

PARLIAMENTARY POWERS, PRIVILEGES AND IMMUNITIES

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Parliamentary Powers, Privileges and Immunities Act 1976

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Parliamentary Powers, Privileges and Immunities Act 1976

TABLE OF AMENDMENTS

The Parliamentary Powers, Privileges and Immunities Act 1976 No 8 was certified and commenced on 3 September 1976 (GN No 269/1976; Gaz 44/1976).

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

An Act to provide for the powers, privileges and immunities of Parliament.

Enacted by the Parliament of Nauru as follows:

PART 1 — PRELIMINARY

1 Short title and commencement

This Act may be cited as the *Parliamentary Powers, Privileges and Immunities Act 1976* and came into effect on 3 September 1976.

2 Interpretation

In this Act:

‘committee’ means any standing, sessional, select or other committee of the Parliament;

‘member’ means a member of the Parliament;

‘officer of the Parliament’ and **‘officer’** include:

- (a) the Clerk;
- (b) a public officer authorised in writing by the Speaker to be or to act as an officer of the Parliament;
- (c) a person doing within the precincts of the Parliament under the order of the Speaker any act which an officer of the Parliament is or may be required to do by or under the provisions of this Act; and
- (d) any police officer on duty within the precincts of the Parliament;

‘Standing Orders’ means the standing rules and orders of the Parliament for the time being in force;

‘stranger’ means a person other than a member or an officer of the Parliament;

‘the Clerk’ means the Clerk of Parliament appointed by the Speaker in pursuance of *Article 33* of the *Constitution*, and includes, while he or she is performing the functions of the Clerk, any other person appointed by the Speaker in pursuance of that Article to perform those functions during the absence of the Clerk;

‘the Parliament’ means the Parliament of Nauru established by *Article 26* of the *Constitution*;

‘the precincts of the Parliament’ means the Chamber and offices of the Parliament and all places provided for the use or accommodation of members, officers or strangers, and includes, while the Parliament is meeting, and subject to any exceptions made by direction of the Speaker, the entire building in which the Chamber of the Parliament is situated, and any forecourt, yard, garden, enclosure or open space adjoining or appertaining to that building and used or provided for the purposes of the Parliament;

‘the Speaker’ means the person elected under *Article 34* of the *Constitution* to be the Speaker of the Parliament and includes any other member when that other member is presiding at a meeting of the Parliament; and

'votes and proceedings' means the minutes of the Parliament or the official record.

PART 2 — PRIVILEGES AND IMMUNITIES

3 Immunity from legal proceedings

No civil or criminal proceedings may be instituted against any member for words spoken before, or written in a report to, the Parliament or to a committee or by reason of any matter or thing brought before the Parliament by him or her by petition, bill, motion or otherwise.

4 Freedom from arrest

No member shall be liable to arrest:

- (a) for any civil debt while going to, attending at or returning from a meeting of the Parliament or any committee; or
- (b) for any criminal offence, except with the consent of the Speaker, while within the precincts of the Parliament when the Parliament or a committee is meeting.

5 Service, etc, of process within the precincts of the Parliament prohibited

No process issued by any Court in the exercise of its jurisdiction shall be served or executed within the precincts of the Parliament while the Parliament or a committee is meeting or through the Speaker, the Clerk or any officer of the Parliament.

6 Strangers not entitled to enter or remain within the precincts of the Parliament

A stranger is not entitled, as of right, to enter or to remain within the precincts of the Parliament.

7 The Speaker may regulate admittance and conduct of strangers

- (1) The Speaker may, by instrument in writing under his or her hand, give such orders as he or she may in his or her discretion deem necessary or desirable for the regulation of the admittance of strangers to and their conduct within the precincts of the Parliament.
- (2) Not less than one copy of every order given under subsection (1) shall be authenticated by the Clerk and exhibited in a conspicuous position within the precincts of the Parliament and such a copy when so authenticated and exhibited shall be deemed to be sufficient notice to all persons affected thereby.

8 The Speaker may order a stranger to withdraw

- (1) The Speaker may, at any time in his or her absolute discretion, order a stranger to withdraw from the precincts of the Parliament.

- (2) An order may be given under subsection (1) notwithstanding that the stranger to whom it relates has complied with all relevant orders given under Section 7.

