



REPUBLIC OF NAURU

Legislation Publication Act 2011

Act No. 7 of 2011

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Act No. 7 of 2011

An Act relating to the publication of legislation, to establish the Office of Parliamentary Counsel and for related purposes

Certified on 15 April 2011

Enacted by the Parliament of Nauru as follows:

PART 1 – PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Legislation Publication Act 2011*.

2 Commencement

This Act commences on the day it receives the certificate of the Speaker under Article 47.

3 Object

The object of this Act is to facilitate the updating and ready availability of Nauru legislation.

4 Definitions

In this Act:

'appended material', in relation to a written law, includes information about the certification, commencement and amendment of the law;

'compilation', of a written law, means the law as amended and in force at a particular time;

'Deputy Parliamentary Counsel' means the person from time to time holding, occupying or performing the duties of the office of Deputy Parliamentary Counsel mentioned in section 14;

'item' means:

- (a) the text of a written law; and
- (b) appended material relating to the law;

'legislation database' means a database declared under section 5(2);

'Office of Parliamentary Counsel' means the Office established under section 12;

'Parliamentary Counsel' means the person from time to time holding, occupying or performing the duties of the office of Parliamentary Counsel mentioned in section 14;

'publish' means publish on a legislation database.

PART 2 – PUBLICATION OF LEGISLATION

5 Legislation database

- (1) The Parliamentary Counsel may maintain an electronic database of:
 - (a) Acts as certified; and
 - (b) compilations of Acts; and
 - (c) subsidiary legislation as made; and
 - (d) compilations of subsidiary legislation.
- (2) The Parliamentary Counsel may, by Gazette notice, declare a database maintained under this section to be a legislation database.

- (3) The Parliamentary Counsel must ensure that items in a legislation database are available for inspection by the public.

6 Effect of inclusion in legislation database

In relation to a published item, it is presumed, unless the contrary is proved:

- (a) that the text of the written law to which the item relates is:
- (i) for a law published as certified or made – a complete and accurate record of the law as certified or made; and
 - (ii) for a law published as a compilation – a complete and accurate record of the law as in force on the day specified in the compilation; and
- (b) that any appended material is accurate.

7 Documents in a legislation database

A document that purports to be an extract from a legislation database is presumed, unless the contrary is proved, to be what it purports to be.

8 How a legislation database must be kept

- (1) The regulations may prescribe matters relating to how a legislation database must be kept, including the following:
- (a) the way information may be recorded in the database;
 - (b) the way information recorded in the database may be altered;
 - (c) a system of unique identifiers for each published item (or each published item in a specified category), and the way in which the identifiers must be recorded in the item.
- (2) The legislation database must be kept in accordance with the requirements of the regulations.

9 Correction of legislation database

- (1) This section applies if the Parliamentary Counsel becomes aware of an error in a published item that, in the Parliamentary Counsel's opinion, has the result that:
 - (a) for an error relating to the publication of a written law as certified or made – the published text of the law does not represent the text of the law as certified or made; or
 - (b) for an error relating to the publication of a compilation of a written law – the published text of the compilation does not represent the state of the law it purports to represent.
- (2) The Parliamentary Counsel must, as soon as possible after becoming aware of the error:
 - (a) correct the error; and
 - (b) publish a notice on the legislation database stating:
 - (i) the nature, date and time of the correction; and
 - (ii) the reason for the correction.
- (3) The correction of the error:
 - (a) does not affect any right or privilege that was acquired, or that accrued, because of reliance on the legislation database before the correction was made; and
 - (b) does not impose or increase any obligation or liability that was incurred before the correction was made.

10 Incorporation of amendments in compilations

If a written law has, before or after the commencement of this Act, been amended, a published compilation of the law must show the law as amended by all amendments that had been made to the law and commenced before the day specified in the compilation as the day from which the law is in force.

11 Information to appear in compilations

- (1) A published compilation of a written law (the *'principal legislation'*) must include the following information:
 - (a) a reference to the amending legislation by which each amendment was made to the principal legislation;
 - (b) the history of each provision in the principal legislation as amended by all amending legislation covered by the compilation;
 - (c) the day the compilation was prepared;
 - (d) a statement that the compilation was prepared and published by the Parliamentary Counsel;
 - (e) any other information required by the regulations.
- (2) A compilation purporting to have been prepared and published by the Parliamentary Counsel is presumed to have been published by the Parliamentary Counsel unless the contrary is proved.

