



REPUBLIC OF NAURU

NAURU UTILITIES CORPORATION (AMENDMENT) ACT 2016

No. 7 of 2016

An Act to amend the *Nauru Utilities Corporation Act 2011*

Certified: 29th January 2016

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Nauru Utilities Corporation (Amendment) Act 2016*.

2 Commencement

This Act commences upon certification by the Speaker.

3 Amendment of Nauru Utilities Corporation Act 2011

The *Nauru Utilities Corporation Act 2011* is amended by the provisions of this Act.

4 Amendment of section 4

Insert the following in alphabetical order:

'Acting Chief Executive Officer' means the person appointed under section 6A of this Act;

5 Insert new section 6A

6A Appointment of Acting CEO

- (1) The Cabinet may appoint a person to act in the position of Chief Executive Officer when the CEO is away from office or is unable to perform his or her duties by reason of illness.
- (2) The Acting CEO appointed under subsection (1) is responsible for the day to day management and control of the Corporation and for the implementation of Board policies until the return of the substantive CEO.
- (3) The terms and conditions of an appointment made under subsection (1) shall be determined by Cabinet at the time of appointment.
- (4) When an Acting CEO is appointed under this section, all references in the Act to the CEO is a reference to the Acting CEO until the appointment expires or the substantive CEO has returned to office.

6 Amendment of section 7

Section 7 of the Act is hereby repealed and replaced with the following:

7 Board of Directors

- (1) Subject to this Act, the business of the Corporation shall be controlled by a Board of Directors constituted of five members appointed by Cabinet and two *ex officio* members.
- (2) Of the members of the Board appointed:
 - (a) two must be appointed to represent the interests of residential customers;
 - (b) one must be appointed to represent the interests of customers that are private sector businesses;
 - (c) one must be appointed to represent the interests of customers that are state-owned enterprises; and
 - (d) one must be appointed to represent any other interests determined by Cabinet.
- (3) Of the two *ex officio* members appointed under subsection (1):
 - (a) one must be a senior officer currently employed within the Corporation; and
 - (b) one must be a senior officer currently employed within the Department of Finance.
- (4) A member shall be appointed on such terms of conditions as are approved by the Cabinet.
- (5) A member shall not hold office for such period, not exceeding four years, as is fixed by Cabinet at the time of his or her appointment.

7 Insert new section 7A

7A Chairman and Deputy Chairman

- (1) The Cabinet shall appoint a member to be Chairman, and another member to be Deputy Chairman of the Board.
- (2) The Chairman shall exercise such powers and functions as are prescribed.
- (3) The powers and functions of the Chairman shall be exercised by the Deputy Chairman where:
 - (a) the office of the Chairman is vacant; or
 - (b) the Chairman is for any reason unable to exercise those powers or perform those functions.

8 Insert new section 7B

7B Vacation of office

- (1) The Cabinet may at any time revoke the appointment of any member of the Board appointed by it.
- (2) Cabinet shall, by notice in the Gazette, declare the office of a member vacant, where the member:
 - (a) becomes bankrupt, applies to take the benefits of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
 - (b) resigns from office by writing to the Minister;
 - (c) is absent, except on leave granted by the Minister, from three successive meetings of the Board;
 - (d) fails to comply with obligations under the next succeeding section;
 - (e) is considered by a Board of not less than two legally qualified medical practitioners, appointed by the Minister, to be incapable of performing his duties efficiently; or
 - (f) is convicted of any offence involving fraud or dishonesty punishable on conviction with imprisonment for three months or more.

9 Insert new section 7C

7C Remuneration of the Board

- (1) Subject to subsection (2), a member of the Board may be paid reasonable allowances as determined by Cabinet to enable the member to attend a meeting of the Board.
- (2) Ex officio members of the Board appointed under section 7(1) are not entitled to any allowance.
- (3) A member of the Board is not entitled to remuneration of any kind.

10 Insert new section 7D

7D Disclosure of interest

- (1) A member of the Board who is directly or indirectly interested in a contract made or proposed to be made by

the Corporation, otherwise than as a member of a statutory corporation, trust or other statutory body of the Republic of Nauru, must disclose the nature of his or her interest at a meeting of the Board as soon as possible after the relevant facts have come to his or knowledge.

(2) A disclosure under subsection (1) must be recorded in the minutes of the Board and the member:

(a) must not take part after the disclosure in any deliberation or decision of the Board in respect of that contract; and

(b) must be disregarded for the purposes of constituting a quorum of the Board in that deliberation or decision.

(3) The *ex officio* members are not by reason only of his or her position in the Public Service affected by subsection (1) or (2).

11 Insert new section 7E

7E Procedures of Board Meetings

The Board may determine their own procedures for the conduct of meetings of the Board.

12 Insert new section 7F

7F Voting by ex officio members

Ex officio members appointed under section 7(1) shall not have voting rights at meetings of the Board.

13 Insert new section 25A

25A Election candidates – resignation

Any employee, including the Chief Executive Officer of the Corporation who intends to submit a nomination as a candidate in the country's general elections, must at least three months before he or she submits their nomination, resign from his or her employment in the Corporation.

14 Insert new section 25B

25B Election candidates – Board of Directors

Any Board Director, including the Chairman and Vice-Chairman, who intends to submit a nomination as a candidate in the country's general elections, must at least

three months before he or she submits their nomination, resign from their position as a member of the Board.

15 Insert new section 25C

25C Public service employees – exempt

Despite section 25B, public service employees who are members of the Board are subject only to the provisions in the *Public Service Act 2016*.