

Lands Act 1976

REPUBLIC OF NAURU

LANDS ACT 1976

(No. 13 of 1976)

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Prohibition of certain transfers, etc, of land
4. Grants of title, etc, before 1922
5. Leasing etc, of land for public purposes
6. Where minority of landowners refuses, etc, to execute lease, etc.
7. Class of land to be decided before lease
8. Leases to the Corporation for the mining of phosphate
9. Surface rights capital payment and advance cash royalty for phosphate
10. Rent payable for land leased to the Republic etc.
11. Payments for easements, wayleaves, etc.
12. Removal of trees and vegetation
13. Removal sand
14. Removal of coral and limestone
15. Nomination of a public officer to execute leases, etc.
16. Revision of amounts of rent, compensation and, etc
17. Moneys payable by the Republic under this Act
18. Regulations
19. Repeal

First Schedule- Surface rights capital payment

Second Schedule-Advance cash royalty for phosphate

Third Schedule-Rent payable for leased non-phosphate-bearing land and for worked-out phosphate-bearing land

Fourth Schedule-Compensation for removal of trees

Fifth Schedule- Royalty payable for sand removed

Sixth Schedule-Royalty payable for coral or limestone removed

AN ACT

To repeal the Lands Ordinance 1921-1968 and to make new provision for the leasing of land for the purposes of the phosphate industry and other public purposes, and for the removal of trees, crops, soil and sand and the payment of compensation and other moneys.

(Certified: 23rd September, 1976)

Enacted by the Parliament of Nauru as follows:

SHORT TITLE

1. This Act may be cited as the [Lands Act 1976](#).

INTERPRETATION

2. In this Act, unless the context otherwise requires-

"non-phosphate-bearing land" means land which the Minister has decided under [section 7](#) is non phosphate-bearing land;

"phosphate-bearing land" means land which the Minister has decided under [section 7](#) is phosphate-bearing land;

"Sea-level" means the datum of sea-level used immediately before the commencement of this Act by the Republic for the purposes of determining elevation of land;

"statutory corporation" means a corporation incorporated by or under any written law of Nauru and wholly-owned by the Republic or the Council or by a corporation which is itself wholly owned by the Republic or the Council or by any such statutory corporation, and includes the Corporation;

"the Corporation" means the Nauru Phosphate Corporation incorporated by the Nauru Phosphate Corporation Act 1969;

"worked out phosphate-bearing land" means land which the Minister has decided under section 7 is worked-out phosphate-bearing land.

PROHIBITION OF CERTAIN TRANSFERS, ETC OF LAND

3. -(1) Transfer inter vivos of the freehold of any land in Nauru to any person other than a Nauruan persons prohibited, and any such transfer or purported transfer, or any agreement to execute any such transfer, shall be absolutely void and of no effect.

(2) Any person who transfers, or agrees attempts or purports to transfer, the freehold of any land in Nauru to any person other than a Nauruan person is guilty of an offence and is liable to imprisonment for six months.

(3) Any person who, without the consent in writing of the President, transfers, sells or leases, or grants any estate or interest in, any land in Nauru, or enters into any contract or agreement for the transfer, sale or lease of, or for the granting of any estate or interest in any land in Nauru, is guilty of an offence and is liable to a fine of two hundred dollars.

(4) Any transfer, sale, lease grant of an estate or interest, contract or agreement made or entered into in contravention of the last preceding subsection shall be absolutely void and of no effect.

(5) Any transfer, sale, lease, contract or agreement made or entered into in contravention of section 3 of the Lands Ordinance 1921-1968 shall continue to be absolutely void and of no effect.

(6) For the purposes of this section the expression "transfer inter vivos" includes transfer to a corporation or an unincorporated body of persons and the expression "a Nauruan person" does not include a corporation or an unincorporated body of persons of whom some are not Nauruans.

GRANTS OF TITLE, ETC., BEFORE 1922

4. All Crown grants, titles, certificates, licences, orders, appointments, warrants, notifications, seals, registers, memorials, books, records, entries, instruments, and generally all acts of authority which originated under any of the laws, Ordinances, and enactments affected by the Laws Repeal and Adopting Ordinance 1922 which were subsisting or in force immediately before the commencement of this Act shall, subject to express provision to the contrary in any written law in force for the time being, continue to be valid and to subsist, and shall be received and admissible in evidence to the same extent and in the same manner as immediately before the commencement of this Act under any law, Ordinance or enactment that was in force in Nauru at the date of the commencement of the Laws Repeal and Adopting Ordinance 1922.

