

Why is Nauru having a Referendum?

The Constitutional Review Process

The Constitution is the supreme law of the Republic of Nauru. All other laws must be consistent with the Constitution. If a law is not consistent with the Constitution, it is invalid.

We have had our Constitution since 1968 and it has never been amended before. But after a long constitutional review process, including consultation with the people of Nauru and a Constitutional Convention, Parliament has decided that it is now time to amend our constitution to make certain improvements to the way Nauru is run.

Amending the Constitution is much harder than amending any other law. This is because the Constitution is the supreme law of the Republic, so it is important that any changes to the Constitution are carefully thought out. A Bill to amend the Constitution must sit in Parliament for at least 90 days between the day it is introduced and the day it is passed, and it must be passed by at least 12 out of the 18 members of Parliament, instead of just by a simple majority.

On 21 August 2009 Parliament passed two Bills to amend the Constitution of Nauru. They were the Constitution of Nauru (Parliamentary Amendments) Bill 2009 and the *Constitution of Nauru (Referendum Amendments) Bill 2009*. Parliament considered these Bills for more than seven months. The Select Committee on Constitutional Amendment Bills and the Committee of the Whole gave very careful consideration to the Bills.

When it came to vote on the Bills, all of the 15 members who were present in the Parliament voted in support of these constitutional amendment Bills. These amendments have not become law straight away, because the changes contained in the *Constitution of Nauru (Referendum Amendments) Bill 2009* cannot become law until there has been a referendum and two thirds of the voters say they want these changes to be made.

The most important Articles of the Constitution cannot be changed by Parliament alone, but also require the approval of two thirds of the votes cast in a referendum. That is why Nauru is holding its first ever referendum on 27 February 2010: so that the voters can decide whether the changes contained in the *Constitution of Nauru (Referendum Amendments) Bill 2009* should be made.

It is important to understand that on the day of the referendum, you will be asked whether or not you support the *Constitution of Nauru (Referendum Amendments) Bill 2009* as a whole. The changes are a package, so if you vote 'yes' in the referendum all of the changes will be made, and if you vote 'no', none of the changes will be made. This is because of the way the Constitution was originally drafted. It is not possible to say 'yes' to some of the changes and 'no' to the other changes. For this reason it is very important that voters understand all the proposed changes, and weigh up the package as a whole.



Referendum 2010:

Proposed Amendments to the Constitution

The *Constitution of Nauru (Referendum Amendments) Bill 2009* contains a number of amendments to the Nauruan Constitution.

The main aims of the proposed amendments are to:

- improve the transparency and accountability of public institutions
- make the Constitution more Nauruan
- make the Constitution easier to understand
- improve the consistency of the Constitution,
- ensure the relevance of the Constitution to today's Nauru.

The amendments seek to achieve these aims in four main ways:

- by strengthening our human rights
- by changing the way we elect our President
- by clarifying the roles of President and Cabinet, and
- by stabilising our Government

The proposed changes to these main areas are summarised in this section. For more detailed information about all of the changes contained in the bill, please refer to the Table at the end of this booklet.

Strengthening our Human Rights

The protection of human rights is essential in order for a democratic system to function effectively. Democracy does not simply mean that people are able to elect their government. It also means that people are entitled to challenge the government if the government acts unfairly or intrudes unreasonably on the people's ability to live freely.

A democratic government has many important powers and functions, but it does not have unlimited power to do as it likes. The constitutional protection of human rights is one of the ways in which the powers of government are limited under the Constitution.

The importance of protecting human rights is recognised around the world. The need to provide for the protection of human rights was recognised by the founders of the Republic in Nauru in 1968. Part II of the Constitution of Nauru, 'Fundamental Rights and Freedoms', provides for the protection of the right to equality, protection of the right to life, protection of person and property, and the protection of law.



'The importance of protecting human rights is recognised around the world. The need to provide for the protection of human rights was recognised by the founders of the Republic of Nauru'

The *Constitution of Nauru (Referendum Amendments) Bill 2009* strengthens the existing rights in the Constitution, and makes them more relevant to today's Nauru. For example the right to equality is spelt out in more detail, and clearer guidance is given about when it applies.

It also proposes to include the following internationally recognised rights and freedoms in Part II of the Constitution of Nauru:

Protection of right to privacy and personal autonomy

everyone has the right to privacy and the right to be free from unreasonable interference in their personal choices.

Right to information

everyone has the right of access to information held by the government.
Parliament must enact a law to give effect to the right to information.

Right to health services

everyone has the right to access basic health services, including maternity and related care for every woman.
the government will be required to take reasonable measures to achieve the progressive realisation of this right and to improve the standard of health services.

Right to education

everyone has the right to primary and secondary education.
the government will be required to take reasonable measures to make education accessible and to improve the standard of public education.

