



REPUBLIC OF NAURU

CRIMES (AMENDMENT) NO. 2 ACT 2020

No. 29 of 2020

An Act to amend the *Crimes Act 2016*.

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 *Crimes (Amendment) No. 2 Act 2020*.

2 Commencement

This Act commences on certification by the Speaker.

3 Amendment of the Crimes Act 2016

The *Crimes Act 2016* is amended by the provisions of this Act.

4 Amendment of Section 8

Section 8 is amended by inserting the following in alphabetical order:

'intimidation' or **'intimidates'** means the use of violence or threats to compel a person to do or abstain from doing any act which he or she has a legal right to do or abstain from doing;

5 Amendment of Section 77

Section 77 is amended by:

Deleting the following where it appears:

'Penalty:

- (i) if aggravating circumstances apply - 10 years imprisonment; or
- (ii) in any other case - 8 years imprisonment.'

Substituting

'Penalty:

- (i) if aggravating circumstances apply – life imprisonment of which at least 12 years imprisonment to be served without any parole or probation;
- (ii) in any other case – 20 years imprisonment of which imprisonment term at least one third to be served, without any parole or probation;'

6 Insert new Section 77A

A new Section 77A is inserted as follows:

'77A Intimidating or threatening a police officer

A person commits an offence, if the person intimidates or threatens a police officer in the execution of the police officer's duties.

Penalty: a maximum term of 5 years imprisonment of which imprisonment term at least one third to be served, without any parole or probation.'

7 Amendment of Section 105

Sections 105(1) and (2) are amended by:

Deleting the following where it appears:

'Penalty:

- (i) if aggravating circumstances apply – 25 years imprisonment; or
- (ii) in any other case – 20 years imprisonment.'

Substituting:

'Penalty: life imprisonment of which imprisonment term at least 15 years to be served, without any parole or probation.'

8 Amendment of Section 106

Sections 106(1), (2) and (3) are amended by:

Deleting the following where it appears:

'Penalty:

- (i) if aggravating circumstances apply – 8 years imprisonment; or
- (ii) in any other case – 5 years imprisonment.'

Substituting:

'Penalty:

- (i) if aggravating circumstances apply – 20 years imprisonment; or
- (ii) in any other case – 10 years imprisonment.'

9 Amendment of Section 107

Section 107 is amended by:

Deleting:

‘Penalty:

- (i) if aggravating circumstances apply – 7 years imprisonment;
or
- (ii) in any other case – 5 years imprisonment.’

Substituting:

‘Penalty: life imprisonment of which imprisonment term at least 12 years to be served, without any parole or probation.’

10 Amendment of Section 109

Sections 109(1) and (2) are amended by:

Deleting the following where it appears:

‘Penalty: 25 years imprisonment’

Substituting:

‘Penalty: life imprisonment of which imprisonment term at least 15 years to be served, without any parole or probation.’

11 Amendment of Section 110

Section 110(1) is amended by:

Deleting:

‘Penalty: 5 years imprisonment’

Substituting:

‘Penalty: a maximum term of 10 years imprisonment of which imprisonment term at least half to be served, without any parole or probation.’

12 Amendment of Section 111

Section 111(1) is amended by:

Deleting:

‘Penalty: 5 years imprisonment’

Substituting:

'Penalty: a maximum term of 15 years imprisonment of which imprisonment term at least half to be served, without any parole or probation.'

13 Amendment of Section 112

Section 112(1) is amended by:

Deleting:

'Penalty: 5 years imprisonment'

Substituting:

'Penalty: a maximum term of 15 years imprisonment of which imprisonment term at least half to be served, without any parole or probation.'

14 Amendment of Section 113

Section 113 is amended by:

Deleting:

'Penalty: 5 years imprisonment'

Substituting:

'Penalty: a maximum term of 15 years imprisonment of which imprisonment term at least one third to be served, without any parole or probation.'