LEASING, ETC., OF LAND FOR PUBLIC PURPOSES

5. (1) Where the Council, the Corporation or any other statutory corporation requires to obtain for the purpose of the phosphate industry or for any other public purpose a lease of any land for a period not exceeding seventy-seven years, an easement, wayleave, or other right similar or analogous thereto in respect of any land, or a licence to enter upon any land and remove sand therefrom, it shall inform the Minister in writing of its requirement and of the reason for it.

(2) Where the Minister is informed in writing under the previous subsection of any such requirement as is referred to in that subsection, he may, if he is satisfied that the lease, easement, wayleave, other right or licence is reasonably required by the Council, the Corporation or the other statutory corporation, as the case may be, for the public purpose, notify the owners of the land of the requirement and the public purpose and request them to grant the lease, easement, wayleave, other right or licence, as the case may be, or may cause them to be so notified and requested.

(3) Where the Republic requires to obtain for any public purpose a lease of any land for a period not exceeding seventy-seven years, an easement, wayleave or other right similar or analogous thereto in respect of any land, or a licence to enter upon any land and remove sand therefrom, the Minister may notify the owners of the land of the requirement and the public purpose and request them to grant the lease, easement, wayleave, other right or licence, as the case may be, or may cause them to be so notified and requested.

WHERE MINORITY OF OWNERS, REFUSES ETC., TO EXECUTE LEASE, ETC.

6. Where the owners of any land have been notified by the Minister under section 5 of any such requirement as is referred to in that section and not less than three-fourths of the owners of that land, both by number and by interest in the title thereto, have executed the instrument granting the lease, easement, wayleave, other right or licence, as the case may be, required, then, if any of the other owners of that land refuses or fails to execute that instrument or is

unable by reason of absence from Nauru or physical or legal disability to do so, the Minister shall inform the Cabinet thereof and if the Cabinet is satisfied-

- (a) that the lease, easement, wayleave, other right or licence is required for a public purpose; and
- (b) that the refusal or failure of that owner to execute the instrument is unreasonable or, in the case of a person who is absent from Nauru or under a disability, that if he were present in Nauru or not under a disability his refusal or failure to execute the instrument would be unreasonable,

it may direct that the instrument is to be executed on behalf of that owner by the public officer nominated under section 15; and the Secretary to the Cabinet shall forthwith send to the public officer nominated under section 15 to execute the instrument or instruments of the class of the instrument a notice in writing under his hand requiring him to execute the instrument on behalf of that owner.

CLASS OF LAND TO BE DECIDED BEFORE LEASE

7. (1) Before any land is leased to, the Republic, the Council or any statutory corporation, the Minister shall decide in accordance with subsections (2), (3), and (4) to which class the land belongs, that is to say whether it is-

- (a) phosphate-bearing land;
- (b) non-phosphate-bearing land; or
- (c) worked-out phosphate-bearing land:

Provided that, where any land is leased as a single portion, the Minister may decide that one part of it belongs to one class and that another part of it belongs to another class.

(2) The Minister shall decide that land is phosphate-bearing land if he considers that it is more likely than not that the land contains phosphate which can be mined economically.

(3) The Minister shall decide that land is non-phosphate-bearing land if phosphate has not been mined on that land and he considers that it is more likely than not that the land does not contain phosphate which can be mined economically.

(4) The Minister shall decide that land is worked-out phosphate-bearing land if phosphate has been mined on that land by the Pacific Phosphate Company Limited, the British Phosphate Commissioners or the Corporation and he considers that the land does not contain phosphate which can be mined economically.