Environmental protection

everyone has the right to an environment that is not harmful to their health or well-being.
the government will be required to take reasonable measures to minimise pollution and environmental degradation, promote rehabilitation and conservation and secure ecologically sustainable development and use of natural resources including marine resources while promoting justifiable economic and social development.

Employment rights

everyone has the right to fair labour practices, and every Nauruan citizen has the right to choose their trade or occupation freely.

the government has the right to regulate the practice of trades, and to prohibit certain trades where they are not in the interests of public safety, public order, public morality or public health.

Women's rights

every woman has the right to a reasonable period of maternity leave.

Children's rights

every child has special rights, which include the right to a name and a nationality from birth, the right to be cared for, the right to basic nutrition, shelter and health care services, the right to be protected from maltreatment and neglect, and the right to be protected from labour exploitation.

Rights of persons with disabilities

all persons with disabilities are entitled to have their fundamental rights and freedoms realised without discrimination on the basis of disability.
the government will be required to take reasonable measures to facilitate the full and effective participation of people with disabilities, to make mobility aids and other assistive technologies available to people with disabilities, and to improve the accessibility of all public facilities and services.

The *Constitution of Nauru (Referendum Amendments) Bill 2009* also proposes to strengthen the ability of every Nauruan to have their fundamental rights and freedoms enforced. A person wanting to enforce their constitutional rights will be able to bring a claim in the Supreme Court, and the Supreme Court will be required to interpret all fundamental rights and freedoms so as to promote the values that underlie a democratic society based on freedom and equality.

Nauruans will also have a greater awareness of their rights if the *Constitution of Nauru (Referendum Amendments) Bill 2009* is passed, as it requires the government to promote understanding of the Constitution in schools, government institutions and the police force. This will mean that the Nauruan people are more aware of their rights and of the way that Nauru is governed.

If the referendum is passed, these proposed amendments to Part II of the Constitution will strengthen and advance the human rights of the people of Nauru.



Changing the way we elect our President

Part III of the Constitution, 'The President and the Executive', lays down the rules about how the President must be elected.

During public consultations in 2006, the majority of participants expressed the view that it should be the people of Nauru and not the members of Parliament that have the final say in who becomes their President. The Constitutional Review Commission agreed that the electoral process should be changed from a parliamentary election to an election by the people, and carefully considered how such a change could be made to strengthen the fairness and transparency of presidential elections in Nauru. The Commission recommended changes to the way the President is elected, and Parliament agreed that these changes would result in a fairer and more stable process.

The *Constitution of Nauru (Referendum Amendments) Bill 2009* therefore proposes the following changes to the way we elect our President:

The President of Nauru would be elected by the people of Nauru in accordance with the Constitution.

After a general election, or when the office of President is vacated, Parliament must nominate from among its members two or three candidates for election as President.

An election for President must then be held, either 28 days after the general election, or not later than 35 days after the President's office is vacated.

Every person who is entitled to vote in a general election is entitled to vote in an election for President.

This change to the way Nauru elects its President will increase the stability of the electoral process in Nauru, because changes to the Presidency other than by general election will be minimised. The President, government and Parliament will be better able to focus on their governmental responsibilities. Most importantly, the way the President is elected will better reflect the democratic values of freedom and equality.

Clarifying the roles of President and Cabinet

The President has many important powers and functions, and also leads the Cabinet, the heart of government in Nauru. Part III of the Constitution, 'The President and the Executive', lays down the basic rules that the President, Cabinet and government must follow in performing their respective roles.

The *Constitution of Nauru (Referendum Amendments) Bill 2009* seeks to give clearer direction to the President as to their constitutional role and to clarify their responsibilities to Parliament and to the Nauruan people.

The President's functions and powers would be specified by the Constitution, and would specifically include the power:

- to appoint Ministers to Cabinet
- to assign to Ministers responsibility for government business
- to appoint judges and acting judges
- to declare and revoke a state of emergency,
- to exercise the prerogative of mercy.

The President will be required to take an oath to devote himself or herself to the well-being of the Republic and all its people.

At the same time as the role of the office of President is clarified, it makes sense to clarify the powers and functions of Cabinet. Cabinet consists of the President and Ministers, and forms the heart of government in Nauru. The *Constitution of Nauru (Referendum Amendments) Bill 2009* proposes to make clear that the Cabinet holds the authority of government, and that it is responsible to Parliament. The Bill also proposes to give Cabinet more guidance on its powers and functions.

'The President of Nauru would be elected by the people of Nauru in accordance with the Constitution'.



The powers and functions of Cabinet are broad, and will specifically include:

general direction and control of government
the responsibility to conduct foreign affairs
the responsibility to provide public health services
the responsibility to take measures to achieve an adequate standard of living for the people of Nauru.

Together, these proposed amendments to Part III of the Constitution would strengthen the accountability of government to Parliament and to the Nauruan people. Because President and Cabinet would have constitutional guidance on their respective functions and responsibilities, the transparency and efficiency of government in Nauru would be increased.