15 Amendment of Section 114

Section 114(1)(b) is deleted and substituted as follows:

'(b) the defendant knows that the other person has 1 of the following relationships with the defendant:

- (i) great grandfather or great grandmother;
- (ii) grandfather or grandmother;
- (iii) father or mother;
- (iv) uncle or aunt;
- (v) mother's sister's son or daughter;
- (vi) mother's brother's son or daughter;

- (vii) father's sister's son or daughter;
- (viii) father's brother's son or daughter;
- (ix) brother or sister;
- (x) niece or nephew;
- (xi) son or daughter;
- (xii) grandson or granddaughter;
- (xiii) great grandson or great granddaughter.

'Penalty: life imprisonment of which imprisonment term at least 15 years to be served, without any parole or probation.'

16 Amendment of Section 116

Sections 116(1) and (2) are amended by:

Deleting the following where it appears:

'Penalty:

- (i) if the child is under 13 years old or aggravating circumstances apply – life imprisonment; or
- (ii) in any other case – 25 years imprisonment.'

Substituting:

'Penalty: life imprisonment of which imprisonment term at least 15 years to be served, without any parole or probation.'

17 Amendment of Section 117

Sections 117(1), (2) and (3) are amended respectively by:

Deleting the following where it appears:

'Penalty:

- (i) if the child is under 13 years old or aggravating circumstances apply – 15 years imprisonment; or
- (ii) in any other case – 12 years imprisonment.'

Substituting:

‘Penalty: a maximum term of 30 years imprisonment of which imprisonment term at least one third to be served, without any parole or probation.’

18 Amendment of Section 118

Section 118(1) is amended by:

Deleting:

‘Penalty:

- (i) if the child is under 13 years old or aggravating circumstances apply – 15 years imprisonment; or
- (ii) in any other case – 12 years imprisonment.’

Substituting:

‘Penalty: life imprisonment of which imprisonment term least 15 years to be served, without any parole or probation.’

19 Amendment of Section 119

Section 119(1) is amended by:

Deleting:

‘Penalty:

- (i) if the child is under 13 years old or aggravating circumstances apply—life imprisonment; or
- (ii) in any other case—25 years imprisonment.’

Substituting:

‘Penalty: life imprisonment of which imprisonment term least 15 years to be served, without any parole or probation.’

20 Amendment of Section 120

Sections 120(1) and (2) are amended by:

Deleting the following where it appears:

‘Penalty:

- (i) if the child is under 13 years old – 17 years imprisonment; or

(ii) in any other case – 12 years imprisonment.’

Substituting:

‘Penalty: life imprisonment of which imprisonment term at least 15 years to be served, without any parole or probation.’

21 Amendment of Section 121

Section 121(1) is amended by:

Deleting:

‘Penalty:

(i) if the child is under 13 years old – 15 years imprisonment;
or

(ii) in any other case – 10 years imprisonment.’

Substituting:

‘Penalty: a maximum term of 20 years imprisonment of which imprisonment term at least half to be served, without any parole or probation.’

22 Amendment of Section 122

Section 122(1) is amended by:

Deleting:

‘Penalty:

(i) if the child is under 13 years old – 15 years imprisonment;
or

(ii) in any other case – 10 years imprisonment.’

Substituting:

‘Penalty: a maximum term of 25 years imprisonment of which imprisonment term at least one third to be served, without any parole or probation.’

23 Amendment of Section 123

Section 123(1) is amended by:

Deleting:

'Penalty:

- (i) if the child is under 13 years old – 15 years imprisonment;
or
- (ii) in any other case – 10 years imprisonment.'

Substituting:

'Penalty: a maximum term of 25 years imprisonment of which imprisonment term at least one third to be served, without any parole or probation.'

24 Amendment of Section 124

Section 124 is amended by:

Deleting:

'Penalty:

- (i) if the child is under 13 years old – 15 years imprisonment;
or
- (ii) in any other case – 10 years imprisonment.'

Substituting:

'Penalty: a maximum term of 25 years imprisonment of which imprisonment term at least one third to be served, without any parole or probation.'

25 Amendment of Section 125

Section 125(1) is amended by:

Deleting:

'Penalty:

- (i) if the child is under 13 years old – 10 years imprisonment;
or
- (ii) in any other case – 7 years imprisonment.'

Substituting:

'Penalty: life imprisonment without any parole or probation.'