(5) Every decision of the Minister under this section shall-

- (a) be made in writing;
- (b) wherever reasonably possible, be notified to every person who is an owner of the land to which it relates;
- (c) be notified in the Gazette by the Director of Lands and Survey; and
- (d) be final:

Provided that, where after the Minister has made a decision under this section he is satisfied that that decision was wrong, he shall revoke the decision and give a new decision in respect of that land, and the provisions of this subsection shall apply thereto; where such a new decision is given and before it is given the lessor has been paid any amount in respect of a surface rights capital payment or an advanced cash royalty for phosphate, he shall not be required to repay to the lessee any part of that amount but he shall not be entitled to be paid any amount in respect of rent until the amount payable in respect of rent exceeds the amount already paid to him, and then he shall be entitled to be paid only the amount by which the amount due in respect of the rent exceeds the amount already paid to him.

LEASES TO THE CORPORATION FOR THE MINING OF PHOSPHATE

8. (1) Where land is leased to the Corporation, whether the lease is executed before or after the commencement of this Act, for the mining of phosphate on that land, the Corporation shall, in the absence of express provision to the contrary in the lease, be entitled to-

- (a) mine all or any of the phosphate on that land and to take and retain possession of any such phosphate and to remove it from that land for sale by the Corporation or for the use by the Corporation locally as may be approved by the Minister;
- (b) remove any buildings situated on that land;
- (c) remove the topsoil, trees and vegetation from that land and use, destroy or otherwise dispose of them,
- (d) remove coral and limestone from that land and use or otherwise dispose of it; and
- (e) do all such other things on or in relation to that land as are reasonably required to be done for the purpose of mining phosphate thereon.

(2) Where land has been leased to the Corporation for the mining of phosphate on that land, the lease shall expire on the first anniversary of the day on which the mining of phosphate thereon is completed or on any earlier date notified by the Corporation in the Gazette not less than one month before that date, and in any event not later than five years after the date of the execution of the lease.

(3) The Corporation shall be liable to rehabilitate any land from which phosphate is mined after the commencement of this Act or from which phosphate has been mined before the commencement of this Act if required by the Cabinet by notice in writing to rehabilitate such land.

SURFACE RIGHTS CAPITAL PAYMENT AND ADVANCE CASH ROYALTIES FOR PHOSPHATE

9.(1) Where any phosphate-bearing land, other than worked-out phosphate-bearing and, is leased to the Republic, the Council or any statutory corporation by a lease executed after the commencement of this Act, the lessee shall, subject to the next following subsection, forthwith upon the execution of the lease pay to the lessor-

- (a) as a surface rights capital payment an amount of money determined in accordance with the First Schedule to this Act; and

(b) where the lease is for some purpose which is likely to prevent the mining of phosphate on the land until after a period of more than one year from the execution of the lease, as an advance cash royalty for phosphate an amount of money determined in accordance with the Second Schedule to this Act.

(2) Where any phosphate-bearing land, other than worked-out phosphate-bearing land, is leased to the Republic, the Council or any statutory corporation by a lease executed after the commencement of this Act and that land has previously been leased, whether before or after the commencement of this Act, to the Republic, the Council or any statutory corporation or to the British Phosphate Commissioners or the Administrator or the Administration of the Island of Nauru and the lessee under that previous lease paid to the lessor thereunder any money as a surface rights capital payment or as a payment of a like nature or by way of an advance cash royalty for phosphate no moneys shall be payable as a surface rights capital payment or an advance cash royalty for phosphate, as the case may be, in respect of the subsequent lease.

(3) Where money has been paid by the lessee to the lessor, whether before or after the commencement of this Act, as an advance cash royalty for phosphate and subsequently phosphate is mined on that land, the amount of money paid as an advance cash royalty shall be deducted from the amount which subsequently becomes payable to the owners of the land under the provisions of the Nauru Phosphate Royalties (Payment and Investment) Act 1968-1974 as the Nauruan Land Owners Cash Royalty for phosphate mined thereon and; notwithstanding the provisions of that Act, shall be paid by the Corporation to the lessee which paid to the lessor the advance cash royalty.

(4) Where any phosphate-bearing land, other than worked-out phosphate-bearing land, has been leased to the Republic, the Council or any statutory corporation by a lease executed after 1st July, 1973, but before the commencement of this Act and moneys have been paid to the lessor under and in accordance with the provisions of section 4A of the Lands Ordinance 1921-1968, the lessee shall, forthwith upon this Act coming into force, pay to the owner an amount which is the difference between the amount paid under the said section 4A and the amount which would have been payable as a surface rights capital Payment under subsection (1) if this Act had been in force at the time when the lease was executed.