Stabilising our Government

Since independence in 1968, 23 of the 36 Presidential terms have lasted less than one year. Frequent change in the Presidency has created a level of instability of government that makes it difficult to achieve long term goals and projects. Parliament has agreed that amending the Constitution to stabilise government is not only in the interests of Parliament itself, but of the Nauruan people and the future of the Republic.

The *Constitution of Nauru (Referendum Amendments) Bill 2009* therefore proposes that the following changes be made to the Constitution. These changes aim to ensure that:

There will be greater continuity and stability in the office of President.

The President will continue to hold office until the person elected at the next Presidential election assumes office, unless the President is required to vacate office by the Constitution.

The grounds on which the President must leave office will be clearer.

The President must vacate his office as President if a motion of no confidence in President and Cabinet is passed by Parliament, if Parliament is dissolved following a failure to pass an annual appropriation Bill, if he resigns, or if he is incapacitated. If the President becomes physically or mentally unwell, there will be a clear, democratic process to be followed by Parliament in deciding whether there should be an investigation into the President's capacity to continue in office.

If the President is required to leave office, a new Council of State will make sure the government runs smoothly until a new President is elected by the people of Nauru.

The Council of State will consist of the three most senior public officials in the Republic – the Chief Secretary, the Chief Justice, and the Speaker of Parliament. If the office of President is vacated following a motion of no confidence, or following the dissolution of Parliament after a failure to approve an annual appropriation Bill, the Council of State will perform the functions of the office of President.

If the President leaves office for any other reason, a Deputy President will assume the office of President until a new President is elected by the people of Nauru.

If the office of President is vacated for a reason such as incapacity or death, the Deputy President will assume the office of President.

Together, these amendments will improve the stability of government in Nauru, and will increase the predictability of change in government. This will allow the Parliament to focus more on getting the business of government done well. It will also allow the public service to develop more efficient, reliable processes of administration, which will directly benefit the people of Nauru.



Referendum 2010:

Imin ngana nim quoquon iwud iat Constitution

Dogin ata quoquon Iwud oangan murana Constitution:

enim oadaburrida oanganameiyen me eowen an memeoru entangan makurr ngana meg ijongin bett Edogorr ean ngea enim tsimine ere'en angogen mungane ememeoru me enim riring iat deden ngea nungida me gaaro murane Constitution nim makurra okor deinaoero me nim towe okor eben Naoero enim eo eiya ea engame tsinya rre nim metua ura oangan murane Constitution enim oadaburrida oangan murane Constitution enim otsimeduw oangan murane Constitution dogin enim makurra edae, ngage.

Mungane ikiwiwud nan quoquon nim akawong mungane ayok imin:

ean oaioeidaen mungana keimwieiyet engame ean oagaaroen an makurr Pretiden me Cabinet ean iwuden ijijet Pretidenean ean otsimeduwen murane Constitution Dogin enim makurra edae, ngage.

Oaioeidaen Keimwieiyet engame

Tsimine okor woun rangaen mungane keimwieiyet engame, tsinya enim daburr onuweiyeen bitune democratic system (an dorer engame ean ijijen rat Edogorr ngea odon eat edae in an kijij engame). Democracy, pan ngana ngaga bet engame gona ijij rat Edogorr, engame gona bet ngangaij Edogorr tsinya rre pwerr a engame oa oturae an iow megit engame. Bitune 'Amendments Bill 2009' nan oaioeida mungane oaioan me keimwieiyet engame ian murana Constitution etsiok iwud me nan gaaron eken ere'en mungane.

Otsimeduwen murane Constitution nan otota oaiot engame me mungane ikiwiwud ian Part II tsimine wouna aeta kewin ea eben imago:

Rangaen angoget engame ion ngana re eo teng bwe enim nungida me oaiot engame ean aura tura pan me ijij an teng burioura me engame ion eo gona riring imin ngana nim titirueiy bitune

Oaiot engame ea gonaen angoget ememeoru oa imwinen ngana tsimine wouna engame ngana babitsiow turit edogorr oa etangan makurr ngana meg ijongit edogorr. Parramen nim oeijida dogorin Naoero ngabeta nan oaioo bitune , me epoda bet murane nim tsimine bet dogorin ere'en me oangangaden mangane imwinen me ememeoru

Gadauwen etangan me gadabeiyeen me makurreiyeen aragit engame ion oa ion Gadauwen etangan ereriet engame iat secondary me primary

Rangaen me oderederen eben Naoero (ekekeow, eb me ijited) bwe nim gona meg iat emo me eo kwunarag engamen Naoero memak ngage me ijamwan

Oaiot amin makurr memak ian Naoero ean aura gona ijij etangan aura makurr, pe ean mwan ura. Me amin ranga amin makurr re nim rang aura iat idab bwe enim eo gaturae engame

Oaiot en: Yen memak ian Naoero re gona obu aura oanano erowun an pudu ngaiura

Nim tsimine rangaet oning memak ngane; Enim auwe me gadabeyi ura; Mo oangara; Enim tsimine wak in aura mek; Enim tsimine etangan gadabeiyeen oaragura; Rangaera atsin eat oamakurreiyera ngan pudu erowun oaion me ngan eo iwuna eoning

Engame memak ngabuna tsimine aura jurung oa tsimine gaturae in rabadara oa aura kamararr oa tsimine aura kabaet, nan tsidabo okor oaio 'on me dogoreiyet engame ion ngea eo dogedog, ijongin murane Constitution.

