



REPUBLIC OF NAURU

SUPREME COURT (AMENDMENT) No. 2 ACT 2020

No. 26 of 2020

An Act to amend the *Supreme Court Act 2018*.

Certified: 23rd October 2020

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Supreme Court (Amendment) No. 2 Act 2020*.

2 Commencement

This Act commences on 15 November 2020.

3 Amendment of the *Supreme Court Act 2018*

The *Supreme Court Act 2018* is amended by the provisions of this Act.

4 Amendment of Section 4

Section 4 is amended:

(a) in subsection (2), by inserting the words '*this Act*,' after the word '*Constitution*' and before the words '*any other written law*'.

(b) in subsection (4), by:

(a) inserting a new paragraph (g) as follows:

'(g) constitutional and administrative';

(b) renumbering the paragraphs (g) and (h) as (h) and (i) as follows:

'(h) miscellaneous; and

(i) such other divisions which the Chief Justice may deem appropriate.'

5 Amendment of Section 37

Section 37 is amended by inserting a new subsection (5) as follows:

'(5) This Part does not apply to criminal causes or matters.'

6 Amendment of Section 38

Section 38 is amended by:

(a) deleting subsection (4); and

(b) renumbering subsections (5), (6), (7) and (8) as subsections (4), (5), (6) and (7).

7 Amendment of Section 39

Section 39 is deleted and substituted as follows:

'39 Limitation of appeal in certain circumstances

- (1) An appeal may not be brought by a person who has pleaded guilty and has been convicted on that plea by the District Court:
 - (a) without the prior leave of the Supreme Court; and
 - (b) limited to the judgment, decision or order as to the sentence passed by the District Court.
- (2) No appeal shall be brought against a judgment, decision or order on conviction from the District Court, without the prior leave of the Supreme Court, where no:
 - (a) sentence of custodial imprisonment has been imposed, except default of payment of a fine;
 - (b) fine or compensation exceeding \$100 has been imposed; and
 - (c) order of disqualification from doing any act has been made.
- (3) No appeal shall lie against conviction or sentence from a judgment, decision or order of the District Court where a person has been convicted and ordered to provide surety to maintain peace.'

8 Amendment of Section 48

Section 48 is amended by inserting a new subsection (4) as follows:

'(4) For the purposes of considering an application for bail pending appeal, the provisions of the *Bail Act 2018* shall apply.'

9 Amendment of Section 79

Section 79 is amended by inserting a new subsection (3) as follows:

'(3) For the purposes of subsection (2), an interpreter may interpret any Court proceedings through audio visual link, with any order and directions of the Court.'

10 Amendment of Section 80

Section 80 is amended by inserting new subsections (3), (4), (5) and (6) as follows:

'(3) Where a Judge of the Supreme Court is not able to be in the Republic for the purposes of subsection (1), in urgent or exceptional circumstances, he or she may hear or make orders for a cause or matter from outside the Republic through audio visual link.

- (4) For the purposes of subsection (3), the Registrar shall ensure that the legal practitioners or parties to the proceedings are available in the courtroom as if the court were sitting for a trial or hearing within the Republic.
- (5) For the purposes of this Section, '*exceptional or urgent circumstances*' shall be determined by the Registrar:
 - (a) on the nature of an application filed in Court; and
 - (c) on any submissions by one or more parties to a cause or matter providing the exceptional or urgent circumstances.
- (6) The Chief Justice may issue practice and procedure rules or directions for the purposes of subsections (3), (4) and (5), which rules or directions shall ensure that priority is given for the Court to sit in the Republic, other than in exceptional or urgent circumstances.'

11 Amendment of Section 81

Section 81 is amended by:

- (a) renumbering the current provision as subsection (1); and
- (b) inserting new subsections (2) and (3) as follows:
 - '(2) A witness may give evidence from outside the Republic through audio visual link on such orders and directions of the Court.
 - (3) For the purposes of subsection (2), the party who wishes to summon a witness to testify through audio visual link shall ensure that the witness is able to comply with the orders and directions of the Court.'

12 Amendment of Section 88

Section 88 is amended by inserting new subsections (4), (5), (6), (7), (8), (9) and (10) as follows:

- '(4) For the purposes of subsection (2), oral evidence is deemed to be adduced through audio visual link or any other electronic or digital form, and shall be recorded by the Court and form part of the records of the proceeding.
- (5) The Registrar shall keep the record in subsection (4) in such form that it is:
 - (a) not capable of being in any manner or form edited, altered, modified or erased; and
 - (b) capable of being retrieved and produced when required.'
- (6) No person, including a party, legal representative or witness shall:
 - (a) record any such proceedings; and

- (b) permit or make provision to allow any other person to record such proceedings.
- (7) A person who contravenes subsection (6), commits an offence and upon conviction is liable to a fine not exceeding \$10,000 or to a term of imprisonment not exceeding 5 years or to both.
- (8) The Registrar shall ensure that the electronic or digital systems used for the purposes of this Section, prohibits any form of audio visual recording, photographing, screen shots or sharing of any links of the proceedings, by any person.
- (9) A Judge shall immediately order any audio visual proceedings to be adjourned where he or she becomes aware that the proceedings are being:
 - (a) unlawfully recorded by a party, legal representative, witness or any other person except the Registrar for the purposes of subsection (4); and
 - (b) may disregard the evidence in whole or in part, including any weight that may be attached to such evidence.
- (10) A contravention of the provisions of this Section constitutes a contempt of court in the face of the court under Section 8 of the *Administration of Justice Act 2018*.