

# **REPUBLIC OF NAURU**

# **LEADERSHIP CODE BILL 2016**

No. 34 of 2016

A Bill for an Act to establish the Office of the Ombudsman and to set out minimum standards of behaviour and conduct for the Leaders of Nauru and for matters connected with or incidental to them

Certified:

# **Table of Contents**

|   | PART 1 - PRELIMINARY    | • |
|---|-------------------------|---|
| 1 | SHORT TITLE             | 1 |
| 2 | COMMENCEMENT            | 1 |
| 3 | PURPOSE OF THE ACT      | • |
|   | PART 2 - INTERPRETATION | • |
| 4 | INTERPRETATION          | • |
| 5 | MEANING OF 'RENEFIT'    | _ |

| 6  | MEANING OF 'CONFLICT OF INTEREST'                                     | 4  |
|----|---|----|
| 7  | MEANING OF 'INTEREST'   | 5  |
| 8  | MEANING OF LEADER   | 5  |
| 9  | PROPERTY OR BENEFIT OUTSIDE NAURU                                     | 6  |
| 10 | CUSTOM  | 6  |
| 11 | OFFENCES BY OTHER PERSONS   | 6  |
| P  | ART 3 – PRINCIPLES OF GOOD GOVERNANCE AND THE CODE OF ETHICAL CONDUCT | 7  |
| 12 | BREACH OF THIS PART   | 7  |
| 13 | PRINCIPLES OF GOOD GOVERNANCE   | 7  |
| 14 | CODE OF ETHICAL CONDUCT   | 7  |
| 15 | APPOINTMENTS TO BE MADE ON MERIT                                      | 8  |
| 16 | LOANS, ETC.   | 8  |
| 17 | UNDUE INFLUENCE   | 9  |
| 18 | BRIBERY   | 9  |
| 19 | INSIDER INFORMATION   | 9  |
| 20 | MULTIPLE OFFICE HOLDING   | 10 |
| 21 | MISUSE OF PUBLIC ASSETS, RESOURCES AND FUNDS                          | 10 |
| 22 | ABUSE OF DEFAMATION LAWS  | 10 |
| 23 | ABUSE OF EX-GRATIA PAYMENTS   | 10 |
| 24 | DISCLOSURE OF CONFLICT OF INTEREST                                    | 11 |
| 25 | DIVESTING OF INTERESTS  | 11 |
| 26 | GOVERNMENT CONTRACTS  | 12 |
| 27 | CUSTOMARY GIFTS OR BENEFITS IN KIND                                   | 12 |
| 28 | COUNSELLING   | 13 |
| 29 | ATTEMPTS  | 13 |
| 30 | LIABILITY OF A LEADER   | 13 |
| P  | ART 4 – OFFICE OF THE OMBUDSMAN                                       | 13 |
| 31 | ESTABLISHMENT OF THE OFFICE OF THE OMBUDSMAN                          | 13 |
| 32 | FUNCTIONS OF THE OMBUDSMAN  | 14 |
| 33 | APPOINTMENT AND REMOVAL OF THE OMBUDSMAN                              | 14 |
| 34 | TERMS AND CONDITIONS OF APPOINTMENT OF THE OMBUDSMAN                  | 15 |
| 35 | OATH OF OFFICE  | 15 |
| 36 | QUALIFICATIONS OF THE OMBUDSMAN                                       | 15 |

