



REPUBLIC OF NAURU

CRIMINAL PROCEDURE (AMENDMENT) ACT 2022

No. 5 of 2022

An Act to amend the *Criminal Procedure Act 1972*.

Certified: [8th June 2022]

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Criminal Procedure (Amendment) Act 2022*.

2 Commencement

This Act commences on certification of the Speaker.

3 Amendment of the Criminal Procedure Act 1972

The *Criminal Procedure Act 1972* is amended by the provisions of this Act.

4 Insert new Section 21A

A new Section 21A is inserted as follows:

'21A Procedure for extension of detention of person held in custody under Article 5 of the Constitution

(1) *Where a person has been arrested or detained upon reasonable suspicion of having committed or being about to commit an offence and is required to be further held in custody for more than 24 hours in connection with that offence, the prosecution shall:*

(a) *make an application to a Judge, Resident Magistrate or any other judicial officer for an order that the person be further held in custody in accordance with subsection (3); and*

(b) *bring the person before a Judge, Resident Magistrate or any other judicial officer within a period of 24 hours after his or her arrest or detention.*

(2) *An application under subsection (1) shall be:*

(a) *made by a notice of motion; and*

(b) *supported by an affidavit specifying the reasons for holding the person further in custody which may, where appropriate, include the following:*

(i) *the general nature of complaint or offence for which the person has been arrested or detained;*

(ii) *the day, date and time the person was arrested or detained;*

(iii) *the general nature or process of investigation being or likely to be conducted, without causing prejudice to the nature, process or integrity of the investigation by the police;*

- (iv) *the safety or protection of a complainant, person arrested or detained or any other person who may be directly or indirectly related to the offence or nature or process of investigation; and*
 - (v) *interference with the nature and process of investigation, complainant or any other person who may be directly or indirectly related to the offence or nature or process of the investigation.*
- (3) *In considering an application under subsection (1), the Judge, Resident Magistrate or any other judicial officer shall grant the order sought, unless the Judge, Resident Magistrate or any other judicial officer is of the view that further holding of a person in custody is not necessary.*
- (4) *Where the Judge, Resident Magistrate or any other judicial officer grants an order under subsection (3) to further hold a person in custody:*
 - (a) *such order shall be for a period not exceeding 3 working days; and*
 - (b) *the Judge, Resident Magistrate or any other judicial officer shall adjourn the application, on which day the person shall be brought before him or her or any other Judge, Resident Magistrate or any other judicial officer.*
- (5) *Where the prosecution seeks a further order to extend the period of custody in an order granted under subsection (3), the prosecution shall file an affidavit stating the reasons for such extension before the person is brought before the Judge, Resident Magistrate or any other judicial officer under subsection (4)(b).*
- (6) *A Judge, Resident Magistrate or any other judicial officer in considering an application under subsection (5) may extend the period of custody for not more than 2 working days.*
- (7) *Where a person who is further held in custody under this Section is charged with an offence, any further orders to hold the person shall be determined under the provisions of the Bail Act 2018.*
- (8) *For the purposes of an application under this Section, the prosecution shall make an application to the District Court and only in the absence of the Resident Magistrate or the Registrar, the application shall be made to a Judge.*
- (9) *For the purposes of this Section, the Registrar is a judicial officer who shall have the jurisdiction and power vested to a Judge or Resident Magistrate under Article 5(3) of the Constitution.*

(10) *The Cabinet may, by notice in the Gazette, designate any place to hold an arrested or detained person.*'