

Custom and Adopted Laws Act 1971

REPUBLIC OF NAURU

CUSTOM AND ADOPTED LAWS ACT 1971

(No. 11 of 1971)

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AN ACT

**To make better provision relating to the institutions, customs and usages of the
Nauruans
and to adopted laws.**

(Certified: 5th January, 1972)

Enacted by the Parliament of Nauru as follows:

SHORT TITLE AND COMMENCEMENT

1. This Act may be cited as the [Custom and Adopted Laws Act 1971](#) and shall come into force on a date to be notified by the Minister in the Gazette.

INTERPRETATION

2. In this Act unless the context otherwise requires -

"Court" means any Court which may from time to time have jurisdiction within Nauru and any other Court which may from time to time have jurisdiction to entertain an appeal from a judgment, order or decision of any Court having jurisdiction within Nauru.

NAURUAN INSTITUTIONS, CUSTOMS AND USAGES

3. (1) The institutions, customs and usages of the Nauruans to the extent that they existed immediately before the commencement of this Act shall, save in so far as they may hereby or hereafter from time to time be expressly, or by necessary implication, abolished, altered or limited by any law enacted by Parliament, be accorded recognition by every Court and have full force and effect of law to regulate the following matters -

- (a) title to, and interests in, land, other than any title or interest granted by lease or other instrument or by any written law not being an applied statute;
- (b) rights and powers of Nauruans to dispose of their property, real and personal, inter vivos and by will or any other form of testamentary disposition;
- (c) succession to the estates of Nauruans who die intestate; and
- (d) any matters affecting Nauruans only.

(2) Any custom or usage by which -

- (a) any person is, or may be, entitled or empowered to take or deal with the property of any other person without that person's consent; or
- (b) any person is or may be entitled or empowered to deprive the parents of a child of its custody and control without their consent,

is hereby abolished.

ENGLISH LAWS ADOPTED

4. (1) Subject to the provisions of sections 3, 5 and 6 of this Act, the common law and the statutes of general application, including all rules, regulations and orders of general application made thereunder, which were in force in England on the thirty-first day of January, 1968, are hereby adopted as laws of Nauru.

(2) The principles and rules of equity which were in force in England on the thirty-first day of January, 1968, are hereby adopted as the principles and rules of equity in Nauru.

(3) In every civil cause or matter instituted in any Court law and equity shall be administered concurrently.

ADOPTION SUBJECT TO NAURU JURISDICTION AND STATUTES

5. (1) The common law, statutes, rules, regulations and orders adopted by the last preceding section shall have force and effect within Nauru only so far as the circumstance of Nauru and the limits of its jurisdiction permit and only so far as they are not repugnant to or inconsistent with the provisions of this Act or of any Ordinance or Act in force at the commencement of this Act or from time to time with any law enacted hereafter by Parliament or with any Act, statute, Ordinance, law, rule or regulation of the Commonwealth of Australia, the State of Queensland, the Territory of Papua or the Territory of New Guinea for the time being expressly applied in, or adopted as the law of, Nauru by any Act or Ordinance.

(2) All references to authorities, persons, places, subjects, matters or things in any part of the laws of England adopted by this Act shall be construed as referring to corresponding or analogous persons, places, subjects, matters or things within Nauru.

(3) For the purpose of facilitating the application of any part of the laws of England adopted by this Act it shall be lawful for any Court, and any judge or magistrate thereof, to construe it with such verbal alteration not affecting the substance, as may be necessary to render it applicable to the matter before such Court, judge or magistrate.

CERTAIN ENGLISH LAWS NOT ADOPTED

6. Notwithstanding the provisions of section 4 of this Act, those parts of the statute law of England which are specified in the First Schedule hereto, all rules, regulations and orders made thereunder and those parts of the common law relating to the same matters shall not

apply or have force and effect within Nauru save in so far as all or any of them may be adopted or applied from time to time by any other Act:

Provided that the provisions contained in any such parts shall be deemed to have been adopted and applied where appropriate, for the purpose of the interpretation of the terms and expressions used in the parts of the statute law of England and the subsidiary legislation thereunder adopted by this Act.

REPEAL OF CERTAIN PROVISIONS OF THE LAWS REPEAL AND ADOPTING ORDINANCE 1922-1967

7. Sections. 3, 5, 6, 7, 8, 9, 11, 13, 15 and 17 of the Laws Repeal and Adopting Ordinance 1922-1967 are hereby repealed.

AMENDMENT OF THE FIRST SCHEDULE TO THE LAWS REPEAL AND ADOPTING ORDINANCE 1922-1967

8. The First Schedule to the Laws Repeal and Adopting Ordinance 1922-1967 is amended by deleting therefrom the Acts of the Parliament of the Commonwealth of Australia specified in the Second Schedule to this Act.

AMENDMENT OF THE SECOND SCHEDULE TO THE LAWS REPEAL AND ADOPTING ORDINANCE 1922-1967

9. The Second Schedule to the Laws Repeal and Adopting Ordinance 1922-1967 is amended by deleting therefrom the Act of the State of Queensland specified in the Third Schedule of this Act.