RENT PAYABLE FOR LAND LEASED TO THE REPUBLIC ETC.

10. (1) Where any non-phosphate-bearing land or worked-out phosphate-bearing land is leased to the Republic, the Council or, any statutory corporation, whether the lease is executed before or after the commencement of this Act, rent shall be paid by the lessee to the lessor in respect of the period after the commencement of this Act in accordance with the provisions of the Third Schedule to this Act, unless express provision to the contrary is contained in the lease.

(2) Where any phosphate-bearing land, other than worked-out phosphate-bearing land, is leased to the Republic, the Council or a statutory corporation by a lease executed after the commencement of this Act, no rent shall be paid by the lessee to the lessor unless express provision to the contrary is contained in the lease.

PAYMENTS FOR EASEMENTS, WAYLEAVES, ETC.

11. (1) Where after the commencement of this Act an easement, a wayleave or a similar or analogous right, or a licence to remove sand, is granted in respect of any land to the Republic, the Council or a statutory corporation, the grantee shall, unless the instrument by which the grant is made expressly provides to the contrary, make to the grantor payment therefor in accordance with the provisions of the next following subsection.

(2) The amount of the payment required by the preceding subsection to be made for any easement, wayleave or other right similar or analogous thereto or for any licence to remove sand shall be such as the Minister, having regard for all the relevant facts, decides is fair and reasonable. The Minister shall decide whether the payment is to be a single payment or a recurrent payment to be made periodically and, in the case of a recurrent payment, the dates on which payments are to be made. He shall notify in writing the grantee of the easement, wayleave, right or licence, and, wherever reasonably possible, every grantor thereof, of his decision, which shall be final.

REMOVAL OF TREES AND VEGETATION

12. (1) Where land is leased, or an easement, a wayleave or a similar or analogous right in respect of land, or a licence to enter upon any land and remove sand there from, is granted to the Republic, the Council or a statutory corporation, whether the lease or the instrument making the grant is executed before or after the commencement of this Act, the lessee or the grantee, as the case may be, may remove trees and vegetation from the land and may use, destroy or otherwise dispose of them. In the case of an easement, wayleave or other right similar or analogous thereto or of a licence to enter and remove sand, only such number of trees shall be removed as is reasonably required to be removed for the purpose for which the easement, wayleave, other right or licence was granted.

(2) Where trees- are removed from any land in pursuance of the preceding subsection, the lessee or the grantee of the easement, wayleave, other right or licence, as the case may be, shall forthwith pay compensation therefor to the lessor or grantor, as the case may be, in accordance with the provisions of the Fourth Schedule to this Act.

REMOVAL OF SAND

13. (1) Where any land is leased to the Republic, the Council or any statutory corporation for the purpose of obtaining sand therefrom, or where a licence is given to the Republic, the Council or any statutory corporation to enter upon and remove sand therefrom., whether the lease is executed or the licence granted before or after the commencement of this Act, and sand is removed therefrom by the lessee or licensee after the commencement of this Act, the lessee or licensee shall-

- (a) unless express provision to the contrary is contained in the lease or the instrument granting the licence, pay to the lessor or the person granting the licence as is royalty an amount calculated in accordance with the provisions of the Fifth Schedule in respect of all sand removed from the land after the commencement of this Act; and
- (b) rehabilitate the land within one year after the expiration or termination of the lease or licence.

(2) Where any land has been leased to the Republic, the Council or a statutory corporation for

the purpose of obtaining sand therefrom, or a licence has been given to the Republic, the Council or any statutory corporation to enter upon and remove sand therefrom. before the commencement of this Act, the lessee or licensee, as the case may be, whether or not the lease or licence has expired, shall forthwith upon this Act coming into force pay to the lessor or the person who gave the licence, as the case may be, in respect of sand removed from that land under that lease or licence on or after 1st February, 1968, but before the commencement of this Act an amount of money which is the difference between any amount paid before the commencement of this Act as a royalty or similar payment for that sand and the amount which would have been payable in accordance with the Fifth Schedule of this Act as a royalty therefore if this Act had been in force at the time when the sand was removed.