9 Exclusion of a suspended member

A member who has been suspended by the Speaker from the service of the Parliament shall not enter or remain within the precincts of the Parliament while that suspension remains in force and, if any such member is found within the precincts of the Parliament in contravention of this Section, he or she may be forcibly removed therefrom by any officer.

PART 3 — EVIDENCE

10 The Parliament or a committee may require a person to attend and give evidence, etc

The Parliament or a committee may, subject to the provisions of Sections 15 and 17, require a person to attend before the Parliament or the committee and to give evidence or to produce any paper, book, record or other document in his or her possession or under his or her control or both to give evidence and to produce any paper, book, record or other document in his or her possession or under his or her control.

11 Issue of summons to attend

- (1) A requirement made under Section 10 shall be notified to the person to whom it relates by a summons, in such form as may be prescribed, under the hand of the Clerk issued by the direction of the Speaker or, in the case of a committee, of the chairperson.
- (1A) Every such summons, if purporting to bear the signature of the Clerk, shall be deemed *prima facie* to be lawful and to be issued by the direction of the Speaker or the chairperson of the committee, as the case may be.

[Renumbering made under Section 9 of the Law Revision and Consolidation Act 2019.]

- (2) In every summons issued under subsection (1), there shall be stated the time when and the place where the person summoned is required to attend, whether he or she is required to give evidence or not, and details of the documents, if any, which he or she is required to produce.
- (3) A summons issued under subsection (1) shall be served on the person named therein by delivering to him or her a copy; it may be served by an officer or by any police officer.
- (4) A person who has served a summons issued under subsection (1), shall deliver to the Clerk within 24 hours after the service an affidavit of service made by him, and the Clerk shall file the affidavit.

12 Issue of warrant to compel attendance

- (1) Where a person to whom a summons under Section 11(1) is directed does not attend before the Parliament or the committee, as the case may be, at the time and place stated therein, the Speaker may, upon being satisfied that the summons has been duly served or that the person to whom the summons is directed is willfully avoiding service, direct the Clerk to apply to the District Court for a warrant to apprehend him or her and compel him or her to attend before the Parliament or the committee.
- (2) Upon application being made to the District Court by the Clerk in pursuance of a direction given by the Speaker under subsection(1), the court, if satisfied that the summons has been properly issued under Section 11(1) and that the person to whom it is directed has been served with it or is willfully avoiding being served with it, and has not attended as required by it, shall issue a warrant for that person to be arrested and brought before the court.

- (3) The District Court may, if it thinks fit, direct at the time of issuing a warrant under subsection (2), that the person for whose arrest the warrant is issued may be released upon his or her entering into a recognizance in such sum as the Court specifies in the direction to attend before the Parliament or the committee on a date and at a time specified in the direction and shall be endorsed on the warrant.
- (4) Where a person is arrested and brought before the District Court in execution of a warrant issued under subsection (2), the court shall release him or her upon his or her entering into a recognizance in such sum as the court thinks fit to attend before the Parliament or the committee, as the case may be, on a date and a time to be specified in the recognizance.
- (5) In proceedings under subsection (2) for the issue of a warrant, the court shall accept as conclusive evidence of the facts stated therein a certificate under the hand of the Speaker certifying that a summons has been issued under Section 11(1) by the direction of himself or herself or of the chairperson of a committee and that he or she has directed the Clerk to apply for a warrant to be issued under subsection (2).

13 Witnesses may be required to take oath, etc

The Parliament or any committee empowered to order the attendance of witnesses may require that any facts, matters and things relating to the subject of inquiry before the Parliament or the committee be verified or otherwise ascertained by the oral examination of witnesses and may cause any such witnesses to be examined upon oath or affirmation, and the Clerk or the chairperson of the committee or any other person specially appointed for that purpose by the Parliament or by such committee may administer the oath or take the affirmation.

