

# **Port Authority (Amendment) Act 2014**

**REPUBLIC OF NAURU**

## **Port Authority (Amendment) Act 2014**

No. 6 of 2014

An Act to amend the *Port Authority Act 2006*  
Certified on 21 May 2014

### **Contents**

Enacted by the Parliament of Nauru as follows:

**1. Short title**

This Act may be cited as *Port Authority (Amendment) Act 2014*.

**2. Commencement**

This Act commences upon certification by the Speaker.

**3. Act Amended**

The Schedule amends the Port Authority Act 2006.

### **SCHEDULE - AMENDMENT OF PORT AUTHORITY ACT 2006**

[1] Insert new section 4A, 4B and 4C

#### **4A Board of Directors**

(1) There shall be established for the purposes of this Act, a Board of Directors of the Authority which shall, subject to the provisions of this Act, be responsible for the policy and general administration of the affairs of the Authority.

(2) The provisions of Schedule 1 shall have effect as to the constitution of the Board and otherwise in relation thereto.

#### **4B Cabinet may give directions to the Board**

The Cabinet may, after consultation with the Chairman, give to the Board such directions of a general character as to the policy to be followed by the Board in the performance of its functions as appear to the Cabinet to be necessary and the Board must give effect thereto.

#### **4C Power of the Board to make standing orders**

(1) Without limiting any other power of the Board under this Act and its Schedule, the Board may make such Standing Orders or other Rules not inconsistent with this Act, for the management and good governance of the Authority as it sees fit.

(2) Among other things, the Standing Orders or Rules must include a prohibition against any employee directly or indirectly seeking or receiving any form of remuneration other than that from the Authority in accordance with his or her contract of employment.

#### **[2] Amendment of section 12**

##### **2.1 Omit subsections (1), (2) and (3)**

##### **Omit**

(1) The Minister shall appoint a Harbour Master, who shall perform duties as outlined by the Minister with the advice of the Secretary.

(2) The terms and conditions of employment of the Harbour Master shall be determined by the Minister and included in a contract of service.

(3) The Harbour Master shall not be removed from office without the consent of the Minister and in accordance with his or her contract of service.

## **Substitute**

(1) The Board shall, after consultation with the Minister, appoint a Harbour Master and a Deputy Harbour Master as it considers necessary to carry out the purposes of this Act.

(2) The terms and conditions of employment of the Harbour Master and Deputy Harbour Master shall be determined by the Board, in consultation with the Minister, and included in a contract of service.

(3) The removal of the Harbour Master and the Deputy Harbour Master can only be done with the consent of the Board, in consultation of the Minister, and only in accordance with the contract of service.

### **2.2 Amend subsection (5)**

Before the word 'Minister', insert the words 'Board and the'.

#### **Subsection will now read:**

The Harbour Master shall pursue the objectives, perform the functions and may exercise, subject to the approval of the Board and the Minister, the powers vested in the Authority.

### **2.3 Repeal subsection (6) and (7)**

(6) The Harbour Master may make such Standing Orders or other Rules not inconsistent with this Act, for the management and good governance of the Authority as he or she thinks fit which must include a prohibition against any employee directly or indirectly seek or receive any form of remuneration other than that from the Authority in accordance with his or her contract of employment.

(7) All workers shall read the Standing Orders each year, signing to acknowledge their understanding and their acceptance of the matter contained therein.

### **2.4 Insert new section 12A**

## **12A Other Staff of the Authority**

(1) The Board may also appoint and employ technical, professional, clerical, ancillary and such other staff members as may be necessary to carry out the functions of the Authority.

(2) Any person employed under subsection (1) must read the Standing Orders, created under section 4C, and sign to acknowledge their understanding and acceptance of the matters contained therein.

(3) The remuneration and conditions of employment of employees appointed under subsection (1) shall be determined in a contract of employment by the Harbour Master in consultation with the Board and the Minister.

(4) No employee of the Authority is personally liable for any act done or omitted to be done in good faith in the exercise or performance of the function, power and duties of the Authority except in cases of gross negligence or misconduct.

### **[3] Amendment of section 13**

#### **3.1 Amend subsection (1) (a) by:**

Inserting before the words ‘Head of the Authority’, the words ‘Administrative’

And

Replacing the word ‘Secretary’ with the word ‘Board’

#### **3.2 Amend subsection (1) (b) by:**

Replacing the word ‘Minister’ with the word ‘Board’

#### **3.3 Amend subsection (1) (b) (iii) by:**

Inserting after the word ‘Minister’, the words ‘through the Board’

### **3.4 Amend subsection (2) by:**

Inserting after the first occurrence of the word ‘vacant’, the words ‘and if there is no person appointed in the position of Deputy Harbour Master’

### **3.5 Amend subsection (5)**

#### **Omit**

(b) the hiring and dismissal of workers after consultation with the Secretary.

#### **Substitute**

(b) assisting the Board in the hiring and dismissal of workers as provided under section 12A of this Act.

