

REPUBLIC OF NAURU
Parliamentary Powers, Privileges and Immunities Act 1976

(No. 8 of 1976)

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REPUBLIC OF NAURU

AN ACT

To provide for the powers, privileges and immunities of Parliament

(Certified : 3rd September 1976)

Enacted by the Parliament of Nauru as follows:-

Part I – Preliminary

SHORT TITLE

1. This Act may be cited as the Parliamentary Powers, Privileges and Immunities Act 1976.

INTERPRETATION

2. In this Act, unless the context otherwise requires –

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

‘member’ means a member of Parliament;

‘officer of the Parliament’ and ‘officer’ include –

- (i) the Clerk;
- (ii) a public officer authorized in writing by the Speaker to be or to act as an officer of the Parliament;
- (iii) 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
- (iv) 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 any 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 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 officers 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 the 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;

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

Part II - Privileges and Immunities

IMMUNITY FROM LEGAL PROCEEDINGS

3. 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 thereof, or by reason of any matter or thing brought before the Parliament by him by petition, Bill, motion or otherwise.

FREEDOM FROM ARREST

4. 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 thereof;
- (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.

SERVICE, ETC. OF PROCESS WITHIN THE PRECINCTS OF THE PARLIAMENT PROHIBITED

5. 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.

STRANGERS NOT ENTITLED TO ENTER OR REMAIN WITHIN THE PRECINCTS OF THE PARLIAMENT

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

THE SPEAKER MAY REGULATE ADMITTANCE AND CONDUCT OF STRANGERS

7. (1) The Speaker may, by instrument in writing under his hand, give such orders as he may in his 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 the preceding subsection shall be authenticated by the Clerk and exhibited in a conspicuous position within the precincts of the Parliament and such copy when so authenticated and exhibited shall be deemed to be sufficient notes to all persons affected thereby.

THE SPEAKER MAY ORDER A STRANGER TO WITHDRAW

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

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

EXCLUSION OF A SUSPENDED MEMBER

9. 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 may be forcibly removed therefrom by any officer.

THE PARLIAMENT OR A COMMITTEE MAY REQUIRE A PERSON TO ATTEND AND GIVE EVIDENCE, ETC.

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

ISSUE OF SUMMONS TO ATTEND

11. (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 chairman thereof. 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 chairman of the committee, as the case may be.

(2) In every summons issued under the preceding subsection there shall be stated the time when and the place where the person summoned is required to attend,

whether he is required to give evidence or not, and details of the documents, if any, which he is required to produce.

(3) A summons issued under subsection (1) shall be served on a person named therein by delivering to him a copy thereof; 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 twenty-four hours after the service an affidavit of service made by him, and the Clerk shall file the affidavit.

ISSUE OF WARRANT TO COMPEL ATTENDANCE

12. (1) Where a person to whom a summons under subsection (1) of Section 11 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 and compel him 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 the preceding subsection, the Court, if satisfied that the summons has been properly issued under subsection (1) of Section 11 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 the warrant under the last preceding subsection that the person for whose arrest the warrant is issued may be released upon his 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; the direction 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 upon his 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 subsection (1) of Section 11 by the direction of himself or of the chairman of a committee and that he has directed the Clerk to apply for a warrant to be issued under subsection (2).

WITNESSES MAY BE REQUIRED TO TAKE OATH, ETC.

13. 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 chairman 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.

OBJECTION TO ANSWERING QUESTIONS, ETC.

14. (1) Subject to Section 15, any person ordered to attend to give evidence or to produce any paper, book, record or other document before the Parliament may object to answering any question that may be put to him 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 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 thereof, as he considers proper.

(2) Subject to Section 15, any person ordered to attend or to give evidence or to produce any paper, book, record or other document before any committee may object to answering any question that may be put to him 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 does so object, the chairman 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 thereof, as he considers proper. Subject to Section 15, the decision of the Speaker is final.

PRIVILEGES IN RELATION TO EVIDENCE

15. (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 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 of the Government of the Republic or to any matter affecting the Public Service; 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 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.

EVIDENCE GIVEN TO THE PARLIAMENT OR A COMMITTEE NOT TO BE DISCLOSED WITHOUT LEAVE

16. (1) Save as provided in this Act, 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 the preceding subsection may be given during a recess or adjournment or during any dissolution of the Parliament by the Speaker.

HOW CERTAIN QUESTIONS ARE TO BE DETERMINED

17. 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 any person to produce any paper, book, record or other document before the Parliament or committee; or

(c) the right or privilege of any 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 Commons House of Parliament of the United Kingdom.

Part IV - Offences and Penalties

OFFENCES RELATING TO ADMITTANCE TO OR PRESENCE WITHIN THE PRECINCTS OF THE PARLIAMENT

18. Any 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 subsection (1) of Section 7 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 three months and a fine of two hundred dollars.

OTHER OFFENCES

19. Any person who -

(a) assaults, molests, resists or obstructs any officer in the execution of his duty or while proceeding to or from the Parliament, knowing or having reasonable grounds for believing him 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 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 any 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 before the Parliament or a committee;

(g) threatens or in any way punishes, damnifies or injures, or attempts to punish, damnify or injure, any person for having given evidence before the Parliament or a committee or on account of the evidence which he 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 two years.

PRINTING FALSE COPY OF VOTES AND PROCEEDINGS, ETC.

20. Save as may be authorized by any written law, any 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 knowingly that it was not so printed, is guilty of an offence and is liable to imprisonment for six months.

Part V - Miscellaneous

POWERS, PRIVILEGES AND IMMUNITIES NOT EXPRESSLY PROVIDED FOR

21. 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 Parliament of the United Kingdom and its members have for the time being, except any of such powers, privileges and immunities as are inconsistent with or repugnant to the Constitution or the express provisions of this Act.

COMMONS JOURNALS TO BE PRIMA FACIE EVIDENCE AS TO POWERS, PRIVILEGES AND IMMUNITIES

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

VOTES AND PROCEEDINGS PRINTED BY THE GOVERNMENT PRINTER TO BE ADMITTED AS PRIMA FACIE EVIDENCE

23. 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.

PROTECTION OF PERSONS RESPONSIBLE FOR AUTHORISED PUBLICATIONS

24. Any 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 servant or agent of any report, paper, Minutes or votes and proceedings of the Parliament may bring before the Court a certificate under the hand of the Speaker, stating that the report, paper, Minute or votes and proceedings in respect whereof those proceedings have been instituted was or were published by that person or by his servant or agent by order or under the authority of the Parliament or of the Speaker; and, if he does so, such certificate, if verified by affidavit of the Clerk, shall be conclusive proof of that fact.

PUBLICATION OF VOTES AND PROCEEDINGS, ETC., WITHOUT MALICE

25. 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 judgement shall be entered for the defendant.

EXCLUSION OF JURISDICTION OF THE COURTS

26. Neither the Speaker nor any officer of the Parliament shall be subject to the jurisdiction of the 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.

POWERS OF OFFICERS

27. 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.

THE SPEAKER MAY DIRECT WORDS RULED OUT OF ORDER NOT TO BE PUBLISHED.

28. (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 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) Any person who publishes any words which are the subject of a direction given under the provisions of the preceding subsection is guilty of an offence and is liable to imprisonment for six months.

AUTHORITY FOR PROSECUTION

29. 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.

RULES

30. 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.