REMOVAL OF CORAL AND LIMESTONE

14. Where-

- (a) any phosphate-bearing land is, or has been at any time since 1st February, 1968, leased to the Republic, the Council or a statutory corporation for mining phosphate, or
- (b) any land is, or has been at any time since 1st February 1968, leased to the Republic, the Council or a statutory corporation for the purpose of removing coral or limestone therefrom,

the lessee shall, unless express provision to the contrary is contained in the lease, pay to the lessor as a royalty for coral or limestone removed after 1st February, 1968, an amount calculated in accordance with the provisions of the Sixth Schedule to this Act, or the amount which is the difference between that amount and any amount already paid in respect thereof before the commencement of this Act, whichever is the less.

NOMINATION OF A PUBLIC OFFICER TO EXECUTE LEASES, ETC.

15. (1) The Minister may nominate a public officer for the purposes of this section.

(2) Where a notice is issued under section 6 requiring the public officer nominated under this section to execute in respect of any land on behalf of an owner thereof an instrument granting a lease, easement, wayleave, right or licence, the public officer nominated under the preceding subsection to execute that instrument or instruments of the class of that 'instrument shall forthwith execute that instrument on behalf of that owner and that instrument so executed shall be as valid and effective as though it were executed by that owner and, where that owner is a minor or a person under any other legal disability, as though he were not under a legal disability.

(3) The nomination of a public officer under subsection (1) may be general or limited to an instrument granting a specified lease, easement, wayleave, right or licence.

REVISION OF AMOUNTS OF RENT, COMPENSATION, ETC.

16. (1) The Cabinet may from time to time, by an order published in the Gazette, revise the amounts specified in the Schedules to this Act and payable under sections 9, 10, 12, 13 and 14; but such an order shall not take effect until fourteen days after the first sitting day of Parliament after its publication in the Gazette and, if within that time Parliament passes a resolution revoking it, it shall not take effect at all.

(2) An order made under the preceding subsection decreasing any amount payable under any of sections 9, 10, 12, 13 and 14 shall not have effect in respect of any time before the date on which it is published.

MONEYS PAYABLE BY THE REPUBLIC UNDER THIS ACT

17. All moneys payable by the Republic under or by virtue of the provisions of this Act as rent, royalty, compensation or surface rights capital payment shall be paid from and be a charge upon, the Treasury Fund.

REGULATIONS

18. The Cabinet may make regulations prescribing any matter or things required or authorised by this Act to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

REPEAL

19. (1) The Lands Ordinance 1921-1968 is repealed.

(2) Section 4 of the Laws Repeal and Adopting Ordinance 1922-1967 is repealed.

FIRST SCHEDULE

(Section 9(1)(a))

SURFACE RIGHTS CAPITAL PAYMENT

The amount to be paid as a surface rights capital payment in respect of phosphate-bearing land shall be-

(a) if the surface of the whole of the land is more than twenty-five metres above sea-level, an amount of eighty dollars or an amount calculated at the rate of one thousand two hundred dollars per hectare, whichever is the greater amount;

(b) if the surface of the whole of the land is not more than twenty-five metres above sea-level, an amount of forty dollars or an amount calculated at the rate of six hundred dollars per hectare, whichever is the greater amount; or

(c) in any other case-

(i) in respect of so much of the land the surface of which is more than twenty-five metres above sea-level, an amount calculated at the rate of one thousand two hundred dollars per hectare; and

(ii) in respect of the balance of the land, an amount calculated at the rate of six hundred dollars per hectare,

or an amount of eighty dollars, whichever is the greater amount.

SECOND SCHEDULE

(Section 9(1)(b))

ADVANCE CASH ROYALTY FOR PHOSPHATE

The amount to be paid as an advance cash royalty for phosphate in respect of any phosphate-bearing land leased for a purpose which will prevent the mining of phosphate thereon until after a period of more than one year from the execution of the lease shall be calculated by multiplying

$A \times B \times C \times 0.75$ where-

- (1) A, in respect of land which is more than twenty-five metres above sea-level, is 61,020, and, in respect of land which is not more than twenty-five metres above sea-level, is 30,510, being the notional Island Average (appropriate to the elevation of the land) of the number of tons of phosphate mined from each hectare of land in Nauru;
- (2) B is the area of the leased land, in hectares and parts thereof; and
- (3) C is the number of dollars and cents payable as the Nauruan Land Owners Cash Royalty for each ton of phosphate under the provisions of the Nauru Phosphate Royalties (Payment and Investment) Act 1968-1974.