### **[4] Repeal section 17**

#### **17. Staff of Authority**

(1) The Harbour Master may from time to time appoint and employ on such term and conditions workers upon advice and approval of the Secretary as may be necessary for the effective performance of its objectives and functions.

(2) The Harbour Master may with the approval of the Secretary make Standing Orders or other Rules, not inconsistent with this Act, for the manner of appointment, conduct and discipline, and the terms and conditions of service of the workers for the Authority.

(3) No employee of the Authority is personally liable for any act done or omitted to be done in good faith in the exercise or performance of the functions, power and duties of the Authority except in cases of gross negligence or misconduct.

## **[5] Insert Schedule**

### **SCHEDULE 1 – THE BOARD OF DIRECTORS OF THE AUTHORITY**

#### **1 Members of the Board**

(1) The Board shall consist of not more than 5 members as follows:

- (a) three directors appointed by Cabinet for their by virtue of their knowledge of commerce, industry, finance or administration generally.
- (b) the head of the department for the time being responsible for financial matters or a representative nominated by him with the approval of the Minister, as an ex officio member; and
- (c) a director appointed by Cabinet with experience in shipping and port operation.

(2) The Harbour Master as appointed under section 12 shall be ex officio a member of the Board but shall not have any voting rights.

#### **2 Appointment of Chairman and deputy chairman**

(1) The Minister shall appoint one of the members of the Board to be Chairman and another to be Deputy Chairman.

(2) In the case of the absence or inability to act of the Chairman and the Deputy Chairman, the Minister may appoint any other person to perform the functions of the Chairman.

(3) The Chairman or in his absence the deputy chairman shall preside at meetings of the Board.

(4) The Chairman shall have such powers as the Board shall determine but such powers must not conflict with the powers of the Chief Executive Officer under the Act.

#### **3 Method and period of appointment**

(1) The appointment of every member (other than ex officio members) shall be evidenced by instrument in writing, and such instrument shall state the period of office of the member, which shall not exceed three years.

(2) Every member of the Board shall be eligible for re-appointment.

(3) The Cabinet may at any time revoke the appointment of any member of the Board appointed by it.

#### **4. Resignation**

(1) Any member of the Board other than the Chairman, may at any time resign his office by instrument in writing addressed to the Minister, and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Board.

(2) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of such instrument.

#### **5. Names of Board members to be gazetted**

The names of all members of the Board as first constituted and every change in the membership thereof shall be published in the Gazette.

### **6 Disqualification**

(1) Any member of the Board who:

- (1) has within the preceding 2 years been, or is, declared a bankrupt under the law of any country; or
- (2) has been within the preceding 2 years been, or is, sentenced in any country to imprisonment for three months or more for a criminal offence; or
- (3) fails to attend three consecutive meetings of the Board; shall be ineligible to be appointed to the Board, or immediately upon such declaration, sentencing or failure cease to be a member of the Board, as the case may be.

(2) The Minister shall publish notice in the Gazette of the removal of a person pursuant to the preceding subparagraph.

(3) A person removed from the Board pursuant to subparagraph (1) shall not be eligible for re-appointment for a period of 2 years thereafter.

(4) If a declaration of bankruptcy or sentence is set aside by a court then the preceding subparagraph shall not apply.

### **7 Meetings of the Board**

(1) The Board shall meet at such times as may be necessary or expedient for the transaction of its business, so however, that it shall not be less than four meetings in any calendar year.

(2) The Chairman or Deputy Chairman may at any time call a special meeting of the Board and the Chairman shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by two or more members of the Board.

(3) The Chairman or Deputy Chairman shall preside at all meetings of the Board and in the case of absence of both the Chairman and the Deputy Chairman from any meeting, subject to paragraph 2(2), the members present and forming a quorum shall elect one of their number to preside at the meeting.

(4) The decision of the Board shall be by a majority of votes.

(5) Such officers of or consultants to the Authority as the Chairman decides, shall attend meetings.

(6) There shall be a person appointed from within the Board who shall keep in proper form minutes of each meeting of the Board.

(7) The Board shall determine its quorum for any particular class of meeting.

(8) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the members or by any defect in the appointment of a member.

## **8 Confidentiality**

A member of the Board may not disclose any information about the business of the Authority except as permitted by law.

## **9 Remuneration of Board members**

(1) Members of the Board who are not employees of the Public Service shall be entitled to receive such compensation for their services as the Board may determine.

(2) Members of the Board shall be entitled to receive travel expense at such rates and upon such terms and conditions as may be determined by the Board when travelling on business of the Authority. Such rates shall however, not exceed the government rates.

## **10 No legal proceedings in respect of bona fide actions**

No action, suit or prosecution or other proceedings shall be brought against any member of the Board in respect of any act done bona fide in pursuance or execution or intended execution of the provisions of this Act.

## **11 Board members not public servants**



The office of the Chairman and that of member of the Board shall not be a public office for the purposes of the Constitution of Nauru or of the Public Service Act.