

CONFLICT OF LAWS

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CONFLICT OF LAWS ACT 1974

TABLE OF PROVISIONS

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Conflict of Laws Act 1974

TABLE OF AMENDMENTS

The Conflict of Laws Act 1974 No 14 was certified and commenced on 5 December 1974 (GN No 349/1974; Gaz 50/1974).

Amending Legislation	Certified	Date of Commencement
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

An Act to prescribe the proper law to be applied to decide questions where there is a conflict of laws.

Enacted by the Parliament of Nauru as follows:

1 Short title and commencement

This Act may be cited as the *Conflict of Laws Act 1974* and came into effect on 5 December 1974.

2 Law to be applied where there is a conflict of laws

Subject to Sections 3, 4 and 5 and to the express provisions of any other written law, whether enacted before or after the commencement of this Act, where any question arises in the Republic as to any matter which is not governed by the domestic laws of the Republic, or which is not governed exclusively by those laws, the proper law to which effect is to be given for the purpose of deciding that question is to be ascertained in accordance with the rules of private international law in force in England on the 31st day of January, 1968, for determining the proper law to which effect should be given in respect of such matters.

3 Habitual residence to take the place of domicile

Where the proper law to which effect would have to be given under the provisions of Section 2 for the purpose of deciding any question would be the law of the country of any person's domicile, the proper law to which effect is to be given for the purpose of deciding that question is the law of the country in which that person habitually resides.

4 Proper law to be internal law of country

Where in accordance with Section 2 or 3, the law of any country has been ascertained to be the proper law to which effect is to be given for the purpose of deciding any question, the law to which effect is to be given is the domestic law of that country, and no regard is to be had, or effect given to, the rules of private international law which would be applied by the courts of that country.

5 Effect not to be given to foreign law in certain cases

- (1) Where in respect of any matter the law of any country ascertained in accordance with the provisions of Section 2 or 3 as the proper law to which effect should be given to decide any question relating to that matter is a penal or revenue law or conflicts, wholly or in part, with the overriding principles of the laws of the Republic, effect shall not be given to that foreign law, or to the part of that foreign law which is a penal or revenue law or conflicts with those overriding principles, as the case may be and effect shall be given to the domestic laws of the Republic in place of that foreign law or of that part of that foreign law.
- (2) For the purposes of this Section, a law or a part of a law shall be deemed to conflict with the overriding principles of the laws of the Republic where

it, or the status of any person which would result from effect being given to it, offends the concept of human rights and freedoms set out in Part II of the *Constitution* or where, if effect were given to it:

- (a) the fundamental concepts of justice of the Republic would be disregarded;
- (b) the concepts of morality of the Republic would be infringed; or
- (c) the interests of the Republic or its good relations with other countries would be prejudiced.

6 Application of this Act

This Act shall apply to all questions which require to be decided after its commencement but for the purpose of deciding such questions shall be deemed to have come into force on the 21st day of February, 1972:

Provided that nothing in this Act shall affect the validity of any judgment or order of any court in the Republic given or made before the commencement of this Act.