



REPUBLIC OF NAURU

## Custom and Adopted Laws Act 1971

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**As in force from 03 November 2011**

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This consolidation comprises Act No. 11 of 1971 as amended and in force from 03 November 2011 (being, at the time the consolidation was prepared on 26 September 2014, the date of commencement of the most recent amendment).

The notes section at the end of the consolidation includes a reference to the law by which each amendment was made. The Table of Amendments in the notes section sets out the legislative history of individual provisions.

The operation of amendments that have been incorporated in the text of the consolidation may be affected by application provisions that are set out in the notes section at the end of the consolidation.

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## Contents

1	Short title and commencement.....	1
2	Interpretation .....	1
3	Nauruan institutions, customs and usages .....	1
4	English laws adopted.....	2
5	Adoption subject to Nauru jurisdiction and statutes .....	3
6	Certain English laws not adopted .....	3
7-11	<i>[Repealed]</i> .....	3
12	Modification of application of English statutes relating to the limitation of actions.	4
FIRST SCHEDULE — PARTS OF THE STATUTE LAW OF ENGLAND WHICH SHALL NOT APPLY WITHIN NAURU.....		5

REPUBLIC OF NAURU

**Custom and Adopted Laws Act 1971**

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**Act 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

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**1 Short title and commencement**

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.

**2 Interpretation**

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.

**3 Nauruan institutions, customs and usages**

- (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 Nauru written law;
  - (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.

#### **4 English laws adopted**

- (1) Subject to the provisions of subsection (4) and 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) Subject to subsection (4), 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 but, where there was before the commencement of this Act or is any conflict or variance between the rules of equity and the rules of the common law relating to the same matter, then the rules of equity shall prevail.
- (4) The principles and rules of the common law and equity adopted by this section may from time to time in their application to Nauru be altered and adapted by the Courts to take account of the circumstances of Nauru, and of any changes of those circumstances, and of any alterations or adaptations of those principles and rules which may have taken place in England after the thirty-first day of January, 1968, whether before or after the commencement of this Act, but:
  - (a) nothing in this subsection shall be taken as requiring that any principle or rule of the common law or equity adopted by this section be altered or adapted in its application to Nauru; and
  - (b) a principle or rule of the common law or equity adopted by this section shall not be altered or adapted in its application to Nauru unless the Court which makes the alteration or adaptation is satisfied that the principle or rule so altered or adapted will suit better the circumstances of Nauru than does the principle or rule without that

alteration or adaptation.

## **5 Adoption subject to Nauru jurisdiction and statutes**

- (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.

## **6 Certain English laws not adopted**

Despite section 4, the parts of the statute law of England specified in the First Schedule, all rules, regulations and orders made under that statute law and the parts of the common law relating to that statute law do not, except as specified in the First Schedule, apply or have force and effect within Nauru except in so far as all or any of them are adopted or applied from time to time by another 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;

And provided further that, where any statute which was in force in England on the thirty-first day of June, 1968, and which was substantially similar in its subject-matter to any statute forming part of the statute law of England specified in the said First Schedule is, by reason of its having been repealed or having ceased to have effect after that date, not included in the statute law specified in the said First Schedule, that statute shall, for the purposes of this section, be deemed to be part of the statute law of England specified in the said First Schedule.

**7-11** *[Repealed]*

**12 Modification of application of English statutes relating to the limitation of actions<sup>1</sup>**

Where immediately before the commencement of this Act the bringing of any action would not have been barred under the provisions of the Statute of Frauds and Limitations of 1867 of the State of Queensland in its application to Nauru, then, notwithstanding the other provisions of this Act relating to the adoption of the English statutes relating to the limitation of actions as laws of Nauru, the bringing of any such action shall not be barred under the provisions of any of those adopted statutes until –

- (a) the date on which the bringing of such an action would have been barred under the provisions of the Statute of Frauds and Limitations of 1867 of the State of Queensland in its application to Nauru if the application of that statute to Nauru had continued, or
- (b) the 1st day of October, 1973, whichever is the earlier date.

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<sup>1</sup> Subs. (2) of s. 4 of Act 1972/15 provides:

‘(2) The new section 12 added to the principal Act by this section shall be deemed to have been part of the principal Act from the date of the commencement of the Principal Act.’

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**FIRST SCHEDULE — PARTS OF THE STATUTE LAW OF  
ENGLAND WHICH SHALL NOT APPLY WITHIN NAURU**

Section 6

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  
Aviation (other than the *Carriage by Air Act 1961*, the *Carriage by Air (Supplemental Provisions) Act 1962* and the *Tokyo Convention Act 1967*)  
Banking  
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  
Shipping and Navigation (except Part I)  
Solicitors  
Stamp Duties  
Statutes  
Taxation (*Income and Corporation Taxes Act 1970*)  
Taxation (Other Tax Enactments)  
Telegraphs and Telephones  
Theatres and Other Places of Entertainment  
Time  
Title  
Town and Country Planning



Trade and Industry (other than Part 4)  
Trade Marks and Trade Names  
Trade Unions  
Tramways  
War and Emergency  
War Damage  
Water Supply  
Waters and Watercourses  
Weights and Measures

Provided that the common law which was in force in England on the thirty-first day of January, 1968, relating to:

- (a) liability for criminal offences;
- (b) the contractual and tortious liability of infants; and
- (c) the interpretation and effect of statutes;

shall, subject to the provisions of section 5 of this Act, apply and have force and effect in Nauru.

**SECOND, THIRD AND FOURTH SCHEDULES**

Sections 8–10

*[Repealed]*

## Notes for Custom and Adopted Laws Act 1971

### Table of Constituent Legislation

Short title	Number	Certification	Commencement
<i>Custom and Adopted Laws Act 1971</i>	1971/11	05.01.1972	21.02.1972 (GN 37/1972)
<i>Custom and Adopted Laws (Amendment) Act 1972</i>	1972/15	18.08.1972	18.08.1972 (See footnote to s. 12)
<i>Custom and Adopted Laws (Amendment) Act 1976</i>	1976/22	10.11.1976	10.11.1976
<i>Custom and Adopted Laws (Amendment) (No. 2) Act 1976</i>	1976/23	10.11.1976	10.11.1976
<i>Statute Law Revision Act 2011</i>	2011/08	15.04.2011	15.04.2011
<i>Interpretation (Consequential Amendments) Act 2011</i>	2011/18	03.11.2011	03.11.2011

### Table of Amendments

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted  
om. = omitted   os. = omitted and substituted

Provision affected	How affected
Section 3	Subs. (1) am. by Act 2011/18.
Section 4	Subs. (1) am. by Act 1976/23. Subs. (2) am. by Act 1976/23. Subs. (3) am. by Act 1972/15. Subs. (4) ad. by Act 1976/23.
Section 6	Am. by Act 1976/22, Act 2011/08.
Section 7	Rep. by Act 2011/08.
Section 8	Rep. by Act 2011/08.
Section 9	Rep. by Act 2011/08.
Section 10	Rep. by Act 2011/08.
Section 11	Rep. by Act 2011/08.
Section 12	Ad. by Act 1971/11.
First Schedule	Am. by Act 1976/22.
Second Schedule	Rep. by Act 2011/08.
Third Schedule	Rep. by Act 2011/08.
Fourth Schedule	Rep. by Act 2011/08.