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NATIONAL DISASTER RISK MANAGEMENT (MANAGEMENT  
AND MINIMISATION OF THE IMPACTS OF THE UXO BOMB) REGULATIONS 2023

SL No. 38 of 2023

Notified: 8<sup>th</sup> December, 2023

Table of Provisions

<b><u>PART 1 – PRELIMINARY</u></b> .....	2
<u>1 Citation</u> .....	2
<u>2 Commencement</u> .....	2
<u>3 Interpretation</u> .....	2
<u>4 Application</u> .....	3
<u>These Regulations shall apply only within the area specified in the Declaration</u> .....	3
<b><u>PART 2 – PROHIBITIONS</u></b> .....	3
<u>5 Fishing prohibited</u> .....	3
<u>6 Use of vessels prohibited</u> .....	3
<u>7 Entry of the area specified in Declaration prohibited</u> .....	3
<b><u>PART 3 – FIXED PENALTY NOTICES</u></b> .....	3
<u>8 Strict liability offences</u> .....	3
<u>9 Fixed Penalty Notice</u> .....	4
<u>10 Issuance of fixed penalty notices</u> .....	4
<u>11 Payment of fixed penalties</u> .....	5
<u>12 Failure to comply with fixed penalty notices</u> .....	5
<b><u>PART 4 – MISCELLANEOUS</u></b> .....	5
<u>13 Jurisdiction</u> .....	5
<u>14 Orders</u> .....	5
<u>15 Directions</u> .....	5
<b><u>SCHEDULE</u></b> .....	6

G.N.No. 1357/2023 (Cont'd)

The Cabinet makes the following Regulations under Sections 82 and 86 of the *National Disaster Risk Management Act 2016* to give effect to the *Declaration of State of Disaster for the Management and Minimisation of the Impacts of the UXO Bomb*:

## PART 1 – PRELIMINARY

### 1 Citation

These Regulations may be cited as the *National Disaster Risk Management (Management and Minimisation of the Impacts of the UXO Bomb) Regulations 2023*.

### 2 Commencement

These Regulations commence on the date of its publication in the Gazette.

### 3 Interpretation

(1) In these Regulations:

**'Act'** means the *National Disaster Risk Management Act 2016*;

**'Declaration'** means the *Declaration of State of Disaster for the Management and Minimisation of the Impacts of the UXO Bomb* made pursuant to Section 26 of the Act;

**'essential services'** include members of the Australian Federal Police assisting the Republic, Department of National Emergency Services, Nauru Police Force, Department of Health, Nauru Utilities Corporation or any other service authorised by the Minister;

**'fisheries waters'** means the internal waters, the territorial sea, the exclusive economic zone and any other waters over which the Republic claims jurisdiction;

**'fishing'** means:

- (a) searching for, catching, taking or harvesting fish;
- (b) attempting to search for, catch, take or harvest fish;
- (c) engaging in any other activity which can reasonably be expected to result in the searching, catching, taking or harvesting of fish;
- (d) placing, searching for or recovering any fish aggregating device or associated equipment including radio beacons;
- (e) any operation at sea directly in support of or in preparation for any activity described in this definition; or
- (f) storing, transshipping, processing or transporting fish taken from the fisheries waters up to the time they are first landed;

**'fixed penalty'** means the penalty payable by a person who is issued a fixed penalty notice for the commission of a strict liability offence;

G.N.No. 1357/2023 (Cont'd)

*'fixed penalty notice'* means the Fixed Penalty Notice issued to a person under these Regulations;

*'legal practitioner'* has the meaning given to it under Section 4 of the *Legal Practitioners Act 2019*;

*'UXO bomb'* means the reported unexploded ordnance that was discovered in Aiwo District; and

*'vessel'* means every description of vessel used or capable of being used of any type, class, size or weight, including any vessel less than 10 metres in length engaged in any kind of trade, service or international maritime activity, including a vessel for leisure and recreation, and includes a canoe, dinghy, launch, ship, hovercraft or other apparatus constructed or modified for floating on water.