14 Objection to answering questions, etc

- (1) Subject to Section 15, any person ordered to attend, give evidence or produce any paper, book, record or other document before the Parliament, may object to answering any question that may be put to him or her or to producing any such paper, book, record or other document, on the ground that it relates to matters of a private nature and does not relate to the subject of inquiry and, if he or she does so object, the Speaker may excuse the answering of the question or the production of the paper, book, record or other document, or may order the answering or production of it, as he or she considers proper.
- (2) Subject to Section 15, any person ordered to attend, give evidence or produce any paper, book, record or other document before any committee, may object to answering any question that may be put to him or her or to producing any such paper, book, record or other document, on the ground that it relates to matters of a private nature and does not relate to the subject of inquiry.
- (3) Where the person under subsection (2) objects, the chairperson of the committee shall report the objection to the Speaker with the reasons therefore and the Speaker may thereupon excuse the answering of such question or the production of such paper, book, record or other document or may order the answering or production of it, as he or she considers proper.

- (4) Subject to Section 15, the decision of the Speaker shall be final.

15 Privileges in relation to evidence

- (1) A person summoned to attend to give evidence or to produce any paper, book, record or other document before the Parliament or a committee shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or other document, to the same rights or privileges as he or she would have in relation thereto before a court.
- (2) Except where in the opinion of the President it would be contrary to the public interest and the President so directs, no person in the employment of the Republic shall refuse:
- (a) to produce before the Parliament or a committee any paper, book, record or other document; or
 - (b) to give evidence before the Parliament or a committee, relating to the correspondence of any department or to any matter affecting the public service, including secondary evidence shall not be received, given or produced before the Parliament or a committee of the contents of any such paper, book, record or other document which the President has directed shall not be produced.
- (3) An answer by a person to a question put by the Parliament or a committee shall not be admissible in evidence against him or her in any civil or criminal proceedings except in the case of criminal proceedings for an offence against this Act or of giving false evidence to the Parliament or a committee.

16 Evidence given to the Parliament or a committee not to be disclosed without leave

- (1) Save as provided in this Act, no member or officer of the Parliament and no person employed to take minutes of evidence given before the Parliament or any committee shall, without special leave of the Parliament, disclose elsewhere the contents of such evidence or the contents of any document laid before the Parliament or the committee, as the case may be, or the details of any proceedings or any examination of witnesses before the Parliament or the committee, as the case may be.
- (2) The special leave referred to in subsection (1) may be given during a recess or an adjournment or during any dissolution of the Parliament by the Speaker.

17 How certain questions are to be determined

Where at any time any question arises in the Parliament or in a committee with regard to:

- (a) the right or power of the Parliament or a committee to hear, admit or receive oral evidence;
- (b) the right or power of the Parliament or a committee to peruse or examine any paper, book, record or other document or to summon, direct or call upon a person to produce any paper, book, record or other document before the Parliament or committee; or
- (c) the right or privilege of a person, including a member, to refuse to produce

any paper, book, record or other document or to lay any paper, book, record or other document before the Parliament or committee, that question shall, subject to the express provisions of this Act, be determined in accordance with the usage and practice of the House of Commons of the United Kingdom.

PART 4 — OFFENCES AND PENALTIES

18 Offences relating to admittance to or presence within the precincts of the Parliament

A person who:

- (a) being a stranger, enters or attempts to enter the precincts of the Parliament in contravention of any order of the Speaker;
- (b) being a stranger, fails or refuses to withdraw from the precincts of the Parliament when ordered to withdraw the reform by the Speaker; or
- (c) being a stranger, contravenes any order made by the Speaker under Section 7(1) regulating the admittance of strangers to, or their conduct within, the precincts of the Parliament;

is guilty of a cognizable offence and is liable to imprisonment for 3 months and a fine of \$200.

19 Other offences

A person who:

- (a) assaults, molests, insults, resists or obstructs any officer in the execution of his or her duty or while proceeding to or from the Parliament, knowing or having reasonable grounds for believing him or her to be an officer;
- (b) presents to the Parliament or a committee any false, untrue, fabricated or falsified document with intent to deceive the Parliament or such committee;
- (c) destroys any document which he or she knows or has reason to believe has been ordered to be produced before the Parliament or a committee;
- (d) abstracts any record or other document from the custody of the Clerk, or falsifies or improperly alters any document presented to the Parliament or any committee;
- (e) endeavours, directly or indirectly, to deter or hinder a person from appearing or giving evidence before the Parliament or a committee;
- (f) tampers with a witness with regard to evidence to be given by him or her before the Parliament or a committee;
- (g) threatens or in any way punishes, damnifies or injures, or attempts to punish, damnify or injure, a person for having given evidence before the Parliament or a committee, or on account of the evidence which he or she has given before the Parliament or a committee; or
- (h) without special leave of the Parliament or the Speaker, publishes any evidence taken by, or any document produced to, the Parliament or a committee,

is guilty of a cognizable offence and is liable to imprisonment for 2 years.