Ikiwiwud ean deden ijijet Pretiden

Ean doraet engame ngaga ian 2006, ebwakit engame ngabun meta ian mane edae in dorer opan ngaga engamen Naoero nim ijij wangara Pretiden me eo rat Parramen. Amebuna ran bita Constitutional Review Commission epo tubura ean iwuden bita dedet kijij eatin ean deden ngea od turit Parramen ea, deden ngea od turit engame, me arr doreiyin ngana bitune ikiwiwud nan mo eken ea engamen Naoero dogin nan gaaro me eimwi bet eken deden.



Ikiwiwud ian murane *Amendments Bill 2009* ean deden ijijen amea oa eita Pretiden ngane:

Amea oa eita Pretiden in Naoero nan ijjiow turit engamen Naoero tekeiy ere'en iat Constitution:

Erowun ijijen rat parramen, oa tsinya ekeowen engamen won tebarr Pretiden, Parramen nim onani aro ea aiyimen rat parramen bwe rre nim weiyo ean ijijet Pretiden.

Ijijet Pretiden turit engamen Naoero nan ogog: Naramwa m'oiyu ibum erowun ijijen rat parramen, oa nim eo pudu erowun animwo m'eiyo ibum erowun an ekeo ngamen won tebarr pretiden.

Engame memak ngabun gona kijij ean ijijen rat parramen nan gona kijij dogin ijijet Pretiden.

Bitune ijijet Pretiden nan iwud me nan oegida an gaganado an dorer engame ean oaion me otsidaboet deinaoero memak, me bita bet oaiot deinaoero ngeijin, 'eredu me epo itub'. Amea oa eita Pretiden, Edogorr me Parramen nan gona ewidouduwa an nuwaw Edogorr me makurren beora.

Oagaaroen an Makurr Pretiden me Cabinet

Amea oa eita Pretiden'in Naoero nan eow Cabinet, ngabuna dirikout Edogorr ian Naoero. Part III ina ian murane Constitution ouge, amea oa eita Pretiden, Cabinet me Edogorr rre nim edegerian goudaura ean aura makurr. Bitune *Amendments Bill 2009* oagaaro okor panen mungana deden an makurr Pretiden ijongin murane Constitution, me oagaro bet an makurr ea Parramen me ea bet deinaoero.

Memak oaion me an makurr Pretiden me Cabinet enim edegerion murane Constitution:

Pretiden nim ijij ran wan Cabinet ngabun nan eke ura minita, me oiya ura aura makurr ngana rre nim oquaqui ura ean aura riring

Pretiden nim ijij won amen mwit angog ngea eimwi, me ngaiyuben bet amune oa eitune

Pretiden nan gona opan onuweiyeen me duogen state of emergency

Pretiden nan gona riring emakurren oquedeiy amet dura ian deden ngea eimwi

Amea oa eita Pretiden nim opan oath bwe dogin babisien memak dogorin eben Naoero bwe nim oquaqui ean eowen engame'n Naoero iat iow.

Bitune *Amendments Bill 2009* oagaaro ngana Cabinet babisisi oaiot Edogorr me ta ngana re makurr ijongit Parramen. Bitune *Bill* nan eow medenanara ean onuweiyeen aura makurr dogin eben Naoero.

Epoda, mungane ikiwiwud ian Part III ian murane Constitution nan oaioeida tsieden aura memeoru Edogorr turit Parramen me turin bet engamen Naoero. Bitune *Amendments Bill 2009* nan ura ikiwiwud ea murana Constitution ngana nan quoqon nim otsimine mungane:

nan daburr'en eken onuweiyeet Edogorr; nan tsimine ere'en deden an enim edu Pretiden atsin ean won tebarr; Tsinya enim edu atsin won tebarr Pretiden ion dogin Parramen pan ngana eo onuweiy an makurr Edogorr nan tsimine edarabad ngea egen bwe Council of State, ura nan onuweiy Edogorr ea bita edae ngaga inat ijijin Pretiden tsimeduw

Tsinya edu atsin ean won tebarr Pretiden bwe dogin ngana ekae eken, nan tsimine ngaiyubet Pretiden (Deputy President) ngea nan babitsi won tebarr Pretiden eat edae eken ea ngaga ijijet Pretiden ngea tsimeduw

Memak mungane ikiwiwud nan odaburrida onuweiyeet Edogorr ian Naoero, me nan gona in bet okeoeoeiy an kiwiwud Edogorr. Ngagan, Parramen nan gona in riring makurrin beora bwe nim tanuwaw an memeoru Edogorr. Ngagan bet, etangan makurr ngana meg ijongin bet Edogorr bwe dogin onuweiyeen eben Naoero nan daburren eken rangan. Ngune nan eiy imin mo ea engamen Naoero.