(2) In these Regulations, words and phrases have the same meaning as those under the Act.

#### **4 Application**

These Regulations shall apply only within the area specified in the Declaration.

### **PART 2 – PROHIBITIONS**

#### **5 Fishing prohibited**

- (1) A person shall not conduct or engage in any fishing in the fisheries waters.
- (2) A person who contravenes subregulation (1) commits a strict liability offence and is liable to pay the fixed penalty of \$1,000.

#### **6 Use of vessels prohibited**

- (1) A person shall not use or operate any vessel in the fisheries waters.
- (2) Subregulation (1) does not apply to an authorised officer who is exercising his or her powers or performing his or her functions under the Act or for the purpose of these Regulations.
- (3) A person who contravenes subregulation (1) commits a strict liability offence and is liable to pay the fixed penalty of \$1,000.

#### **7 Entry of the area specified in Declaration prohibited**

- (1) Subject to subregulations (2) and (3), a person shall not enter the area specified in the Declaration.
- (2) A person who is an authorised officer or a member of essential services may enter the area specified in the Declaration.
- (3) A person travelling on the main road may be permitted by an authorised officer to pass through the specified area.

### **PART 3 – FIXED PENALTY NOTICES**

#### **8 Strict liability offences**

- (1) For the purpose of these Regulations or any orders made or directions issued under these Regulations, a strict liability offence is a fixed penalty offence.

G.N.No. 1357/2023 (Cont'd)

- (2) A person who commits a strict liability offence under these Regulations or any orders made or directions issued under these Regulations, shall be:
  - (a) issued a fixed penalty notice; and
  - (b) liable to pay a fixed penalty for that offence.

## **9 Fixed Penalty Notice**

- (1) An authorised officer shall issue a fixed penalty notice in the form as set out in the Schedule.
- (2) A fixed penalty notice shall:
  - (a) state the place, date and time of the strict liability offence;
  - (b) state:
    - (i) the given names and surname of the individual; and
    - (ii) the district of the individual to whom the notice is issued;
  - (c) state the fixed penalty to be paid;
  - (d) state the place where the fixed penalty is to be paid, or the manner in which the fixed penalty is to be paid;
  - (e) require the person to whom the fixed penalty notice is issued to pay within 14 days from the date on which the fixed penalty notice is issued to the person; and
  - (f) state the date of issuance of the fixed penalty notice.
- (3) Where a person to whom a fixed penalty notice is issued fails to pay the fixed penalty within the required period, legal proceedings shall be instituted against the person within the next 14 days.
- (4) Where legal proceedings are instituted against a person under subregulation (3), the person may:
  - (a) represent himself or herself; or
  - (b) be represented by a legal practitioner.
- (5) The authorised officer who issues a fixed penalty notice shall cause a signed copy of the fixed penalty notice to be produced before the Nauru Revenue Office and the court as specified in the fixed penalty notice no later than 14 days after the date of issuance of the fixed penalty notice.
- (6) A person who is issued a fixed penalty notice by an authorised officer shall accept such notice.
- (7) A person who does not accept a fixed penalty notice when it is issued to him or her commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or a term of imprisonment not exceeding 5 years or both, in addition to the fixed penalty.

## **10 Issuance of fixed penalty notices**

G.N.No. 1357/2023 (Cont'd)

- (1) A fixed penalty notice shall, if practicable, be issued personally to a person by delivering or tendering to him or her the original of the fixed penalty notice.
- (2) An affidavit purporting to be made before the Resident Magistrate or Commissioner for Oaths that a fixed penalty notice has been issued shall be admissible in evidence and the statements made on the fixed penalty notice shall be deemed to be correct unless and until the contrary is proved and the fixed penalty notice shall be annexed to the affidavit or the affidavit may be endorsed on the same paper as the fixed penalty notice.

