

REPUBLIC OF NAURU

TREASURY FUND PROTECTION ACT . 2004

ARRANGEMENT OF SECTIONS

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REPUBLIC OF NAURU

AN ACT

To ensure compliance with the Constitution in financial matters and protect against the unauthorised withdrawal of moneys from the Treasury Fund.

[No 3 /2004]

(Certified: 21/05/ , 2004)

Enacted by the Parliament of Nauru as follows:

SHORT TITLE

1. This Act may be cited as the *Treasury Fund Protection Act 2004*.

COMMENCEMENT

2. This Act shall come into force on the day it is certified by the Speaker.

WITHDRAWAL OF MONIES FROM THE TREASURY FUND WITHOUT PARLIAMENTARY APPROVAL

3. No person shall authorise or permit the withdrawal of any money from the Treasury Fund, or any other Fund established by Parliament or the Constitution that has not been authorised by an Act of Parliament.
Penalty: \$10,000 or imprisonment for 3 years or both.

CABINET NOT TO AUTHORISE WITHDRAWAL AFTER 30 SEPTEMBER IN ANY YEAR

4. (1) Cabinet may, in respect of a financial year commencing 1 July, recommend to Parliament a proposed law authorising the withdrawal of moneys from the Treasury Fund for the purpose of meeting expenditure necessary to carry on the services of the Republic of Nauru after the commencement of that financial year until the expiration of three months or the coming into operation of the appropriation law, whichever is the earlier.
(2) If
 - (a) a proposed law recommended in accordance with subsection (1) has not come into effect by 1 July of that financial year; and
 - (b) the appropriation law has not come into operation on or before 1 July of that financial year,

the Cabinet may authorise the withdrawal of moneys in accordance with the proposed law referred to in paragraph (a) but the amount of moneys so withdrawn shall not exceed one-quarter of the amount withdrawn under the authority of the appropriation law or laws in respect of the preceding financial year.

(3) The authorisation of Cabinet under subsection (2) cannot be exercised after 30 September in any year.

(4) An authorisation given by Cabinet contrary to this section is a breach of section 1 and every member of Cabinet shall be liable as a principal offender.

CABINET NOT TO GIVE ORDERS OR DIRECTIONS CONTRARY TO THE CONSTITUTION

5. If Cabinet gives any order for the withdrawal of moneys from the Treasury Fund or any other Fund established by law without the authorisation of a law made by Parliament, each member of Cabinet is liable for the offence of conspiracy to subvert the Constitution.

Penalty: \$50,000 or imprisonment for 5 years or both

PUBLIC OFFICERS NOT TO ADVISE CABINET OR OTHER PERSONS TO SUBVERT THE CONSTITUTION

6. (1) Any public officer who provides advice and comfort to the Cabinet or any Minister that any action he may take or authorise that is in breach of this Act or of the Constitution is not so in breach or informs the Cabinet or Minister of ways and means to so subvert the Constitution or breach this Act without appearing so to do commits an offence.

Penalty: \$10,000 or imprisonment for 3 years or both.

(2) A public officer who is found guilty of an offence under this Act shall cease to be a member of the public service and may not be so employed, or employed in an instrumentality of the Republic for a period of 5 years.

(3) It is a defence to a prosecution under this Act that the accused satisfies the court that the advice so given was genuinely held and was reasonably so held.

(4) This section has effect notwithstanding anything contained to the contrary in the Public Service Act 1998 or any other statute in operation in Nauru.

REVENUES AND MONIES RAISED OR RECEIVED BY NAURU TO BE PAID INTO THE TREASURY FUND AND RECORDED

7. (1) All revenues and monies raised or received by Nauru in accordance with Article 58 of the Constitution of Nauru including inter-alia, loans, soft loans, grants, etc, shall strictly be paid into the Treasury Fund and properly recorded. If the President, Minister or the Cabinet directs otherwise or if any public servant including consultants on his own volition or on the instructions of the political functionaries stated above, does anything contrary to the provisions of this section, commits an offence.

Penalty: \$10,000 or imprisonment for 3 years or both

(2) A statement of all revenues and other monies paid into the Treasury Fund shall be caused to be prepared and laid before Parliament by the Minister within one month after the end of each financial year notwithstanding the fact that the detailed and audited yearly statement of all accounts relating to public monies shall be laid separately in Parliament by the Minister.

(3) This section has effect not withstanding anything contained to the contrary in any other statute in operation in Nauru.

CABINET NOT TO AUTHORISE THE MORTGAGE OF PROPERTY OF THE REPUBLIC OR INSTRUMENTALITIES OR GIVE GUARANTEES

8. (1) No mortgage or other charge over property of the Republic or of an instrumentality of the Republic has any force or effect at law or equity unless the mortgage or charge and the purpose thereof has been approved by Parliament.

(2) No guarantee given by the Cabinet on behalf of the Republic has any force or effect or binds the Republic unless and until the guarantee and the purpose therefor has been approved by Parliament.

(3) This section has effect notwithstanding anything to the contrary in the Republic of Nauru Finance Corporation Act or any other Act or law.

(4) Any person (including the President and a Minister) who gives or purports to give any mortgage or charge or guarantee in contravention to this section or that is not made or given subject to its being approved by the Parliament within a period of 90 days commits an offence.

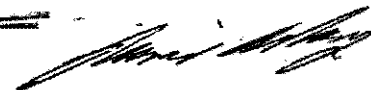
Penalty: \$10,000 or imprisonment for 3 years or both

I hereby certify that the above is a fair print of a Bill for an Act entitled **Treasury Fund Protection Act 2004** ~~has been passed by~~ passed by Parliament of Nauru and is now presented to the Speaker for his Certificate under Article 47 of the Constitution.



Clerk of Parliament
21st May 2004

Pursuant to Article 47 of the Constitution, **I, DAVID ADEANG**, Speaker of Parliament, hereby certify that the **Treasury Fund Protection Act 2004** has been passed by Parliament of Nauru.



Speaker
21st May 2004