'Memak mungane ikiwiwud nan odaburrida onuweiyeet Edogorr ian Naoero, me nan gona in bet okeoeoeiy an kiwiwud Edogorr'.

Want to know more?

Table of proposed amendments to the Constitution

PART I - The Republic of Nauru and the Supreme Law of Nauru

	<i>Article</i>	<i>Summary</i>	<i>Purpose</i>
New	2A	The government must promote awareness of the Constitution, and provide for the teaching of the Constitution in schools, government institutions, and the police force.	The Constitution is the legal basis of the Republic of Nauru. Every Nauruan will benefit from greater understanding of their constitutional rights and obligations, as well as those of the State.

PART II - Fundamental Rights and Freedoms

	<i>Article</i>	<i>Summary</i>	<i>Purpose</i>
New	2D	Everyone in Nauru is entitled to the protection of constitutional rights and freedoms, and those rights and freedoms are limited only where necessary to ensure that the rights and freedoms of others are not prejudiced.	Fundamental rights and freedoms would be protected by the Constitution, meaning that they would have to be respected by all arms of government.
Replaced	3	Right to equality: everyone is equal under the law and entitled to the same protection of the law. Subject to certain exceptions, no law may discriminate against any Nauruan on any basis, and neither may any action of government or the court. There are seven exceptions to this right including laws that differentiate between Nauruans and non-Nauruans, laws that protect disadvantaged people, and laws that protect indigenous land ownership.	The right to equality would specifically include freedom from discrimination on any basis, whether gender, race, colour, language, religion, political or other opinion, national or social origin, place of birth, age, disability, economic status, sexual orientation, family status or descent. The exceptions allow the government to pass laws that discriminate between different groups for certain specific purposes provided those laws are reasonable and justifiable in a free and democratic society.
Amended	4	Protection of right to life: everyone has the right to life, and no person may be deprived of his life intentionally unless in exceptional circumstances, such as defence of a person from violence, in order to effect a lawful arrest or prevent escape from lawful detention, or to suppress a riot.	The right to life would be positively affirmed. The death penalty would be removed from Nauruan law in keeping with Nauru's Christian beliefs, and it would no longer be lawful to take someone's life in the defence of public property.

Amended	5	Protection of personal liberty: no person may be deprived of his liberty except as authorised by law in case of, for example, a decision or order of a court, or for the purpose of care or treatment.	This right would remain the same, except that the age up to which a person may be detained for his own welfare would be reduced from twenty to sixteen years. Complaints of unlawful detention may be made to either the Supreme or any lower Court.
Amended	8	Protection from deprivation of property: subject to certain exceptions, no person may have his property taken away by the government except on just terms in accordance with law for a public purpose. The just terms of any such compulsory acquisition must be agreed upon by the parties, or determined by the Supreme Court.	The right would remain the same. The government can only take property away from someone if it is for a public purpose, if it is following the law, and if it provides fair compensation. New guidelines have been given to the Supreme Court to decide what is fair compensation, in order to ensure that landowners are fairly compensated.
Amended	9	Protection of person and property: subject to certain exceptions, no person may without his consent be searched, have his premises entered on to, or have his private communications infringed.	This right would be strengthened by the new clause that no evidence obtained without a valid warrant, or without the consent of the relevant person, may be used to support a criminal conviction. The privacy of all communications would be better protected.
Amended	10	A person convicted of an offence must be given a fair hearing, and must be presumed innocent until proven guilty. No law may prevent a citizen bringing a civil action against the Republic or any of its agencies.	Nauruan citizens would no longer have to obtain the consent of Cabinet if they wish to bring a civil action, or sue, the government. Restrictions on this right would not be allowed in future.
Amended	11	Freedom of conscience: subject to certain exceptions, everyone has the right to freedom of conscience, thought and religion.	There would be no substantive change to this right. The amendments would simply change the words 'a person' to 'everyone' to make the language of Part II consistent.
Amended	12	Freedom of expression: subject to certain exceptions, everyone has the right to freedom of expression.	There would be no substantive change to this right. The amendments would simply change the words 'a person' to 'everyone' to make the language of Part II consistent.
Amended	13	Freedom of assembly and association: subject to certain exceptions, everyone has the right to assemble and associate peaceably and to form, or belong to, trade unions or other associations.	There would be no substantive change to this right. The amendments would simply change the words 'a person' to 'everyone' to make the language of Part II consistent.
New	13A	Protection of right to privacy and personal autonomy: everyone has the right to privacy and the right to be free from unreasonable interference in their personal choices.	The right to privacy and personal autonomy is an internationally recognised human right and would be protected by the Constitution. The government would not be able to unreasonably interfere with those rights.