| 37 | INDEPENDENCE OF THE OMBUDSMAN  | 16 |
|----|--|----|
| 38 | DECISIONS OF THE OMBUDSMAN   | 16 |
| 39 | APPOINTMENT AND EMPLOYMENT OF OTHER STAFF OF THE OFFICE OF THE OMBUDSMAN | 16 |
| 40 | OMBUDSMAN TO PROVIDE ANNUAL REPORT                                       | 16 |
| 41 | FUNDING OF THE OFFICE OF THE OMBUDSMAN                                   | 16 |
| 42 | RULINGS BY OMBUDSMAN   | 16 |
| 43 | ADVICE AND CLEARANCE BY OMBUDSMAN  | 17 |
| 44 | RELEVANT FACTORS WHEN CONSIDERING A CLEARANCE                            | 18 |
| 45 | REVOCATION OF CLEARANCE  | 18 |
| P  | ART 5 – SUPPLEMENTARY PROVISIONS APPLICABLE TO MINISTERS OF GOVERNMENT   | 19 |
| 46 | RELATIONSHIP BETWEEN THIS PART AND THE CONSTITUTION                      | 19 |
| 47 | CABINET MINISTER'S RESPONSIBILITY  | 19 |
| P  | ART 6 – FINANCIAL DISCLOSURES  | 19 |
| 48 | REGISTER OF LEADERS INTERESTS  | 19 |
| 49 | LODGING OF ANNUAL STATEMENT OF INTEREST                                  | 20 |
| 50 | CONTENTS OF ANNUAL STATEMENT   | 20 |
| 51 | UNACCOUNTED INCOME OR PROPERTY OF A LEADER                               | 21 |
| 52 | SECRECY AND CONFIDENTIALITY  | 21 |
| 53 | FAILURE TO LODGE STATEMENT   | 22 |
| 54 | EXTENSION OF TIME  | 22 |
| 55 | NAMES OF LEADERS PUBLISHED ANNUALLY                                      | 22 |
| P  | ART 7 - INVESTIGATION OF BREACHES  | 22 |
| 56 | INVESTIGATION OF COMPLAINTS  | 22 |
| 57 | MODE OF COMPLAINT  | 23 |
| 58 | COMMISSIONER OF POLICE REQUESTED TO INVESTIGATE                          | 23 |
| 59 | PRINCIPLES OF NATURAL JUSTICE  | 23 |
| 60 | ANONYMITY AND PROTECTION OF INFORMANTS                                   | 23 |
| 61 | REJECTING TRIVIAL COMPLAINTS   | 24 |
| 62 | CONDUCT OF PROCEEDINGS – EVIDENCE  | 24 |
| 63 | COMPLETED REPORT   | 25 |
| 64 | PENALTIES FOR MISCONDUCT   | 25 |
| 65 | FACTORS IN DETERMINING WHETHER MISCONDUCT IS SERIOUS                     | 26 |
| 66 | APPEALS FROM DECISIONS OF THE OMBUDSMAN                                  | 26 |

| 67 | POWERS OF THE SUPREME COURT                        | 27 |
|----|--|----|
| F  | PART 8 – PROSECUTION OF BREACHES                   | 27 |
| 68 | CRIMINAL RELATED ALLEGATIONS                       | 27 |
| 69 | PROSECUTION BY THE DIRECTOR OF PUBLIC PROSECUTIONS | 28 |
| 70 | FORFEITURE OF GAINS                                | 29 |
| 71 | EFFECT OF FORFEITURE ORDER                         | 29 |
| 72 | HARDSHIP FACTOR                                    | 29 |
| 73 | SUSPENSION FROM OFFICE                             | 29 |
| 74 | DEFENCE TO PROSECUTION                             | 29 |
| F  | PART 9 - MISCELLANEOUS                             | 30 |
| 75 | REGULATIONS  | 30 |
| 76 | PRIVILEGES OF PARLIAMENT                           | 30 |
| 77 | AMENDMENT OF THIS ACT                              | 30 |
| 78 | OFFENCE OF FALSE ALLEGATION                        | 30 |
| 79 | PAYMENTS AND REMUNERATION                          | 30 |
| 80 | DEROGATION FROM OTHER LAWS                         | 30 |
| S  | SCHEDULE 1   | 31 |
| S  | CHEDULE 2  | 32 |

Enacted by the Parliament of Nauru as follows:

# **PART 1 - PRELIMINARY**

#### 1 Short title

This Act may be cited as the Leadership Code Act 2016.

#### 2 Commencement

- (1) This Act commences on the date it is certified by the Speaker.
- (2) This Act will apply only to those actions that occur after its commencement in subsection (2).

# 3 Purpose of the Act

The purpose of this Act includes:

- (a) giving effect to the commitment of Leaders and people of Nauru to the principles of good governance;
- (b) establishing a Code of Ethical Conduct governing the behaviour and conduct of Leaders and encouraging compliance with the Code;
- (c) providing guidance, promoting and strengthening the integrity of Leaders of Nauru;
- (d) promoting high standards of service by Leaders;
- (e) encouraging and emphasising those positive attributes of professional conduct that characterise effective leadership;
- (f) enabling Leaders to declare themselves publicly accountable;
- (g) providing protection for informants who expose misconduct in office by Leaders;
- (h) establishing the office of the Ombudsman.

## **PART 2 - INTERPRETATION**

## 4 Interpretation

In this Act, unless the context requires otherwise:

'Ambassador' means a person sent by Nauru as a diplomat and its foreign representative to another country;