



REPUBLIC OF NAURU

COURTS (AMENDMENT) ACT 2017

No. 4 of 2017

An Act to amend the *Courts Act 1972*

Certified: 5th May 2017

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Courts (Amendment) Act 2017*.

2 Commencement

This Act commences upon certification by the Speaker.

3 Amendment of Courts Act 1972

The Courts Act 1972 is amended by the provisions of this Act.

4 Amendment of section 9

Section 9 is omitted and substituted with the following:

- (1) There is established a District Court, which shall be a court of record.
- (2) The District Court is subordinate to the Supreme Court and consists of:
 - (a) 2 resident magistrates; and
 - (b) not less than 3 lay magistrates.
- (3) The resident magistrates and the lay magistrates shall be appointed by the President after consultation with the Chief Justice.
- (4) If either or both resident magistrates are unable by reason of illness, absence from Nauru or other cause to perform all or any duties as a resident magistrate, the President may appoint another person to act as a resident magistrate.
- (5) The appointment under subsection (4) may either be for a specified period or for the hearing and determination of a specified cause or matter.

5 Amendment to section 10

Section 10 is omitted and substituted with the following:

- (1) No person shall be appointed to act as a resident magistrate unless that person possesses the professional qualifications prescribed by law as the necessary prerequisite for admission to practise as a barrister and solicitor of the Supreme Court.
- (2) If a person has been appointed under section 9 to act as a resident magistrate, that person may continue to act as a resident magistrate

in hearing and determining any cause or matter which commenced before the District Court constituted by him or her as an acting resident magistrate despite a resident magistrate resuming duties.

- (3) The appointment of any person to act as a resident magistrate shall terminate immediately upon any other person being appointed to be, or to act, otherwise than solely for the hearing and determination of a specified cause or matter, as the resident magistrate or upon a resident magistrate resuming duties as the case may be.
- (4) If a person has been appointed to act as a resident magistrate, the person is taken to have ceased to be acting as a resident magistrate where the appointment:
 - (a) is for a specified period, in respect of the hearing and determination of all causes and matters of which the hearing is commenced during that period; and
 - (b) is made for the hearing and determination of a specified cause or matter, in respect of the hearing and determination of that cause or matter only.
- (5) Each magistrate other than the resident magistrates must be paid the fees and allowances determined by the Minister by Gazette notice.

6 Amendment to section 13

Section 13(3) is omitted and substituted with the following:

- (3) A resident magistrate may, if the Chief Justice so directs, destroy, or cause to be destroyed, any record of any cause or matter in the District Court, including the record of the evidence in that cause or matter, at any time after the expiration of a period of:
 - (a) in the case of criminal proceedings in which no sentence of imprisonment was imposed, two years; and
 - (b) in the case of any other cause or matter, from the date of final judgment in those proceedings:
 - (i) if the Chief Justice is satisfied that the continued retention of the record of that cause or matter is unlikely to serve any useful purpose and authorises its destruction, two years; or
 - (ii) otherwise, ten years.

7 Amendment to section 15

Section 15 is omitted and substituted with the following:

- (1) There shall be Clerks of the District Court who shall be appointed by the Minister.
- (2) The Clerks shall, subject to the general supervision of the Chief Justice, be under the immediate direction and control of the Registrar.

8 Amendment to section 16

Section 16 is omitted and substituted with the following:

16 Duties of the Clerks

The duties of the Clerks shall be to:

- (a) attend sittings of the District Court as a resident magistrate may direct;
- (b) prepare summonses, warrants, decrees, orders, convictions, recognizances, writs of execution and other documents and to submit them to a resident magistrate, or, if that resident magistrate so directs, to another magistrate, for signature;
- (c) issue civil process if authorised by rules of court;
- (d) maintain case files and registers to record judgments and orders of the District Court and to make, or cause to be made, copies of proceedings when required to do so;
- (e) receive all fees, fines and penalties, and all other moneys paid or deposited in respect of proceedings in the District Court, and to keep an account of them; and
- (f) perform, or cause to be performed, such other duties connected with the District Court as may be assigned to them by a resident magistrate.

9 Amendment to section 18

Section 18 is omitted and substituted with the following:

- (1) The District Court shall have and exercise within Nauru all such powers and jurisdictions as are, or may from time to time be, vested in it under this Act and any other written law.
- (2) It shall be properly constituted in any cause or matter when its powers and jurisdiction are exercised by either:
 - (a) a resident magistrate; or
 - (b) any of the three lay magistrates.

- (3) The lay magistrates shall not hear or determine or investigate any cause or matter unless a resident magistrate is unable to hear or determine or investigate a cause or matter where a resident magistrate considers that it would be improper for him or her to hear or determine or to investigate a cause or matter.
- (4) The jurisdiction of the District Court may be exercised in any proceedings even if it is being exercised at the same time in other proceedings by another magistrate or other magistrates.

10 Amendment to section 20

Section 20(1) is omitted and substituted with the following:

- (1) Subject to the provisions of this Act and to any directions given by the Chief Justice, either of the resident magistrates shall determine which magistrates shall exercise the powers and jurisdiction of the District Court in any cause or matter.

11 Amendment to section 56

Section 56(2) is omitted and substituted with the following:

- (2) Save as may be provided by any written law, no person shall be entitled as of right to inspect the original record of the proceedings in any cause or matter in the Supreme Court or the District Court but such inspection may be authorised:
 - (a) in respect of a cause or matter in the Supreme Court, by a judge;
 - (b) in respect of a cause or matter in the District Court, by either of the resident magistrates.

12 Amendment to section 58

Section 58(2) is omitted and substituted with the following:

- (2) The District Court shall sit for the trial of criminal and civil causes and matters at such places as the Chief Justice may direct and subject to any directions given by the Chief Justice, it shall sit at such times as either of the resident magistrates deem most suitable for the despatch of the business of the Court.

13 General amendment to references

Any reference in any statutory instruments to “the resident magistrate” is omitted and substituted with “the resident magistrates” or “either of the resident magistrates” as appropriate.