



REPUBLIC OF NAURU

# Development Fund Act 2011

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Act No. 10 of 2011

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REPUBLIC OF NAURU

**Development Fund Act 2011**

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**Act No. 10 of 2011**

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An Act to establish the Development Fund and for related purposes

*Certified on 22 June 2011*

Enacted by the Parliament of Nauru as follows:

**PART 1 – PRELIMINARY MATTERS**

**1 Short title**

This Act may be cited as the *Development Fund Act 2011*.

**2 Commencement**

This Act commences on the day it is certified by the Speaker under Article 47.

**3 Definitions**

In this Act:

***‘annual projections’***, for the Fund, see section 6;

***‘development amount’*** means an amount received by the Republic for the purpose of funding a development project, and does not include an amount received:

- (a) as revenue from a fee, charge, levy or tax imposed by the Republic or an instrumentality of the Republic; or
- (b) as revenue from the sale of a product or the provision of a service by the Republic or an instrumentality of the Republic; or

- (c) by way of loan; or
- (d) for the purpose of general budget support;

**'development project'** means a project designed to assist the Republic to meet its development goals;

**'first quarter'** is the period from 1 July to 30 September in any year;

**'reportable deviation'** means a deviation from the annual projections for the Fund for a financial year that consists of an item of income or expenditure that:

- (a) is more or less than the amount specified in the annual projections by at least 10% of the projected amount or \$1000, whichever is greater; or
- (b) was not included in the annual projections;

**'second quarter'** is the period from 1 October to 31 December in any year;

**'the Fund'** means the Development Fund established by section 4(1);

**'third quarter'** is the period from 1 January to 31 March in any year.

## **PART 2 – DEVELOPMENT FUND**

### **4 Establishment and purpose**

- (1) The Development Fund is established for the purpose of facilitating the funding of development projects by enabling:
  - (a) the payment of development amounts and other amounts mentioned in subsection (3) into the Fund; and
  - (b) the withdrawal of development amounts and other amounts mentioned in subsection (3) from the Fund.
- (2) All development amounts must be paid directly into the Fund without being first paid into the Treasury Fund.

- (3) The Fund consists of the following:
- (a) development amounts paid into the Fund under subsection (2);
  - (b) any amount appropriated for the Fund from the Treasury Fund;
  - (c) any amount received by the Republic by way of interest from the deposit of the Fund in an interest-bearing account with a financial institution in Nauru or a foreign country;
  - (d) any amount received in reimbursement of an amount withdrawn from the Fund.

**5 Withdrawals from the Fund**

- (1) A person must not withdraw, or authorise or permit a withdrawal of, an amount from the Fund unless:
- (a) the purpose of the withdrawal has been approved by Cabinet in writing; and
  - (b) the procedures for the withdrawal prescribed by the regulations have been complied with.

Maximum penalty: 7 years imprisonment.

- (2) The defendant bears the burden of proving the matters mentioned in subsection (1)(a) and (b).
- (3) To avoid doubt, Cabinet may approve a withdrawal of an amount from the Fund for the purpose of paying the amount into the Treasury Fund.

**6 Annual projections**

- (1) The Minister must table in Parliament projections of the income and expenditure of the Fund for each financial year (***‘annual projections’***).
- (2) The annual projections must be tabled:
- (a) before the start of the financial year; or

- (b) if Parliament, by resolution, determines a later date for the tabling of the annual projections for the financial year – by the later date.
- (3) The projections must:
  - (a) show each item of income and expenditure separately by reference to the development project to which it relates; and
  - (b) specify the source of each item of income.

## **7 Annual reporting requirements**

- (1) The Minister must table in Parliament a report showing the actual income and expenditure of the Fund for the whole of each financial year (the '**annual report**').
- (2) The annual report must be tabled:
  - (a) within 2 sitting days after the end of the financial year; or
  - (b) if Parliament, by resolution, determines a later date for the tabling of the annual report for the financial year – by the later date.
- (3) The annual report must:
  - (a) show each item of income and expenditure separately by reference to the development project to which it relates; and
  - (b) specify the source of each item of income; and
  - (c) for each reportable deviation that occurred during the financial year (whether previously reported or not) – specify the reason for the deviation and its effect on the annual projections for the financial year; and
  - (d) include an update on the implementation of each development project mentioned in the annual projections or the annual report, including a description of the project activities undertaken for each project during the financial year.

## **8 Quarterly reporting requirements**

- (1) For the first, second and third quarters each financial year, the Minister must table in Parliament a report showing the actual income and expenditure of the Fund from the beginning of the financial year until the end of the quarter (a '**quarterly report**').
- (2) A quarterly report must be tabled:
  - (a) within 2 sitting days after the end of the quarter to which it relates; or
  - (b) if Parliament, by resolution, determines a later date for the tabling of the quarterly report for the quarter – by the later date.
- (3) A quarterly report must:
  - (a) show each item of income and expenditure separately by reference to the development project to which it relates; and
  - (b) specify the source of each item of income; and
  - (c) for each reportable deviation – specify the reason for the deviation and the effect it will have on the annual projections.
- (4) A reportable deviation does not need to be included in a quarterly report if:
  - (a) it was reported for a previous quarter; and
  - (b) the amount of the deviation has not changed since the previous report.

## **PART 3 – MISCELLANEOUS MATTERS**

### **9 Regulations**

- (1) Cabinet may make regulations under this Act.
- (2) Without limiting subsection (1), Cabinet may make regulations prescribing the following:
  - (a) the procedures that must be followed before and after an amount is withdrawn from the Fund, including the form in

which Cabinet approval of the purpose of the withdrawal must be evidenced;

- (b) additional reports that must be given about the operation of the Fund.
- (3) The regulations may:
- (a) give a person discretion to decide a matter (other than a matter that must be decided by a person under this Act); and
  - (b) apply, adopt or incorporate (with or without changes) the whole or part of a document as in force or existing at a particular time or from time to time.

## **PART 4 – TRANSITIONAL MATTERS**

### **10 Definitions**

In this Part:

***‘commencement date’*** means the date this Act commences;

***‘first financial year’*** means the financial year beginning on 1 July 2011.

### **11 Charge on Treasury Fund**

Each development amount in the Treasury Fund immediately before the commencement date must be paid into the Development Fund on the commencement date and is a charge on the Treasury Fund.

### **12 Annual projections for first financial year**

Despite section 6(2), the annual projections of the Fund for the first financial year must be tabled in Parliament before 1 October 2011.