



REPUBLIC OF NAURU

DERELICT SITES MANAGEMENT ACT 2017

No. 6 of 2017

An Act to make provision for the identification, control, removal, disposal and management of derelict properties, buildings and vehicles in the Republic and for related purposes

Certified: 5th May 2017

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Enacted by the Parliament of Nauru as follows:

PART 1 - PRELIMINARY

1 Short title

This Act may be cited as the Derelict Sites Management Act 2017.

2 Commencement

This Act commences upon certification by the Speaker.

3 General objectives of the Act

The general objectives of the Act are to make provision for the identification, control, removal and disposal of derelict, abandoned and problem buildings and vehicles in the Republic.

4 Definitions

In this Act, unless the context requires otherwise:

'authorised officer' means a person or public officer who has been appointed under section 7 enabling him or her to perform certain functions and exercise particular powers under the Act;

'building' includes, but is not limited to:

(a) any structure whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, erected or used for or in connection with the:

- (i) accommodation or convenience of human beings or animals;
- (ii) manufacture, processing, storage, display or sale of any goods; and
- (iii) destruction or treatment of refuse or other waste materials;

(b) any wall or part of building; or

(c) any advertising sign, board or other structure.

'court' means the District Court or the Supreme Court of Nauru, as the circumstances deems fit;

'Department' means the Department of Infrastructure Development;

'derelict site' means any property that detracts, or is likely to detract, to a material degree from the amenity, character or appearance of property in the neighbourhood of the property in question because of:

- (a) structures which are in a ruinous, derelict or dangerous condition;
- (b) the neglected, unsightly or objectionable condition of the land or of structures on it;

- (c) the presence, deposit or collection of litter, rubbish, debris or waste; or
- (d) the presence of an abandoned or inoperable vehicle;

'Minister' means the Minister responsible for Infrastructure Development;

'property' means any piece of land registered in the land registry and any public place such as a road, park or any piece of land of whatever nature;

'responsible person' means:

- (a) the registered owner or owners having a security interest in a vehicle; or
- (b) the person who has control, use or occupation of a building or property or part thereof as owner or otherwise;

'vehicle' means machinery that has been designed to be operated on a road and cannot be moved under its own power or is inoperable or abandoned or dismantled which has not been reclaimed by the registered owner or a person having a security interest in the vehicle within 14 days of notification under section 12;

5 Application of the Act

This Act applies to all properties, buildings and vehicles in the Republic.

6 Act binds the Republic

- (1) This Act binds all persons, including the Government.
- (2) Subsection (1) does not make the Government liable for an offence.

PART 2 – AUTHORISED OFFICERS

7 Appointment of authorised officer

- (1) The Minister shall appoint authorised officers he or she considers to have the necessary expertise or experience to implement and enforce the provisions of this Act.
- (2) Any authorised officer appointed under subsection (1) shall be issued with an identification card at the time of his or her appointment.

8 Identification of authorised officer

An authorised officer must produce his or her identification card for the responsible person's inspection or have his or her identification card displayed so that it is visible to the responsible person during the inspection of any vehicle, property or building.

9 Entry and inspection by authorised officer

- (1) An authorised officer may enter any property and may inspect any vehicle or building at any reasonable time with a view to:

- (a) inspect and determine whether the property or building or vehicle is in his or her opinion, a derelict site; and
 - (b) serve the responsible person with a notice contemplated in this Act.
- (2) No person shall hinder or obstruct the authorised officer in the exercise of his or her powers under this Act.

10 Obstruction of authorised officers

A person who obstructs, hinders, or in any way interferes with an authorised officer in the performance of his or her duties commits an offence and is liable upon conviction to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 12 months.

11 Powers of Minister to declare derelict site

- (1) The Minister may, subject to the provisions of this section, declare a property or any part thereof a derelict site provided that one or more of the following circumstances exists on the property:
- (a) in relation to buildings on the property:
 - (i) appears to have been abandoned by the registered owner or responsible person;
 - (ii) does not comply with any legislation and is not maintained in accordance with any health, fire safety or environmental standards;
 - (iii) is unhealthy, unsanitary, unsightly or objectionable as determined by the Department;
 - (iv) has no electricity supply;
 - (v) has no water supply;
 - (vi) has overflowed or blocked sewage drains;
 - (vii) is subject to complaints of criminal activities including but not limited to drug dealings, prostitution, money laundering;
 - (viii) a building or the property is occupied illegally;
 - (ix) where refuse, waste material, rubble, scrap or any similar material is accumulated, dumped, stored or deposited, unless so stored in terms of a valid approval by the Department;
 - (x) is structurally unsound; or
 - (xi) is a threat or danger to the safety of the responsible person or the public in general.
 - (b) in relation to vehicles on a property:

