



Nauru Bulletin

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Legislative summary passed at May sitting

The following are summaries of Acts recently passed in the Nauru Parliament at the 12 May 2015 sitting.

AUDIT (AMENDMENT) ACT 2015

This is an amendment to the Audit Act of 1973. The only change this Act makes is in relation to the title of the Director of Audit. The Director shall now be the Auditor General. Any law referring to the Director of Audit is taken to be referring to the Auditor General. The purpose of this amendment is purely administrative as Auditor General is a more generic or common term used to describe the office.

CRIMINAL CODE (AMENDMENT) ACT 2015

The amendment to Nauru's Criminal Code which is the 1st Schedule to the Queensland Criminal Code of 1899, through this Act has seen the introduction of a new provision which deals with the publication of certain material or statements.

Section 244A makes it an offence

punishable for up to 7 years imprisonment, for a person to publish statements or materials that are likely to threaten national defence, public safety, public order, public morality or public health. These statements or material must be either, coercive, intimidating, harassing, cause emotional distress to a person, use language that is threatening, abusive, or insulting in nature. This includes the use of language that is threatening, abusive or insulting in nature with the intent of stirring up racial, religious or political hatred.

This provision upholds the values protected under our Constitution that ensures public safety and order. Understanding how the provision works is important. The offence requires that;

- i. There be publication – This is where the material or statement has been shared with another.
- ii. The material or statement be of a nature captured by the provision e.g is threatening, coercive or intimidating etc.

iii. The material or statement is likely to threaten national defence, public safety, public order, public morality or public health.

CRIMINAL PROCEDURE (AMENDMENT) ACT 2015

The amendment to the Act comes by way of an introduced provision dealing with the sentencing of habitual sexual offenders. If a person is a habitual offender, then they are a repeat offender, meaning that they have been convicted at least once before of a relevant crime. Therefore a habitual sexual offender is a person who has been convicted of a crime of a sexual nature and has committed another sexual offence.

Section 7A states that in the event that a person has been previously convicted at least twice of any sexual offence whether of the same description or not, who upon a further conviction of a sexual offence, shall be declared a habitual sexual offender for which the relevant sentence shall be life imprisonment without eligibility of parole.

Contributed by Justice dept

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Bank agency opens for business

His Excellency the Acting President David Adeang officially opened the Nauru Agency of the Bendigo Bank this month (Tue 2 June) which already has a healthy customer base exceeding two thousand.

The opening means the end of a cash based economy which has been the case for over a decade since the decline and eventual liquidation of the Bank of Nauru.

Nauru will now begin to enjoy traditional banking services as well as start a saving scheme long forgotten in the absence of a banking system but admitted the project was not without difficulty.

"The project has not been without difficulty, both Westpac and ANZ who are otherwise active in the Pacific refused to help us; others also declined the opportunity to assist.

"It was Bendigo Bank that opened its doors and began a dialogue and showed an understanding of the needs of our community. It was Bendigo Bank that gave us hope and kept working with us to overcome the many hurdles to restore banking services in our country," Minister Adeang said.

The recommencement of banking services with the Agency,



Acting President Hon David Adeang cuts the ribbon to officially open the Nauru Agency of the Bendigo bank

the Nauru Government and the Bendigo and Adelaide bank are committed to providing Nauru citizens and visitors to the island a promising future with the Agency.

The Human Resources section of the Chief Secretary's office is preparing the HR payroll system for integration into the Agency to enable all public servant salaries to be deposited directly into their Bendigo Bank accounts.

Transacting the payroll through the bank will be done in stages over the next few weeks and by department•

Summary of Acts

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CYBERCRIME ACT 2015

Nauru's new Cybercrime Act is divided into 4 parts with 39 sections dealing with cyber laws. The Act will be summarised by section.

Section 1 & 2: Provides the title and date of commencement information.

Section 3: Is the definition section.

Section 4: Deals with the jurisdiction of the Act. Basically what this provision does is allow for offences committed overseas to be treated as if they were committed in Nauru

Section 5: Covers the issue of the use of electronic evidence. What this does is allow for evidence that is obtained from an electronic system to be admissible in Court when dealing with an offence against a law of Nauru.