#### **11 Payment of fixed penalties**

- (1) A person who is issued a fixed penalty notice under regulation 8 shall:
  - (a) pay the fixed penalty to the Nauru Revenue Office; and
  - (b) provide a copy of the official receipt to the Registrar of Courts.
- (2) Where a person provides a copy of the official receipt under subregulation (1), the Registrar of Courts shall not list the offender's case before the Resident Magistrate.

#### **12 Failure to comply with fixed penalty notices**

Where a person who is issued a fixed penalty notice under Regulation 8 fails to pay the fixed penalty within the required time, he or she shall:

- (a) be summoned to attend court; and
- (b) in addition to the fixed penalty, upon conviction be liable to a fine not exceeding \$50,000 or a term of imprisonment not exceeding 5 years or both.

### **PART 4 – MISCELLANEOUS**

#### **13 Jurisdiction**

The District Court shall have the jurisdiction to hear and determine any cause or matter under these Regulations or any orders made or directions issued under these Regulations.

#### **14 Orders**

- (1) The Minister may make orders to manage and minimise the impacts of the UXO bomb, or as may be necessary to give effect to the Act, these Regulations or the Declaration.
- (2) Any order made under subregulation (1) shall be published in the Gazette.

#### **15 Directions**

- (1) The Minister may issue directions to manage and minimise the impacts of the UXO bomb, or as may be necessary to give effect to the Act, these Regulations, the Declaration or any orders made under these Regulations.
- (2) Any direction issued under subregulation (1) shall be published in the Gazette.

**SCHEDULE**

**FIXED PENALTY NOTICE**



**PART 1: OFFENCE DETAILS**

Offender:  
Surname: .....  
Given Names: .....  
District .....  
Nature of Offence: .....  
Place: ..... Date: ...../...../20..... Time: .....  
Details of the circumstances alleged to constitute the offence:  
.....  
.....  
.....

Fixed Penalty: \$ ..... Authorised Officer's Signature: .....  
Authorised Officer's Name: ..... Date ...../...../20.....  
Acknowledgement of Service of Fixed Penalty Notice by: Name and Signature:  
.....  
*(If a person refuses to accept this Fixed Penalty Notice, an Authorised Officer may note the refusal of acceptance)*

**Note:**  
1. This Fixed Penalty Notice shall only be served to the offender at the time of the offence or as soon as practicable.  
2. If the offender refuses to accept the Notice, he or she commits an offence under Regulation 7(7) for which he or she is liable to a fine not exceeding \$50,000 or a term of imprisonment not exceeding 5 years or both, in addition to the fixed penalty.

**PART 2: TIME FOR PAYMENT OF PENALTY**

A. Take notice that the penalty shall be paid to the Nauru Revenue Office within 14 days of the date of the issuance of this Fixed Penalty Notice.  
B. Contesting this Fixed Penalty Notice: If you intend to defend or contest this Fixed Penalty Notice, you are to appear in person or by a legal representative in court on the date and at the time provided in Part 3.

**PART 3: NOTICE TO ATTEND TO COURT**

Take notice that if you fail to pay the fixed penalty or intend to contest or defend this Fixed Penalty, you shall attend the District Court at Yaren on the ..... day of ..... 20 ..... at .....am/pm for the hearing.  
If you fail to attend to the hearing, the court shall proceed to the hearing of the Fixed Penalty Notice in your absence and may impose a fine or term of imprisonment or both in accordance with the *National Disaster Risk Management Act 2016*. If you fail to abide by any order of the court, you shall be arrested under a committal warrant without any further notice.

**AFFIDAVIT OF SERVICE**

I ..... Authorised Officer make oath/solemnly affirm that I did on the .....  
..... day of ..... 20 ..... served the offender ..... the original of this Fixed Penalty  
Notice at ..... (time) on (date) ..... AND he/she acknowledged  
service by affixing his/her signature to this Fixed Penalty Notice.  
  
Authorised Officer: .....  
Before me: .....  
(Commissioner for Oaths)