



REPUBLIC OF NAURU

ILLICIT DRUGS CONTROL (AMENDMENT) ACT 2024

No. 24 of 2024

An Act to amend the *Illicit Drugs Control Act 2004*.

Certified: 23 December 2024

Table of Provisions

1	Short Title	3
2	Commencement	3
3	Amendment of the <i>Illicit Drugs Control Act 2004</i>	3
4	Amendment of Section 3.....	3
5	Amendment of Section 4.....	3
6	Amendment of Section 5.....	4
7	Insertion of Section 5A.....	4
8	Amendment of Section 6.....	4
9	Insertion of Section 6A.....	5
10	Amendment of Section 7.....	5
11	Amendment of Section 11.....	5
12	Amendment of Section 13.....	6
13	Amendment of Section 15.....	6
14	Amendment of Section 18.....	6
15	Amendment of Section 21.....	6
16	Amendment of Section 35.....	7
17	Amendment of Section 46.....	7
18	Amendment of Section 50.....	7

19 Amendment of Section 51..... 7

Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Illicit Drugs Control (Amendment) Act 2024*.

2 Commencement

This Act commences on the date it is certified by the Speaker.

3 Amendment of the *Illicit Drugs Control Act 2004*

This Act amends the *Illicit Drugs Control Act 2004*.

4 Amendment of Section 3

Section 3 is amended by inserting the following definitions:

‘acquire’ includes to come into possession of, whether directly or indirectly, through a sale, trade, exchange or other transaction with or without any valuable consideration;

‘exporter’ has the meaning given in Section 2(1) of the *Customs Act 2014*;

‘importer’ has the meaning given in Section 2(1) of the *Customs Act 2014*;

‘proceeds’ has the meaning given in Section 3(1) of the *Proceeds of Crime Act 2004*;

‘term of imprisonment’ means a custodial sentence;’

5 Amendment of Section 4

Section 4 is deleted and substituted with the following:

‘4 Unlawful import

(1) A person who, without lawful authority, imports an illicit drug into the Republic commits an offence and is liable on conviction to life imprisonment of which at least 10 years imprisonment shall be served without any parole or probation.

(2) A person charged with an offence under subsection (1) has the burden of proof that he or she:

(a) had lawful authority to do the act with which he or she is charged; or

(b) is not the importer of the illicit drug.’.

6 Amendment of Section 5

Section 5 is deleted and substituted with the following:

'5 Unlawful export

- (1) A person who, without lawful authority, exports an illicit drug from the Republic commits an offence and is liable on conviction to life imprisonment of which at least 10 years imprisonment shall be served without any parole or probation.
- (2) A person charged with an offence under subsection (1) has the burden of proof that he or she:
 - (a) had lawful authority to do the act with which he or she is charged; or
 - (b) is not the exporter of the illicit drug.'

7 Insertion of Section 5A

Section 5A is inserted after Section 5 as follows:

'5A Unlawful transit

- (1) A person who, without lawful authority, transits an illicit drug through the Republic in his or her cargo or luggage, accompanied or unaccompanied, commits an offence and is liable on conviction to life imprisonment of which at least 10 years imprisonment shall be served without any parole or probation.
- (2) A person charged with an offence under subsection (1) has the burden of proof that he or she:
 - (a) had lawful authority to do the act with which he or she is charged; or
 - (b) is not the consignee or recipient of the illicit drug being transited through the Republic.'

8 Amendment of Section 6

Section 6 is deleted and substituted with the following:

'6 Unlawful possession

A person who, without lawful authority, possesses any illicit drug commits an offence and is liable on conviction to a term of imprisonment of not less than 12 months but not exceeding 3 years.'

9 Insertion of Section 6A

Section 6A is inserted after Section 6 as follows:

'6A Unlawful manufacture, cultivation and supply

A person who, without lawful authority:

- (a) acquires, sells, supplies, produces, manufactures, cultivates, uses or administers any illicit drug; or
- (b) engages in any dealing with any other person for the transfer, transport, supply, use, manufacture, offer, sale or offer for sale, import or export of any illicit drug,

commits an offence and is liable on conviction to life imprisonment of which at least 10 years imprisonment shall be served without any parole or probation.'