- (i) appears to have been abandoned;
 - (ii) is partially or wholly disassembled; or
 - (iii) appears to be inoperable, dismantled or in a neglected condition.
- (c) in relation to the property itself:
- (i) contains buildings and vehicles referred to in paragraphs (a) and (b);
or
 - (ii) contains the presence, deposit or collection of litter, rubbish, debris or waste.
- (2) An authorised officer shall give notice in writing to the responsible person before the building or property or vehicle is declared a derelict site:
- (a) stating the Minister's intention to declare the building or property or vehicle a derelict site;
 - (b) providing brief reasons for such intention; and
 - (c) granting the responsible person a period not less than 10 days to provide written representations as to why the building or property or vehicle is not to be declared a derelict site.
- (3) The Minister shall:
- (a) consider the written representations provided to him or her by the responsible person;
 - (b) declare the building or property or vehicle as:
 - (i) a derelict site; or
 - (ii) not being a derelict site; and
 - (c) provide the responsible person with his or her written decision by way of service under section 13.
- (4) The decision taken under subsection (4) shall not preclude the Minister or the Department or an authorised officer from having the authority to take further action as provided for in this Act or in any other Act.

PART 3 – NOTICES

12 Notice to comply

- (1) The authorised officer shall serve a written notice on the responsible person that the building or property or vehicle has been declared a derelict site, requiring such responsible person within a specified time period to comply with the provisions of this Act.
- (2) A notice served under subsection (1) shall:

- (a) specify the measures which the Department or the Minister as the case may be, consider to be necessary in order to remedy or improve the derelict site;
 - (b) direct the responsible person on whom the notice is being served to take such measures as may be specified in the notice; and
 - (c) specify a period within which such measures are to be taken.
- (3) The responsible person must comply with the conditions of the notice served in subsection (1) within the specified time period.
- (4) The cost of the removal of or taking measures to remedy or improve a derelict site shall be borne by the responsible person.
- (5) Despite subsection (1), and subject to any applicable laws, if the authorised officer has reason to believe that the condition of any building or vehicle or property is such that steps should immediately be taken to protect the safety and health of persons or property, he or she may take such steps as may be necessary in the circumstances to alleviate that condition, without serving or delivering such notice on or to the responsible person and may recover the cost of such steps from the responsible person.
- (6) If the responsible person does not comply with the notice within the specified time period, the Department may take such steps it considers reasonable and necessary to give effect to the terms of the notice.
- (7) The Department may recover any expense incurred for any action carried out under subsection (5) from the responsible person on whom the notice was served as a simple contract debt in any court.

13 Service of notices

- (1) A notice to be given under this Act is deemed to be duly served on such person:
- (a) when it has been delivered to him or her personally;
 - (b) when it has been delivered to a person, who accepts it on behalf of the responsible person and who is apparently over the age of 18 years and found at the derelict site or at the responsible person's place of residence or business in the Republic; or
 - (c) if the responsible person's address is unknown, when it has been posted in a conspicuous place, including but not limited to the front door or gate to the property to which it relates.
- (2) Despite subsection (1), if the name of the responsible person is unknown to the authorised officer, it shall be sufficient if he or she describes the responsible person of the property.
- (3) Any person who removes, damages or defaces a notice posted by an authorised officer regarding a derelict site commits an offence and is liable on

conviction to a fine not exceeding \$2,000 or to a term of imprisonment not exceeding 6 months.

PART 4 – MISCELLANEOUS

14 Offences and penalties

Any person who contravenes any provision or fails to comply with any notice issued under this Act commits an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 12 months.

15 Indemnity

The Department or any authorised officer shall not be liable to the responsible person or any person for any act or omission done or made in good faith and in the exercise of reasonable care and diligence in the course of the discharge of the authorised officer's functions and powers.

16 Exemptions

- (1) Any person may, by written application in which the reasons are given in full, apply to the Department for exemption from any provision of this Act.
- (2) The Department may:
 - (a) grant an exemption in writing and the conditions which includes the conditions under which, if any, and the period for which such exemption is granted;
 - (b) alter or cancel any condition in an exemption provided that the Department must give reasonable notice of such intention and give the applicant reasonable time to make representations; or
 - (c) refuse to grant an exemption in which case the applicant must be informed of the reasons for such refusal.
- (3) In order to consider an application under subsection (1), the Department may obtain the input of the owners or occupants of surrounding premises.
- (4) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the Department under subsection (2).
- (5) If an activity commenced before an undertaking has been submitted to the Department, the exemption lapses.
- (6) If any condition of an exemption is not complied with, the Department may withdraw or cancel such exemption provided that the Department must give reasonable notice of such intention and give the applicant reasonable time to make representation.

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Regulations

Cabinet may make regulations prescribing all matters necessary or convenient to give effect to this Act.