20 Printing false copy of votes and proceedings, etc

Save as may be authorised by any written law, a person who prints or causes to be printed a copy of any Act or a copy of any report, paper or minutes or of the votes and proceedings of the Parliament as purporting to have been printed by, or on the authority of, the Government Printer or by order or under the authority of the Parliament or by order or under the authority of the Speaker, and the same is not so printed, or who tenders in evidence in any court any such copy as

purporting to be so printed knowing that it was not so printed, is guilty of an offence and is liable to imprisonment for 6 months.

PART 5 — MISCELLANEOUS

21 Powers, privileges and immunities not expressly provided for

In addition to the powers, privileges and immunities expressly provided for in this Act, the Parliament and members shall have all the powers, privileges and immunities which the House of Commons of the United Kingdom and its members have for the time being, except any of such powers, privileges or immunities as are inconsistent with or repugnant to the *Constitution* or the express provisions of this Act.

22 House of Commons Journals to be prima facie evidence as to powers, privileges and immunities

Subject to the provisions of this Act, a copy of the Journals of the House of Commons of the United Kingdom printed or purporting to be printed by the order or by the Printer of the House of Commons aforesaid shall, upon any inquiry touching the privileges, immunities and powers of the Parliament or of any member, be received as *prima facie* evidence without proof of it being a copy.

23 Votes and proceedings printed by the Government Printer to be admitted as prima facie evidence

Upon any inquiry touching the privileges, immunities and powers of the Parliament or of any member, any copy of the votes and proceedings printed or purporting to be printed by or on behalf of the Government Printer shall be admitted as *prima facie* evidence of such votes and proceedings in all courts without any proof being given that such copy was so printed.

24 Protection of persons responsible for authorised publications

A person, being a defendant in any civil or criminal proceedings instituted in any court on account or in respect of the publication by that person or by his or her servant or agent of any report, paper, minute or votes and proceedings of the Parliament may bring before the court a certificate under the hand of the Speaker:

- (a) stating that the report, paper, minute or votes and proceedings in respect of those proceedings have been instituted was or were published by that person or by his or her servant or agent by order or under the authority of the Parliament or of the Speaker; and
- (b) if he or she does so, such certificate, if verified by affidavit of the Clerk, shall be conclusive proof of that fact.

25 Publication of votes and proceedings, etc, without malice

In any civil proceedings instituted in any court for publishing any report or summary of or any extract from or abstract of any report, paper, minute or votes and proceedings of the Parliament, if the court is satisfied that that report, summary, extract or abstract was published in good faith and without malice judgment shall be entered for the defendant.

26 Exclusion of jurisdiction of the courts

Neither the Speaker nor any officer of the Parliament shall be subject to the jurisdiction of any court in respect of the lawful exercise of any power conferred on or vested in the Speaker or the officer by or under this Act.

27 Powers of officers

Every officer shall, for the purposes of this Act and for the application within the precincts of the Parliament of the provisions of the criminal law, have all the powers and enjoy all the privileges of a police officer, and the provisions of the *Criminal Procedure Act 1972* relating to the manner in which persons arrested by police officers are to be dealt with shall apply where an officer of the Parliament arrests a person in exercise of those powers.

28 The Speaker may direct words ruled out of order not to be published

- (1) Where the Speaker under the provisions of Standing Orders rules any words used by a member to be out of order, the Speaker may, in his or her absolute discretion, direct that such words or any words out of which they arose or arising out of them, shall not be published in any manner.
- (2) A person who publishes any words which are the subject of a direction given under the provisions of subsection (1) is guilty of an offence and is liable to imprisonment for 6 months.

29 Authority for prosecution

A prosecution for an offence under this Act shall not be instituted except on the written authority of the Director of Public Prosecutions and with the written consent of the Speaker.

30 Rules

The Speaker may, by notice in the Gazette make rules prescribing anything which, under the provisions of this Act, may be or is to be prescribed.