10 Amendment of Section 7

Section 7 is amended by:

- (a) deleting 'Section 6' wherever it appears and substituting with 'Section 6A'; and
- (b) deleting 'imprisonment for a term not exceeding 10 years and a fine of \$50,000' and substituting with 'life imprisonment of which at least 10 years imprisonment shall be served without any parole or probation'.

11 Amendment of Section 11

Section 11 is deleted and substituted with the following:

'11 Aiding offences against corresponding law of another country

Where a person who is in the Republic:

- (a) aids, incites, counsels or procures the doing or omission of any act in any place outside the Republic; and
- (b) the act or omission, if taken place in the Republic, is an offence under this Act,

he or she commits an offence and is liable on conviction to a term of imprisonment not exceeding 15 years of which 5 years imprisonment shall be served without any parole or probation.'

12 Amendment of Section 13

Section 13 is amended by:

- (a) in subsection (1):
 - (i) deleting 'a person leaving' and substituting 'an international traveller leaving'; and
 - (ii) deleting 'the person' wherever it appears and substituting 'the international traveller';
- (b) deleting subsection (2) and substituting with the following:
 - '(2) An international traveller who:
 - (a) enters or transits the Republic; and
 - (b) possesses an illicit drug as permitted under subsection (1),shall declare to a Customs officer upon arrival that he or she is in possession of the illicit drug.'; and
- (c) inserting subsections (3) and (4) after subsection (2) as follows:
 - '(3) An international traveller who contravenes subsection (2) commits an offence and is liable on conviction to a term of imprisonment not exceeding 5 years or a fine not exceeding \$50,000.
 - (4) Where the court considers to impose a fine instead of a term of imprisonment, the minimum fine shall be \$20,000.'

13 Amendment of Section 15

Section 15(4) is amended by deleting 'imprisonment for a term not exceeding 1 year or a fine not exceeding \$10,000 or to both' and substituting with 'a term of imprisonment not exceeding 1 year'.

14 Amendment of Section 18

Section 18(3) is amended by deleting 'and a fine up to \$20,000'.

15 Amendment of Section 21

Section 21 is amended by:

- (a) deleting subsection (11) and substituting with the following:
 - '(11) A master, commander or any other person who contravenes this Section commits an offence and is liable on conviction to a term of imprisonment not exceeding 10 years.'

(b) inserting subsection (12) after subsection (11):

‘(12) An owner of the craft who contravenes this Section commits an offence and is liable on conviction to:

(a) in the case of an individual, a term of imprisonment not exceeding 10 years; or

(b) in the case of a body corporate, a fine not exceeding \$100,000.’.

16 Amendment of Section 35

Section 35 is amended by:

(a) inserting ‘and is liable on conviction to a term of imprisonment not exceeding 3 years’ after ‘offence’; and

(b) deleting the following:

‘Penalty:

(a) 3 years imprisonment; and

(b) a fine not exceeding \$30,000.’

17 Amendment of Section 46

Section 46 is amended by deleting ‘and a fine not exceeding \$20,000’.

18 Amendment of Section 50

Section 50 is deleted and substituted with the following:

‘50 Provisions of Crimes Act 2016

Section 277(b), (c), (d) and (e) of the *Crimes Act 2016* shall not apply to any offence committed or for the purpose of sentencing under this Act.’.

19 Amendment of Section 51

Section 51 is deleted and substituted with the following:

‘51 Proceeds to be seized, confiscated, obtained to be forfeited

(1) Any proceeds that may be seized, confiscated, obtained or made available by a person as a result of investigation or prosecution of one or more of the offences under this Act shall be dealt with in accordance with the *Proceeds of Crime Act 2004*.

- (2) Any proceeds seized, confiscated, obtained or made available under subsection (1), shall be forfeited to the Republic where:
- (a) a person charged has been convicted under this Act;
or
 - (b) the person charged is untraceable, absconds, dies or his or her whereabouts is unknown, prior to the completion of the prosecution or any disposal of an appeal.
- (3) For the purposes of subsection (2)(b), it is not material as to whether the person is convicted or not.’