting a new subsection (3) as follows:

'(3) A trustee who fails to comply with subsection (2) commits an offence and upon conviction is liable to a fine not exceeding \$5,000.'

**9 Amendment of section 21**

Section 21 is amended by:

- (a) repealing subsection (1) and replacing it as follows:

'(1) The Registrar shall record an entry in the Register:

- (a) the information provided by the trustee for the registration of a registrable trust;
- (b) a change or variation:
  - (i) by the trustees at any time; or
  - (ii) in the annual return;
- (c) in accordance with a change of information notified to the Registrar in the annual return; or
- (d) otherwise if the Registrar is satisfied after proper inquiry that the information contained in the entry is incorrect.

and

- (b) deleting '(b)' where it appears in the first instance in subsection (2) and substituting it with '(c)'.

**10 Amendment of section 23**

Section 23 is repealed and replaced as follows:

- (1) The Registrar may remove a registered trust from the register if the Registrar is satisfied after proper inquiry that the trust:
- (a) has ceased to be a registrable trust; or
  - (b) is a dormant trust.
- (2) The Registrar shall give notice of the removal of a registered trust to the person who filed the most recent annual return and if the person fails to respond, the Registrar may remove the registered trust under subsection (1).
- (3) For the purposes of this section, a registered trust is deemed to be dormant where it fails to file annual returns for 3 consecutive years or the annual returns filed shows the trust not undertaking any activity.'

## **11 Amendment of section 32**

Section 32 is amended by deleting the words '*and Border Control*' where they appear in the first instance.