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Nauru

G.N.No. 570/2012

**Nauru Utilities Corporation  
Regulations 2012**

**SL No. 5 of 2012**

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## **Nauru Utilities Corporation Regulations 2012**

**SL No. 5 of 2012**

Cabinet makes the following regulations under the *Nauru Utilities Corporation Act 2011*

*Notified on 17 October 2012*

### **PART 1 – PRELIMINARY MATTERS**

#### **1 Citation**

These Regulations may be cited as the *Nauru Utilities Corporation Regulations 2012*.

#### **2 Commencement**

These Regulations commence on the day after the day on which they are published in the Gazette.

#### **3 Interpretation**

In these Regulations:

**'advisory committee member'** means a member of the advisory committee established under section 7 of the Act;

**'associate'** – a person is an associate of another person if:

- (a) one is a relative of the other; or
- (b) they are members of the same household; or
- (c) they are partners; or
- (d) they are both trustees or beneficiaries of the same trust, or one is a trustee and the other is a beneficiary of the same trust; or

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- (e) one is a body corporate and the other is a director or member of the governing body of the body corporate; or
- (f) one is a body corporate and the other is a shareholder in the body corporate; or
- (g) a chain of relationships can be traced between them under one or more of the above paragraphs;

**'beneficiary'** of a trust includes an object of a discretionary trust;

**'relative'** of a person means the spouse, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the person.

## **PART 2 – ADVISORY COMMITTEE**

### **Division 1 – Procedural matters**

#### **4 Chairperson**

The Cabinet must appoint one of the members of the advisory committee to be the chairperson.

#### **5 Procedures**

- (1) Subject to this regulation, 3 members constitute a quorum of the advisory committee.
- (2) A meeting of the advisory committee will be chaired by the chairperson and, in his or her absence, the members present at a meeting of the advisory committee must choose one of their number to chair the meeting.
- (3) A decision carried by a majority of the votes cast by members of the advisory committee at a meeting is a decision of the advisory committee.

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- (4) Each member present at a meeting of the advisory committee has one vote on any question arising for decision and the member chairing the meeting may exercise a casting vote if the votes are equal.
- (5) A proposed resolution of the advisory committee becomes a valid decision of the advisory committee despite the fact that it is not voted on at a meeting of the advisory committee if:
  - (a) notice of the proposed resolution is given to all members of the advisory committee in accordance with procedures determined by the advisory committee; and
  - (b) a majority of the members express concurrence in the proposed resolution by letter, fax, electronic mail or other written communication setting out the terms of the resolution.
- (6) The advisory committee must have accurate minutes kept of its meetings.
- (7) The advisory committee must meet at least 2 times each year and must not, without the approval of the Cabinet, meet more frequently than once each month.

## **6 Committees**

- (1) The advisory committee may establish committees:
  - (a) to advise the advisory committee on any matter; or
  - (b) to carry out functions on behalf of the advisory committee.
- (2) The membership of a committee will be determined by the advisory committee and may, but need not, consist of, or include, members of the advisory committee.
- (3) The advisory committee will determine who will be the chairperson of a committee.
- (4) The procedures to be observed in conducting the business of a committee will be:
  - (a) as determined by the advisory committee; and
  - (b) to the extent that a procedure is not determined under paragraph (a)—as determined by the committee.

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- (5) A member of a committee is not entitled to remuneration or an allowance of any kind.

**7 Secretarial support**

The Minister must, at the request of the advisory committee, provide the committee with secretarial support reasonably necessary for the performance of its functions.

**Division 2 – Honesty and accountability**

**8 Interpretation of this Division**

In this Division:

**'advisory committee member'** includes a member of a committee established by the advisory committee.

**9 Duty of advisory committee members to act honestly**

- (1) An advisory committee member must at all times act honestly in the performance of the functions of his or her office, whether within or outside Nauru.

Maximum penalty: \$5,000 or imprisonment for 6 months.

- (2) Subregulation (1) does not apply to conduct that is of a trivial character and does not result in significant detriment to the public interest.

**10 Duty of advisory committee members with respect to conflict of interest**

- (1) An advisory committee member who has a direct or indirect personal or pecuniary interest in a matter decided or under consideration by the committee:

- (a) must, as soon as reasonably practicable, disclose in writing to the Minister full and accurate details of the interest; and
- (b) must not take part in any discussion by the committee relating to that matter; and
- (c) must not vote in relation to that matter; and

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- (d) must be absent from the meeting room when any such discussion or voting is taking place.

Maximum penalty: \$5,000.

- (2) Without limiting the effect of this regulation, an advisory committee member will be taken to have an interest in a matter for the purposes of this regulation if an associate of the advisory committee member has an interest in the matter.
- (3) This regulation does not apply in relation to a matter in which an advisory committee member has an interest while the member remains unaware that he or she has an interest in the matter, but in any proceedings against the member the burden will lie on the member to prove that he or she was not, at the material time, aware of his or her interest.
- (4) A member of the advisory committee will not be taken to have a direct or indirect interest in a matter for the purposes of this regulation by reason only of the fact that the member has an interest in a matter that is shared in common with persons of the class whose interests the person represents on the committee generally, or a substantial section of such persons.

## **11 Removal of advisory committee members**

Non-compliance by an advisory committee member with a duty imposed by this Division constitutes a ground for removal of the member from office.

## **12 Civil liability for contravention of Duties**

- (1) If a person who is an advisory committee member or former advisory committee member is convicted of an offence against regulation 9 or 10, the court by which the person is convicted may, in addition to imposing a penalty, order the convicted person to pay to the Republic:
  - (a) if the court is satisfied that the person or any other person made a profit as a result of the contravention – an amount equal to the profit; and
  - (b) if the court is satisfied that any loss or damage has been suffered as a result of the contravention – compensation for the loss or damage.

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- (2) If a person who is an advisory committee member or former advisory committee member is guilty of a contravention of regulation 9 or 10, the Minister may (whether or not proceedings have been brought for the offence) recover from the person by action in a court of competent jurisdiction:
- (a) if the person or any other person made a profit as a result of the contravention – an amount equal to the profit; and
  - (b) if any loss or damage has been suffered as a result of the contravention – compensation for the loss or damage.

### **PART 3 – RECOVERY OF FEES FROM POST-PAID CUSTOMERS**

#### **13 Post-paid customer – invoice for fees**

The Corporation must give each post-paid customer a written invoice for an amount of fees owed by the customer at least 28 days before payment of the amount is required.

#### **14 Post-paid customer – enforcement action**

- (1) This regulation applies if:
- (a) the Corporation gives a post-paid customer an invoice for an amount of fees; and
  - (b) the customer fails to pay the amount on or before the date on which payment is required.
- (2) The Corporation may enforce payment of the amount by taking either or both of the following actions (**'enforcement action'**):
- (a) charging interest, at a rate determined by the Corporation with the approval of Cabinet, on the amount;
  - (b) restricting or ceasing the service for which the amount is owed.
- (3) However, the Corporation must not take enforcement action unless the customer has first been given a written notice that:
- (a) includes a copy of the invoice for the amount; and

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- (b) warns the customer that failure to pay the amount within a further specified period for payment will result in enforcement action being taken.
- (4) The further specified period for payment must be at least 7 days.