



REPUBLIC OF NAURU

Refugees Convention (Validation and Amendment) Act 2016

No. 2 of 2016

An Act to amend the *Refugees Convention Act 2012*

Certified: 29th January 2016

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Refugees Convention (Validation and Amendment) Act 2016*.

2 Commencement

(1) Sections 9 and 10 of this Act shall commence on 9 September 2013.

(2) All other provisions in this Act shall commence upon certification by the Speaker.

3 Indication of retrospective commencement

Sections 9 and 10 of this Act are taken to have commenced on 9 September 2013.

4 Refugees Convention Act 2012 amended

The *Refugees Convention Act 2012* is amended by the provisions of this Act.

5 Definitions

In this Act:

'principal act' means the *Refugees Convention Act 2012*.

'commencement day' means the day on which the provisions of this Act, other than sections 9 and 10, commences.

6 Validation of Tribunal appointments

For the avoidance of doubt, any appointment or purported appointment made pursuant to s 13 of the principal act between 9 September 2013 and commencement day, which would have been validly made if, at the time of the appointment or purported appointment, s 13(2) of the principal act had been in the terms substituted by section 9 of this Act is taken to have been, and always to have been, validly made.

7 Validation of Tribunal decisions

For the avoidance of doubt, any decision or purported decision of the Tribunal made with respect to an application to the Tribunal under s 31 of the principal act for merits review of a decision or determination of the Secretary, between 9 September 2013 and commencement day, which would have been validly made if, at the time of the appointment or purported appointment of each member constituting the Tribunal, s 13(2) of the principal act had been in the terms substituted by section 9 of this Act is taken to have been validly made on the day it was in fact made.

8 Validation of notices of appeal filed pursuant to s 43 of the Act

For the avoidance of doubt, any notice of appeal filed pursuant to s 43(1) of the principal act between 9 September 2013 and commencement day, which would have been competent if, at the time of filing, s 43(1) of the principal act had been in the terms substituted by section 10 of this Act, is taken to have been, and always to have been, competent.

9 Amendment of section 13

Omit subsection (2)

- (2) A person is eligible for appointment as the Principal Member or as a Deputy Principal Member only if the person is qualified to be appointed a judge of the Supreme Court.

Substitute

(2) A person is eligible for appointment as the Principal Member or as a Deputy Principal Member if the person meets one or more of the following requirements:

- (a) the person is qualified to be appointed a judge of the Supreme Court.
- (b) the person is or has been a member of the Tribunal.
- (c) the person has been admitted as:
 - (i) a barrister or solicitor in England, Northern Ireland or the Republic of Ireland, as an advocate, law agent or writer to the Signet in Scotland, as a barrister or solicitor, or as a barrister and solicitor, in Australia or New Zealand; or

(ii) a legal practitioner (whether described as a barrister, a solicitor or in any other way) in any other country duly notified by the Minister for the purposes of section 5(a) of the *Legal Practitioners Act 1973*;

and the person has:

(iii) has been so admitted for not less than five years; and

(iv) not been struck off the roll of practitioners, or equivalent list, maintained by any Court in which the person was so admitted.

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Amendment of section 43

Omit subsection (1)

(1) A person who, by a decision of the Tribunal, is not recognized as a refugee may appeal to the Supreme Court against that decision on a point of law.

Substitute

(1) A person may appeal to the Supreme Court on a point of law against that decision of the Tribunal where the Tribunal has decided that the person:

(a) is not recognized as a refugee; or

(b) is not owed complementary protection