AMENDMENT OF THE THIRD SCHEDULE TO THE LAWS REPEAL AND ADOPTING ORDINANCE 1922-1967

10. The Third Schedule to the Laws Repeal and Adopting Ordinance 1922-1967 is amended by deleting therefrom the Ordinances of the Territory of Papua specified in the Fourth Schedule to this Act.

REPEAL OF MERCHANT SHIPPING ORDINANCE 1924-1967

11. The Merchant Shipping Ordinance 1924-1967 is hereby repealed.

FIRST SCHEDULE

(Section 6)

PARTS OF THE STATUTE LAW OF ENGLAND WHICH SHALL NOT APPLY WITHIN NAURU

(1) All those parts of the statute law of England which are printed in the Third Edition of Halsbury's Statutes of England under the titles specified hereunder, namely:

Admiralty

Affiliation and Legitimation Proceedings

Agriculture

Aliens and Nationality

Allotments and Small Holdings

Animals

Auctions and Auctioneers

Aviation (other than the Carriage by Air Act 1961, the Carriage by Air (Supplemental Provisions) Act 1962 and the Tokyo Convention Act 1967)

Banking

Bankruptcy and Insolvency (other than the Debtors Act 1869)

Building Contracts, Architects and Engineers

Building Societies

Burial and Cremation

Carriers

Charities (other than the Charitable Trusts (Validation) Act 1954 and the Recreational Charities Act 1958)

Commonwealth and other Territories

Companies

Compulsory Purchase of Land and Compensation

Conflict of Laws

Constitutional Law

Copyholds

Coroners

County Courts

Courts

Criminal Law

Crown Proceedings (Part 1)

Customs and Excise

Distress

Easements and Profits a Prendre

Ecclesiastical Law

Education

Elections

Electricity

Explosives

Extradition and Fugitive Offenders

Factories and Shops (other than the Factories Act 1937)

Ferries

Fire Service

Fisheries

Food and Drugs

Forestry

Friendly Societies

Game

Gas

Highways

Housing

Husband and Wife (Parts 1, 3 and 4)

Industrial and Provident Societies

Infants, Children and Young Persons

Intoxicating Liquor

Juries

Land Drainage and Improvement

Land Tax

Landlord and Tenant

Literary and Scientific Institutions

Loan Societies

Local Government

London

Magistrates

Markets and Fairs

Mayor's and City of London Court

Medicine and Pharmacy

Mines, Minerals and Quarries

Money (Parts 2, 3, (other than the Prevention of Frauds (Investment) Act 1958 and the Protection of Depositors Act 1963) and Part 4)

National Health

National Insurance and Social Security

Northern Ireland

Notaries

Open Spaces and Recreation Grounds

Parliament

Partnership

Patents and Designs

Peerages and Dignities

Pensions and Superannuation

Persons Mentally Disordered
Police
Post Office
Practice and Procedure
Prisons
Prize
Public Authorities and Public Officers
Public Health
Purchase Tax
Railways, Canals and Pipelines
Rating
Real Property (Parts 2 and 3)
Registration Concerning the Individual
Road Traffic
Royal Forces
Savings Banks
Settlements
Sheriffs and Bailiffs

(2) All those parts of the statute law of England which are printed in the Second Edition of Halsbury's Statutes of England under the titles specified hereunder, all those parts of any other Acts of Parliament by which such parts of the statute law have been amended or repealed and replaced, wholly or in part, and all other parts of any other Acts of Parliament the subject-matter of which parts is the same as, or similar to, that of any such parts of the statute law:

Income Tax and Profits Taxes
Revenue
Shipping and Navigation (Parts 2 and 3)
Solicitors
Statutes
Telegraphs and Telephones

Theatres and Other Places of Entertainment

Time

Tithe

Town and Country Planning

Trade and Industry

Trade Marks and Trade Names

Trade Unions

Tramways

Water Supply

Waters and Watercourses

Weights and Measures

War and Emergency

War Damage

SECOND SCHEDULE

(Section 8)

Acts of the Parliament of the Commonwealth of Australia deleted from the First Schedule to the Laws Repeal and Adopting Ordinance 1922-1967

Bills of Exchange Act 1909-1936

Copyright Act 1912-1933

Crimes Act 1914-1915

Evidence Act 1905

Sea Carriage of Goods Act 1924

State Laws and Records Recognition Act 1901

THIRD SCHEDULE

(Section 9)

Act of the State of Queensland deleted from the Second Schedule to the Laws Repeal and Adopting Ordinance 1922-1967

Statute of Frauds and Limitations of 1867

FOURTH SCHEDULE

(Section 10)

Ordinances of the Territory of Papua deleted from the Third Schedule to the Laws Repeal
and Adopting Ordinance 1922-1967

Bills of Sale Ordinance 1912

Defamation Ordinance 1911