PART 3 – OFFICE OF PARLIAMENTARY COUNSEL

12 Office of Parliamentary Counsel

- (1) The Office of Parliamentary Counsel is established.
- (2) The Office of Parliamentary Counsel consists of the Parliamentary Counsel, the Deputy Parliamentary Counsel and the staff mentioned in section 15.
- (3) The Parliamentary Counsel, subject to the directions of the Speaker, controls the office of Parliamentary Counsel.

13 Functions of the Office of Parliamentary Counsel

- (1) The main functions of the Office of Parliamentary Counsel (the *'primary functions'*) are to:
 - (a) draft proposed laws for introduction into Parliament; and
 - (b) draft amendments to proposed laws that are being considered by Parliament; and
 - (c) draft proposed subsidiary legislation; and

- (d) perform functions under this Act; and
 - (e) perform functions incidental to the functions mentioned in paragraphs (a) to (d).
- (2) The other functions of the Office of Parliamentary Counsel (the '**secondary functions**') are to perform functions under any other Act or as directed by the Speaker, including functions incidental to those functions.
- (3) The performance of the primary functions must not be compromised in order to perform the secondary functions.

14 Appointment of Parliamentary Counsel and Deputy Parliamentary Counsel

- (1) The Speaker must appoint the Parliamentary Counsel and the Deputy Parliamentary Counsel.
- (2) A person is not eligible for appointment as the Parliamentary Counsel or Deputy Parliamentary Counsel unless the person is:
- (a) a barrister and solicitor, and has been for at least 5 years; or
 - (b) a person who is qualified for admission as a barrister and solicitor under section 5 of the *Legal Practitioners Act 1973*, and has been for at least 5 years.

15 Staff of the Office of Parliamentary Counsel

- (1) The Chief Secretary, acting on the recommendation of the Parliamentary Counsel, may appoint staff to the Office of Parliamentary Counsel under the *Public Service Act 1998*.
- (2) The staff of the Office of Parliamentary Counsel are subject to the directions of the Parliamentary Counsel in the performance of their duties.

16 Annual Report

- (1) The Parliamentary Counsel must, by 31 October each year, give the Speaker a report on the activities of the Office of Parliamentary Counsel for the 12 month period ending on 30 June the same year.
- (2) Cabinet may make regulations prescribing the matters that must be included in the report.

17 Acting appointment

- (1) The Speaker may appoint a person, or 2 or more people, to act in the office of Parliamentary Counsel or Deputy Parliamentary Counsel:
 - (a) during a vacancy, or all vacancies, in the office; or
 - (b) during any period, or all periods, when the holder of the office is unable to perform the duties of the office.
- (2) A person appointed to act in an office under subsection (1) must be eligible for appointment to the office under section 14(2).

18 Delegation

The Parliamentary Counsel may delegate any of the Parliamentary Counsel's powers or functions under this or any other Act to:

- (a) the Deputy Parliamentary Counsel; or
- (b) a member of staff of the Office of Parliamentary Counsel.

PART 4 – MISCELLANEOUS MATTERS

19 Regulations

- (1) Cabinet may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may prescribe the corrections and editorial changes that may be made to a written law by the Parliamentary Counsel in the preparation of the law for publication.
- (3) However, the regulations must not prescribe corrections and editorial changes that would change the effect of the written law.

PART 5 – REPEAL AND TRANSITIONAL PROVISIONS

20 Definitions

In this Part:

'commencement date' means the date of commencement of section 21;

'repealed Act' means the *Amendments Incorporation Ordinance 1965* as in force immediately before the commencement date.

21 Repeal

The *Amendments Incorporation Ordinance 1965* (No. 6 of 1965) is repealed.

22 Transitional regulations

- (1) The regulations may provide for a matter of a transitional nature:
 - (a) because of the enactment of this Act; or
 - (b) to otherwise allow or facilitate the transition from the operation of the repealed Act to this Act; and
- (2) A transitional regulation may have retrospective operation to a date not earlier than the commencement date.
- (3) However, to the extent a transitional regulation has retrospective operation, it does not operate to the disadvantage of a person (other than the Republic) by:
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.
- (4) This section expires 12 months after the commencement date.