If, however, at any time after the commencement of this Act the amount payable as the Nauruan Land Owners Cash Royalty is required to be calculated by reference to the number of tonnes of phosphate for which it is paid, then-

- (1) A, in respect of land which is more than twenty-five metres above sea-level, is to be 62,000, and, in rest of land which is not more than twenty-five metres above sea-level, is to be 31,000;
- (2) B is to continue to be the area of the leased land, in hectares and parts thereof; and
- (3) C is to 1-, the number of dollars and cents payable as the Nauruan Land Owners Cash Royalty for each tonne of phosphate under the provisions of the Nauru Phosphate Royalties (Payment and Investment) Act 1968-1974.

THIRD SCHEDULE

(Section 10)

RENT PAYABLE FOR LEASED NON-PHOSPHATE-BEARING AND WORKED-OUT PHOSPHATE-BEARING LAND

1. The amount to be paid as the standard rent for leased

- | | |
|---|---|
| (a) if the area of the land is more than one tenth of a hectare: | Amount to be calculated at the rate of \$250 per hectare per annum. |
| (b) if the area of the land is more than one twentieth of a hectare but not more than one tenth of a hectare: | |
| (c) if the area of the land is not more than one twentieth of a hectare: | \$25 per annum |

2. The amount to be paid as the standard shall be- \$12.50 per annum

- | | |
|--|-------------------------------------|
| (a) if the area of the land is more than one tenth of a hectare: | |
| (b) if the area of the land is more than one a hectare but not more than one tenth of a hectare: | Amount to be calculated at the rate |

(c) if the area of the land is not more than one twentieth of a hectare: of \$125 per hectare per annum

3. The rent to be paid for leased non-phosphate-bearing shall be the standard rent applicable to the class of the land, i.e. phosphate-bearing, except where the land is leased for-

- (a) use as an aerodrome,
- (b) housing of employees of the lessee, other than Nauruans, \$6.25 per annum
- (c) a purpose intended to be profit-making.

4. Where such land is leased for-

- (a) use as an aerodrome, or
- (b) housing of employees of the lessee, other than Nauruans, the rent to be paid shall be standard rent for land of that class.

5. Where such land is leased for a purpose intended to be treble the standard rent for land of that class.

FOURTH SCHEDULE

(Section 12)

COMPENSATION FOR REMOVAL OF TREES

The amount to be paid as a compensation for a tree removed shall be such amount, within the following limits, as a member of the Nauru Lands Committee, duly nominated by such Committee, having regard to their age and condition at the time of removal, decides is fair and reasonable-

	Lower limit	Upper limit
For a coconut tree	\$4	\$50
For pandanus	\$5	\$60
For a breadfruit tree	\$10	\$200
For a mango tree	\$10	\$300
For a pawpaw tree, not being a seedling	\$2.50	\$15
For an almond tree	\$1.50	\$10
For a banana tree	\$2.50	\$25
For a tomato tree	\$2.50	\$50
For a lime tree	\$10	\$100

FIFTH SCHEDULE
(Section 13)

ROYALTY PAYABLE FOR SAND REMOVED

The amounts to be paid as royalties for sand removed are-

Date of removal	Amount per tonne
Between 1st February, 1968, and 30th June, 1973	\$0.20
Between 1st July, 1973, and 28th February, 1974	\$0.25
Between 1st March, 1974, and 30th June, 1974	\$0.50
After 1st July, 1974	\$0.75

SIXTH SCHEDULE
(Section 14)

**ROYALTY PAYABLE FOR CORAL
OR LIMESTONE REMOVED**

The amount to be paid as royalty for coral or limestone removed is-

<i>Date of removal</i>	<i>Amount per tonne</i>
Between 1st February, 1968, and 30th June, 1973	\$0.20
Between 1st July, 1973, and 28th February, 1974	\$0.25
Between 1st March, 1974, and 30th June, 1974	\$0.50
After 1st July, 1974	\$0.75