Section 6: Deals with illegal access and creates an offence whereby a person without proper authority accesses a "protected computer" is liable to imprisonment for up to 7 years. Protected computer is defined in this section to include a computer or program data used directly or in connection with;

- i. Security, defence, or international relations of the Republic,
- ii. The existence of the identity of a confidential source of information relating to the enforcement of a criminal law,
- iii. The provision of services directly related to communications infrastructure, public utilities or public key infrastructure, or
- iv. The protection of public safety including system related to essential emergency services.

Section 7: Criminalises the unlawful interception of any non-public transmissions from or within an electronic system or electromagnetic emission from an electronic system.

Section 8: Criminalises unlawful interference with electronic data e.g. a person who damages or deteriorates data, deletes or alters electronic data, renders such data meaningless or useless, obstructs, interrupts or interferes with the lawful use of data or denies access to electronic data to any person authorised to access it.

Section 9: Criminalises the unlawful obtaining of electronic data that is protected from unauthorised access.

Section 10: Makes it an offence for a person to illegally interfere with an electronic system. For example, where a person interferes with the functioning, operations or usage of an electronic system which he or she knew or should have known would endanger life.

Section 11: Criminalises the making, selling, distributing or possession of software or devices for the commission of a crime.

Section 12: Makes it an offence to forge, alter or interfere with data.

Section 13: It is an offence for a person to unlawfully cause loss of property to another by manipulating in any way electronic data or interfering with the functioning of an electronic system with fraudulent or dishonest intent of procuring, without right, an economic benefit for them or another.

Section 14: Criminalises child pornography. A child is a person under the age of 18.

Section 15: Protects children from unlawful solicitation. What this means is that in the event that a person through the use of information and communication technology, proposes to a child to meet him or her with the intent of committing an offence, and where the proposal has led to the committing of an offence, that person may be faced upon conviction, imprisonment for up to 10 years.

Section 16: Criminalises the publication of indecent or obscene information or material in electronic form.

Section 17: This provision deals with identity related crimes. It is an offence to unlawfully use an electronic system to intentionally transfer, possess, or use by means of identification of another person

with the intent to commit or to aid or abet, or in connection with, an unlawful activity that constitutes a criminal offence under the laws of Nauru.

Section 18: Deals with SPAM. The transmission of multiple electronic messages with the intent to deceive or mislead is an offence punishable by up to 5 years imprisonment.

Section 19: Makes it an offence when a service provider discloses or shares information regarding a criminal investigation that is subject to a confidentiality order of the Court.

Section 20: Failure of a person to render assistance as required by a Court order is punishable as an offence.

Section 21: Makes it a crime to publish information or material that is politically subversive, defamatory, or seditious if it is likely to threaten national defence, public safety, public order, public morality or public health.

Section 22: Criminalises the use of electronic systems with severe, repeated and hostile behaviours with the intent to harass, coerce, intimidate or cause emotional distress to a person which is likely to threaten national defence, public safety, public order, public morality or public health.

Section 23: Makes it an offence for the use of electronic system that incite racial and religious hatred which in turn is likely to threaten national defence, public safety, public order, public morality or public health.

Part 3

Sections 24-31: This part of the Act deals with procedural law. It covers issues of Court Orders for search and seizure of illegal items, data subject to the order, disclosure and preservation of relevant electronic data. It also covers provisions as to criminal investigations and forensic tools including obligations in rendering assistance pursuant to the Court Orders.

Part 4

Sections 32-37: This part of the Act covers issues of liability and monitoring obligations in relation to access providers, hosting providers, caching providers, hyperlinks providers, search engine providers.

Section 38-39: Are administrative in nature and deal with the overriding effect of the Act and the empowerment of Cabinet to make regulations under the Act.

EDUCATION (AMENDMENT) ACT 2015

These amendments to the Education Act 2011, deal specifically with the increase in penalty applicable in offences committed on school premises particularly section 109 (2), (3) and (4). If a person trespasses on school premises they will be liable to a penalty of \$10000 and or up to 1 year imprisonment. If a person who is not a student behaves in an offensive or disorderly way on school premises shall be liable to a penalty of \$20000 and or 2 years imprisonment. If a person is on school premises and is directed to leave school premises by a Police Officer, the Principal of the school or a person authorized by the Principal, failure to do so is an offence and is punishable with a fine of up to \$20000 and or 2 years imprisonment. The purpose of this law is to protect students, school staff and the schools from unacceptable unlawful activities occurring on the site of schools.