New	13B	Right to information: everyone has the right of access to information held by the government and by any of its agencies. Parliament must enact a law to give effect to the right to information. The government is entitled to take reasonable measures to alleviate the administrative and financial burden of this right, and to deny access to sensitive Cabinet information and information that, if disclosed, could harm Nauru's foreign relations or national security or would be contrary to the public interest.	The right to information is an internationally recognised human right and would be protected by the Constitution. People can ask government to provide them with information unless that information is sensitive and would harm Nauru's foreign relations or national security or would not be in the public interest.
New	13C	Right to health services: everyone has the right to access basic health services, including maternity and related care for every woman.	The right to health services is an internationally recognised human right, and would be protected by the Constitution. The government would be required, within its available resources, to take reasonable measures to achieve the progressive realisation of this right and to improve the standard of health services.
New	13D	Right to education: everyone has the right to primary and secondary education.	The right to education is an internationally recognised human right and would be protected by the Constitution. The government would be required, within its available resources, to take reasonable measures to make education accessible, and to improve the standard of public education, and may provide support to private education services.
New	13E	Environmental protection: everyone has the right to an environment that is not harmful to their health or well-being and to have the environment protected through reasonable legislative and other measures that minimise pollution and environmental degradation, promote rehabilitation and conservation, and secure sustainable development and use of natural resources including marine resources while promoting justifiable economic and social development.	Environmental protection is an internationally recognised obligation, and would be recognised by the Constitution. The government would be required to take reasonable measures to protect Nauru's environment.
New	13F	Employment rights: everyone has the right to fair labour practices, and every Nauruan citizen has the right to choose their trade or occupation freely. The Nauruan government has the right to regulate the practice of trades, and to prohibit certain trades where they are not in the interests of public safety, public order, public morality or public health.	Employment rights are internationally recognised, and would be protected by the Constitution.

New	13G	Women's rights: every woman has the right to a reasonable period of maternity leave.	The right to maternity leave would be recognised and protected by the Constitution.
New	13H	Children's rights: every child has the right to a name and a nationality from birth, the right to be cared for, the right to basic nutrition, shelter and health care services, the right to be protected from maltreatment and neglect, the right to be protected from labour exploitation and from being required to perform services that are inappropriate for that child's age or that place the child's wellbeing at risk, the right not to be detained except as a measure of last resort, the right to have a lawyer provided in a civil action and the right to be protected in times of armed conflict.	Children's rights are internationally recognised and would be protected by the Constitution.
New	13I	Rights of Persons with Disabilities: all persons with disabilities are entitled to have their fundamental rights and freedoms realised without discrimination on the basis of disability. The Nauruan government must take reasonable measures, within its available resources, to facilitate the full and effective participation of people with disabilities, to make mobility aids and other assistive technologies available to people with disabilities, and to improve the accessibility of all public facilities and services.	The rights of persons with disabilities are internationally recognised and would be protected by the Constitution. The government would be required to take reasonable measures, subject to its resources, to ensure that people with disabilities are able to participate fully in society and access facilities and services.
Amended	14	The fundamental rights and freedoms contained in Part II of the Constitution are enforceable by the Supreme Court.	A person wanting to enforce their Constitutional rights would be able to bring a claim in the Supreme Court.
Amended	15	When interpreting Part II of the Constitution, a court must promote the values that underlie a democratic society based on freedom and equality and may have regard to relevant public international law and foreign law. Rights under customary law, common law and statute law are still valid provided they are consistent with this Part of the Constitution. The fundamental rights and freedoms contained in this part may only be limited for the purposes listed in the Constitution, and only to the extent required to achieve those purposes.	Fundamental rights and freedoms would be better protected, and would only be limited when clearly necessary.