26 Insert new Section 125A

A new Section 125A is inserted as follows:

‘125A Offences against a child in trust of a person

- (1) Where a person, who commits an offence under this Part against a child who is in the care, custody or trust of such a person, he or she shall, in addition to the minimum penalty provided under this Act be liable to a further term of 5 years imprisonment.

[For example, in case of life imprisonment, where a minimum term is to be served of 15 years, in such case, the minimum term to be served will be 20 years.]

- (2) In this Section, a person is in a relationship of trust with the child if the child is under such person’s care, supervision or authority, including but not limited to:
- (a) a parent, guardian or person who is related through full-blood or half blood or through marriage or adoption, including de facto adoption;
 - (b) a person who looks after one or more children for valuable consideration for any period of time;
 - (c) a teacher or principal of a pre-school, primary school or high school;
 - (d) a person providing health and medical care services in a public health care facility or private health care facility;
 - (e) a sports administrator, member of selection committee or body of a sports team, trainer or coach; and
 - (f) a religious minister, pastor, deacon, elder or priest.’

27 Amendment of Section 141

Sections 141(1) and (2) are amended by:

Deleting the following where it appears:

‘Penalty:

- (i) if the child is under 13 years old – 20 years imprisonment; or
- (ii) in any other case – 15 years imprisonment.’

Substituting:

‘Penalty: a maximum term of 25 years imprisonment of which imprisonment term at least one third to be served, without any parole or probation.’

28 Amendment of Section 142

Section 142(1) is amended by:

Deleting:

‘Penalty:

- (i) if the other person is under 13 years old – 15 years imprisonment; or
- (ii) in any other case – 10 years imprisonment.’

Substituting:

‘Penalty: a maximum term of 25 years imprisonment of which imprisonment term at least one third to be served, without any parole or probation.’

29 Amendment of Section 143

Section 143(1) is amended by:

Deleting:

‘Penalty:

- (i) if the other person is under 13 years old – 10 years imprisonment; or
- (ii) in any other case – 7 years imprisonment.’

Substituting:

‘Penalty: a maximum term of 25 years imprisonment of which imprisonment term at least one third to be served, without any parole or probation.’

30 Amendment of Section 211

Section 211 is deleted and substituted as follows:

‘211 Possession of firearm

A person commits an offence if he or she possesses a firearm.

Penalty: 4 years imprisonment.'

31 Amendment of Section 212

Section 212 is deleted and substituted as follows:

'212 Possession of firearm in public place

(1) A person commits an offence if he or she possesses a firearm in a public place.

Penalty: 5 years imprisonment.

(2) This Section does not apply to a police officer or any other person, who has been authorised by the Cabinet to possess or carry a firearm.'

32 Insert new Section 215A

A new Section 215A is inserted as follows:

'215A Amnesty for firearms

(1) The Minister may, by order published in the Gazette, declare an amnesty period for the surrender of any firearm.

(2) No proceedings shall lie against a person in respect of the possession of a firearm surrendered to the Commissioner of Police during an amnesty period for safekeeping.

(3) The Minister may prescribe any form of compensation that needs to be paid to any person who owns and surrenders his or her firearms under this Section.'

33 Insert new Section 215B

A new Section 215B is inserted as follows:

'215B Manufacturing, selling, importing or supplying of firearms

A person who manufactures, sells, imports or supplies a firearm commits an offence.

Penalty: 10 years imprisonment.'

34 Amendment of Section 279

Section 279 is amended by inserting a new subsection (3) as follows:

‘(3) For the purposes of subsection (1), the appropriate severity of a sentence not only include mitigating factors but other aggravating considerations such as:

(a) deterrence of prevailing nature of common crimes;

(b) the impact on the victims and the community; or

(c) matters that in the opinion of the court are appropriate for the prevention of prevailing or certain nature of offences or protection of the vulnerable members of the community.’

35 Insert new Section 282A

A new Section 282A is inserted as follows:

‘282A Pre-trial detention not to be taken into account in certain offences for sentencing purposes

In determining the final term of imprisonment, the court shall not make provision to discount any period served in remand pending or prior to a trial, for offences under Part 7.’