PORTS AUTHORITY ACT 2015

The Ports Authority Act 2015, repeals the Ports Authority Act 2006. This new Act provides clarity and relevance in terms of the role and chain of command within the offices established under the Act such as the Harbour Master. It also establishes the position of the Chief Executive Officer (CEO) and removes the Secretary for Transport as the relevant executive officer. The purpose of these amendments is to create a clear chain of command acknowledging the roles and objectives of the Authority and their officials•

A/president Adeang receives ambassador to the Netherlands

The Acting President Hon David Adeang received the ambassador-designate of the Kingdom of the Netherlands to Nauru at the Presidential Office this month (Monday 1st June) for the presentation of credentials.

Upon arriving at the government office Ms Johanna Ruigrok presented copies of her letter of Credence to acting secretary for Foreign Affairs & Trade Dr Maria Gaiyabu before being received by the acting Director of Police Antonius Amwano for the playing of the national anthems and inspection of the police Guard of Honour.

Ms Ruigrok was later escorted to the President's Office for the presentation of credentials.

In her introductory message Ambassador Ruigrok said she was honoured to be the ambassador of her country to Nauru and looks forward to contribute to the improvement of the already excellent relations of both countries.

Ms Ruigrok highlighted that despite the distance and numerous differences between Nauru and the Netherlands, there are common interests such as the two countries closeness to the sea and therefore the negative implications of climate change.

The ambassador also highlighted that the Netherlands being one of the largest contributors to the development cooperation budget of the European Union noted that Nauru will receive a contribution from EU development funds.

Ms Ruigrok also brought to attention that the Kingdom of the Netherlands is a candidate for a non-permanent seat in the United Nations Security Council for the period 2017-2018, and therefore sought Nauru's support for its candidacy.



A/President David Adeang receives the Letter of Credence of Ambassador Johanna Ruigrok

Mr Adeang said he is heartened to know that the Kingdom of the Netherlands is also desirous to further promote the common desires of progress, security, lasting peace and economic prosperity for both peoples.

"Excellency, the issue of climate change for Nauru is held with great concern. Global warming and the rise in sea levels will result in land, resources and displacement of our people. Climate change is not only a threat to international peace and security but is a very real threat to our survival and existence," A/President David Adeang said.

Following the presentation of credentials Ms Ruigrok continues courtesy visits over the next two days and is expected to pay a courtesy call on President Baron Waqa upon his return to Nauru on Wednesday 3 June before her departure later the same afternoon•

Vital fuel for Nauru

On 1st June 2015 the Government of Nauru (GoN) and Vital Energy Inc (Vital) signed an agreement for Vital to be responsible for Nauru's petroleum fuel supply. This agreement aligns with the GoN's energy vision to provide "reliable, affordable, secure and sustainable energy supply, for the social development of Nauru".

Under the agreement Vital will take end to end responsibility for the supply of fuel to the market in Nauru and operation of the tank farm.

The Government of Nauru (GoN) has been developing an Energy Road Map (ERM) 2014-2020 to provide reliable, affordable, secure and sustainable energy supply to meet the socio-economic development needs of Nauru. The Petroleum Sector Action Plan (13.2) of the ERM identified an initiative to contract with a private sector operator for petroleum supply and

tank farm management.

All existing tank farm staff will continue to be employed, and will transfer their employment to Vital.

A Memorandum of Understanding (MoU) was signed between Nauru and the FSM on the 29 January 2015 with the objectives of providing support to improve operating efficiency and to seek opportunities to reduce cost to meet the socio-economic development needs of each country.

The two immediate benefits to Nauru would firstly be the secure and reliable supply of fuel to Nauru; and secondly Nauru will stand to benefit from any decline in the international prices of oil as a result of having a strategic longer term bulk fuel purchasing arrangement coupled with efficient operation of the tank farm that ultimately will filter down to lower prices at the local bowser stations that will benefit all Nauruans•

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