Part III - The President and the Executive

	Article	Summary	Purpose
Amended	16	<p>The President of Nauru must be elected by the people of Nauru in accordance with the Constitution.</p> <p>The President is the Head of State as well as Head of Government.</p> <p>Only members of Parliament can be elected as President.</p> <p>The President's functions and powers include the power to appoint Ministers to Cabinet, to assign to Ministers responsibility for government business, to appoint judges and acting judges, to declare and revoke a state of emergency, and to exercise the prerogative of mercy.</p> <p>All of the President's functions and powers are subject to the Constitution, and the President must take an oath to obey and maintain the Constitution, and to devote himself or herself to the well-being of the Republic and all its people.</p>	<p>The President would no longer be chosen by Parliament following a general election, but would be elected by the people of Nauru. This would increase the stability of the electoral process in Nauru and give the Nauruan people a bigger say in who becomes their President.</p> <p>The functions and powers of the President would be set out clearly, and as a result, the functions and powers of Cabinet would also be clearer.</p> <p>The President would take a constitutional oath that clearly identifies his personal obligations to the people of Nauru [see the new Seventh Schedule, below].</p>
New	16A	<p>After a general election, or when the office of President is vacated, Parliament must nominate from among its members two or three candidates for election as President.</p> <p>An election for President must then be held, either 28 days after the general election, or not later than 35 days after the President's office is vacated.</p> <p>Every person who is entitled to vote in a general election is entitled to vote in an election for President.</p>	<p>General elections would continue to occur in the same manner. However, instead of the newly elected Parliament choosing the President from among its members, the Parliament must nominate two or three candidates and the Nauruan people would decide which of these candidates would be President.</p> <p>Every Nauruan who is entitled to vote would have a say in who becomes President of the Republic.</p>
New	16B	<p>The President holds office until the person elected at the next Presidential election assumes office, unless he is required to vacate office by the Constitution.</p> <p>The President vacates office as President if a motion of no confidence in President and Cabinet is passed by Parliament, if Parliament is dissolved, if he or she resigns, if he or she is incapacitated, or if he or she stops being a member of Parliament.</p>	<p>There would be greater continuity and stability in the office of President.</p> <p>The grounds on which the President must leave office would be clearer.</p>

New	<p>16C</p>	<p>Members of Parliament may request that the mental and physical capacity of the President be investigated. At least one third of members must approve an investigation.</p> <p>On the approval of a request, the Speaker must notify the Chief Justice, who must appoint a Medical Board comprising qualified medical practitioners. This Board would have to give an opinion on whether the President is incapable of discharging the functions of his office. Once the report is received, the President must be given the right to be heard and the Chief Justice must decide whether the President must be removed from office. The President would leave office on the date on which the Chief Justice declares him or her incapable of holding office.</p>	<p>If the President becomes physically or mentally unwell, there would be a clear, democratic process to be followed by Parliament in deciding whether there should be an investigation into the President's capacity to continue in office.</p> <p>Any investigation would be conducted by medical professionals and by the Chief Justice to ensure that it is fair.</p> <p>Once the Chief Justice receives the report of the Medical Board, and hears what the President has to say, the Chief Justice decides whether the President is incapable of continuing as President.</p> <p>If the Chief Justice decides that the President is incapable of continuing in the office, the President no longer holds office and there would be an election for a new President.</p>
New	<p>16D</p>	<p>If the office of President is vacated following a motion of no confidence, or following the dissolution of Parliament after a failure to approve an annual appropriation Bill, the Council of State must perform the functions of the office of President.</p> <p>If the office of President is vacated for any other reason, for example incapacity or death, the Deputy President would assume the office of President.</p> <p>Nominations for the new President must happen within two weeks of the President leaving office. As in any Presidential election, Parliament must nominate two to three members of Parliament, and the Nauruan people would then vote on who will be the President.</p>	<p>Parliament has passed an Act to create the office of Deputy President. Depending on why the President leaves office, either the Council of State or the Deputy President would act as the President until there is an election for a new President.</p> <p>Parliament would have to nominate two to three members of Parliament within two weeks of the President leaving office, and there must be an election for a new President within 35 days.</p>



Amended	17	<p>The executive authority of Nauru is vested in the Cabinet, and Cabinet is responsible to Parliament.</p> <p>The powers and functions of Cabinet are broad, and include the power to have the general direction and control of the government in Nauru, the responsibility to conduct the foreign affairs of Nauru, the responsibility to provide public health services, and the responsibility to take measures to achieve an adequate standard of living for the people of Nauru.</p> <p>If Cabinet enters into a treaty or other international agreement that is accepted as binding on behalf of the Republic of Nauru, that treaty or agreement would not of itself have the force of law in Nauru.</p>	<p>The Cabinet holds the powers, functions and responsibilities of government in Nauru. Parliament would oversee the way in which Cabinet exercises this authority.</p> <p>The powers, functions and responsibilities of Cabinet would be clearer. This would increase accountability and efficiency of government in Nauru.</p> <p>Any treaty or international agreement entered into by Cabinet would not become law in Nauru unless approved by Parliament. This would make law formation in Nauru clearer and more democratic.</p>
New	21B	<p>A Council of State, which consists of the Chief Secretary, the Chief Justice and the Speaker of Parliament, would be formed if Parliament passes a motion of no confidence in President and Cabinet and is dissolved, or if Parliament is dissolved after a failure approve an annual appropriation Bill.</p> <p>The Council of State would assume the basic functions of the office of President.</p> <p>The Council of State may exercise only those functions and powers appropriate to a caretaker government, and would not have the power to appoint judges or certain senior public servants, or the power to exercise the prerogative of mercy, to enter into treaties, or to enter into major contracts.</p> <p>The Council of State is not able to declare a state of emergency and exercise the emergency powers under the Constitution unless all members agree.</p> <p>If at the time the Council of State is formed the Chief Justice or the Chief Secretary are not Nauruan citizens, or are unavailable, they must nominate a Nauruan citizen to take their place on the Council of State.</p>	<p>The creation of a Council of State would increase stability of government in Nauru by providing leadership in the period between when a President leaves office and when the next President is elected.</p> <p>If the President leaves office because Parliament has to be dissolved, the Council of State would temporarily assume the basic functions of the office of President until a new President is elected. If the President leaves office in any other circumstance, the Deputy President would temporarily assume office.</p> <p>While acting in the office of President, the Council of State must ensure that the government functions efficiently, but would not be allowed make certain significant decisions that should only be made by an elected President in Cabinet.</p> <p>All members of the Council of State must agree if a state of emergency is to be declared in Nauru.</p> <p>The Council of State must always be made up of Nauruan citizens.</p>