Parliamentary Powers, Privileges and Immunities (Issue of Summons) Rules 2002

TABLE OF PROVISIONS

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Parliamentary Powers, Privileges and Immunities (Issue of Summons) Rules 2002

TABLE OF AMENDMENTS

The Parliamentary Powers, Privileges and Immunities (Issue of Summons) Rules 2002 were notified and commenced on 12 June 2002 (GN No 119/2002; Gaz 27/2002).

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

IN EXERCISE of the powers conferred upon me by virtue of Section 30 of the *Parliamentary Powers, Privileges and Immunities Act 1976*, I hereby make the following Rules:

1 Citation

These rules may be called the *Parliamentary Powers, Privileges and Immunities (Issue of Summons) Rules 2002* and shall come into force with immediate effect.

2 Forms

The Rules set out in the Schedule as forms A to D shall be used in proceedings before the Parliament and other Parliamentary Committees including Select Committees, as the case may be.

SCHEDULE

FORM A



**REPUBLIC OF NAURU
PARLIAMENT OF NAURU
PARLIAMENTARY POWERS, PRIVILEGES AND
IMMUNITIES ACT 1976**

[Section 11; Rule 2]

SUMMONS TO WITNESS

To [here insert name, occupation, and address of witness].

I am directed by the [here insert the Honourable Speaker/Committee] to summon you, to appear before

OR

You are hereby summoned to appear before [here insert the Bar of the Parliament or a description of the Committee as the case may be] on the _____ day of _____ 20____, at _____ am/pm at [insert here documents required]; and you are required to continue in attendance as directed by the [here insert the Honourable Speaker or Chairperson of the Committee, as the case may be] until your attendance is no more required by the aforesaid authority.

Given at _____ under my hand this _____ day of _____ 20_____.

[Here insert Clerk of Parliament, or the Chairperson of the Committee as the case may be]

FORM B



REPUBLIC OF NAURU
PARLIAMENT OF NAURU
PARLIAMENTARY POWERS, PRIVILEGES AND
IMMUNITIES ACT 1976

[Section 11; Rule 2]

AFFIDAVIT OF SERVICE OF SUMMONS

I, (a) _____ of (b) _____ make Oath and say that I did on
_____ day of _____ 20_____, serve on (c) _____ of
(d) _____ the summons a true copy which is enclosed herewith.

Sworn by me this _____ day) DEPONENT
Of _____ 20_____)

COMMISSIONER FOR OATHS

- (a) Full name of Officer
- (b) Rank or designation of Officer
- (c) Full name of the person served with the summons
- (d) Place of service

FORM C



**REPUBLIC OF NAURU
PARLIAMENT OF NAURU
PARLIAMENTARY POWERS, PRIVILEGES AND
IMMUNITIES ACT 1976**

[Section 12; Rule 2]

**CERTIFICATE TO BE GIVEN BY THE SPEAKER WHEN THE
WITNESS HAS DISOBEYED SUMMONS**

WHEREAS [here insert name, occupation, and address of witness] has been summoned to appear before (*here insert the Bar of the Parliament or a description of the Committee as the case may be*) by the direction of the Speaker/Chairperson of the Committee (as the case may be) on _____ day of _____ 20 _____ at _____ am/pm at [here insert place], but has failed to appear in obedience to the summons/is found to have been wilfully avoiding being served with summons to appear before Parliament/Committee of (description to be given as the case may be); I have forthwith directed the Clerk of Parliament to apply to the District Court to apprehend and compel the said (here insert the name of the witness) and bring him before the (here insert the Honourable Speaker or Chairperson of the Committee as the case may be) on the _____ day of _____ 20 _____, at _____ am/pm at (*insert the place*).

Given at _____ the _____ day of _____ 20 _____

[SPEAKER]

FORM D



**REPUBLIC OF NAURU
PARLIAMENT OF NAURU
PARLIAMENTARY POWERS, PRIVILEGES AND
IMMUNITIES ACT 1976**

[Section 13; Rule 2]

OATH AND AFFIRMATION

A. OATH OF WITNESS

I solemnly and sincerely declare that the evidence I shall give before the Committee shall be the truth, the whole truth, and nothing but the truth, so help me God!

B. AFFIRMATION OF WITNESS

I do solemnly and sincerely affirm and declare that the evidence I shall give before the Committee shall be the truth, the whole truth, and nothing but the truth.