PART VI – Finance

	<i>Article</i>	<i>Summary</i>	<i>Purpose</i>
Amended	58	All money or other revenue raised or received for Nauru must be paid into the Treasury Fund, unless that revenue is required by law to be paid into a specific fund. This provision expressly applies to money received by public officers or members of Parliament on behalf of the Republic of Nauru.	This would strengthen the financial accountability of all public officers and members of Parliament to the Republic of Nauru and its people.
Amended	65	The conditions of service, including salary and allowances payable, of certain senior public offices must not be altered to the disadvantage of the holders of those offices during the term of their appointment. This would continue to apply to judges of the Supreme Court, Clerk of Parliament and Director of Audit, and would also apply to the Speaker of Parliament, Director of Public Prosecutions and the Ombudsman.	This would ensure that key senior public officials are free to exercise their constitutional powers and functions in the service of the people of Nauru without fear of adverse consequences.

PART XI - Transitional Provisions

	<i>Section</i>	<i>Summary</i>	<i>Purpose</i>
Repealed	93	<p>This Article, 'Agreement of 14 November 1967 relating to Phosphate Industry', is a transitional provision that was included in the Constitution in 1968. It was included to make clear that the phosphate agreement entered into by the then Nauru Local Government Council with Australia, New Zealand, the United Kingdom and Northern Ireland would continue to have effect once Nauru became a Republic.</p> <p>The phosphate agreement referred to in this Article has expired, and therefore the application of the Article has also expired.</p>	<p>When the Constitution of the Republic of Nauru was established in 1968, certain Articles were included to provide for the legal transition from foreign administration to independence. Many of these Articles no longer have any effect because the circumstances they refer to have elapsed over time. Most of these provisions can be repealed by Parliament, but some must be repealed by referendum. Article 93 was included on the list of provisions that may only be amended by referendum to ensure that, for the duration of the phosphate agreement referred to, Nauru's entitlements under the agreement could not be altered unless the people of Nauru agreed via referendum.</p> <p>This phosphate agreement has expired on its own terms, and therefore the Article is no longer operative.</p> <p>All repealed constitutional Articles remain listed at the back of the Constitution as they continue to have historical significance to the Republic of Nauru.</p>

Schedules

		Summary	Purpose
Amended	Fifth Schedule	<p>The Fifth Schedule lists the sections of the Constitution that must not be altered unless any proposed amendments, having been passed by Parliament, are approved by two-thirds of the votes in a referendum. The following Articles, some which would be amended on the passage of this referendum, would be added to this list:</p> <p>16A – election of President 16B – President’s tenure of office 16C – Removal of the President from office on grounds of incapacity 16D – Vacancy in the office of President 21B – Council of State 57A – Leadership Code 58A – Annual budget and appropriation 59A – Statement of accounts 78 – Emergency powers 84A – Opportunity for periodic review of the Constitution</p> <p>Article 93, which would be repealed on the passage of this referendum, would be removed from this list.</p>	<p>Many of the constitutional amendments proposed in this referendum, including the method of electing the President, would only be alterable by referendum. This would strengthen the role of the Constitution as the foundation of government in Nauru, and give more say to the Nauruan people on whether their Constitution should be changed.</p>
New	Seventh Schedule	<p>The President must take the following oath on assuming office:</p> <p><i>‘In full realisation of the great responsibility I assume as President in the service of the Republic of Nauru I, (name), do hereby swear by Almighty God to be faithful to the Republic of Nauru, and do solemnly and sincerely promise at all times to promote that which will advance the Republic and to oppose all that may harm the Republic; to obey, observe, uphold and maintain the Constitution and all other laws of the Republic; to discharge my duties with all my strength and talents to the best of my knowledge and ability and true to the dictates of my conscience; to do justice to all; and to devote myself to the well-being of the Republic and all its people. So help me God! ‘</i></p>	<p>The President of Nauru would promise to be faithful to the Republic of Nauru and to devote himself or herself to the well-being of all Nauruan people.</p>

