



REPUBLIC OF NAURU

NAURU COURT OF APPEAL (AMENDMENT) ACT 2022

No. 14 of 2022

An Act to amend the *Nauru Court of Appeal Act 2018*.

Certified: [8th June 2022]

Table of Provisions

1	Short title	3
2	Commencement.....	3
3	Amendment of the Nauru Court of Appeal Act 2018.....	3
4	Amendment of Section 3	3
5	Amendment of Section 4	4
6	Amendment of Section 8	4
7	Amendment of Section 9	4
8	Amendment of Section 11	4
9	Amendment of Section 14	5
10	Amendment of Section 15	5
11	Amendment of Section 27	5
12	Amendment of Section 29	5

13	Amendment of Section 30	6
14	Amendment of Section 31	6
15	Amendment of Section 32	6
16	Amendment of Section 36	6
17	Amendment of Section 37	7
18	Amendment of Section 41	7
19	Amendment of Section 43	7
20	Amendment of Section 55	7
21	Amendment of Section 59	7
22	General amendment as to reference	8
23	Savings and transition	8

Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Nauru Court of Appeal (Amendment) Act 2022*.

2 Commencement

This Act commences on 10 June 2022.

3 Amendment of the Nauru Court of Appeal Act 2018

The *Nauru Court of Appeal Act 2018* is amended by the provisions of this Act.

4 Amendment of Section 3

Section 3 is amended:

(a) by inserting the following definitions in alphabetical order:

‘appellant’ means a person or party who commences or files an appeal, which includes:

(a) a person who has been convicted or sentenced or both;

(b) where the Republic, Secretary for Justice or Director of Public Prosecutions is or is deemed to be a party to a proceeding, includes the Republic, Secretary for Justice or Director of Public Prosecutions, as the case may be; and

(c) has a corresponding meaning to such person or party as an intended appellant, who is intending to appeal or seeking leave to appeal;

‘applicant’ includes a person who makes an application under this Act or any other written law for an intended appeal, appeal or review and includes an intended appellant, appellant, respondent or intervener;

‘application’ includes an interlocutory application made under this Act or any other written law;

‘respondent’ includes a person who is named or joined as a respondent in an application or appeal;’ ; and

(b) in the definition of **‘judgment, decision or order’**, by:

(i) inserting *‘where applicable,’* before *‘includes’*; and

(ii) deleting *‘decrees’* and substituting with *‘a decree, conviction and sentence’*; and

- (c) in the definition of '**President of the Nauru Court of Appeal**', by deleting '57(5) and (6)' and substituting with '57(3)';

5 Amendment of Section 4

Section 4 is amended by inserting a new subsection (3) as follows:

'(3) The President of the Nauru Court of Appeal shall be the presiding Justice of Appeal and administrative head of the Nauru Court of Appeal.'

6 Amendment of Section 8

Section 8(3) is amended by deleting:

- (a) '*by virtue of Article 57(6) of the Constitution or*'; and
(b) the word '*other*' after '*for any*'.

7 Amendment of Section 9

Section 9 is amended:

- (a) in subsection (1), by deleting the words 'Chief Justice' and substituting with '*President of the Nauru Court of Appeal*'; and
(b) in subsection (2), by deleting the number '5' and substituting with '10'.

8 Amendment of Section 11

Section 11 is amended:

- (a) by renumbering the current provision as subsection (1);
(b) in the renumbered subsection (1), by:
(i) inserting '*President of the Nauru Court of Appeal and the*' before '*Justices of Appeal*';
(ii) deleting '*appointed under Section 9*';
(iii) inserting '*the Cabinet on the recommendation of*' before '*the President*'; and
(iv) deleting the words '*in consultation with the Chief Justice*'; and
(c) by inserting new subsections (2), (3) and (4) as follows:
'(2) The remuneration for the President of the Nauru Court of Appeal and Justices of Appeal shall be prescribed by regulations made under this Act.'

(3) *The remuneration for the President of the Nauru Court of Appeal and Justices of Appeal shall be a charge upon the Treasury Fund.*

(4) *The remuneration payable to the President of the Nauru Court of Appeal and Justices of Appeal shall not be altered to their disadvantage during the term of their appointments.’*

9 Amendment of Section 14

Section 14 is amended by:

- (a) deleting the word *‘Duties’* from the heading and substituting with *‘Functions’*;
- (b) deleting *‘duties’* and substituting *‘functions, powers and jurisdiction’* at the beginning of the provision;
- (c) deleting the word *‘and’* at the end of paragraph (c);
- (d) deleting the fullstop and substituting with *‘; and’* at the end of paragraph (d); and
- (e) inserting a new paragraph (e) as follows:

‘(e) such other directions, functions, powers and jurisdiction which may be given by the President of the Nauru Court of Appeal.’

10 Amendment of Section 15

Section 15 is amended by deleting the words *‘Chief Justice’* and substituting with *‘President of the Nauru Court of Appeal’*.

11 Amendment of Section 27

Section 27(n) is amended by deleting the words *‘Chief Justice’* wherever it appears and substituting with *‘President of the Nauru Court of Appeal’*.

12 Amendment of Section 29

Section 29 is amended:

- (a) in subsection (1)(c), by deleting the word *‘passed’* after the word *‘sentence’*;
- (b) by deleting and substituting subsection (1)(d);

‘(d) such other matters which may be prescribed from time to time by the Cabinet.’
- (c) in subsection (3)(a), by deleting the word *‘or’* at the end of the provision;
- (d) in subsection (3)(b), by:

- (i) deleting the words '*the leniency or appropriateness of*' before '*the sentence*';
 - (ii) inserting the words '*unless the sentence is one fixed by a written law*' after '*sentence*'; and
 - (iii) deleting the fullstop and substituting with a semicolon at the end of the provision; and
- (e) by inserting new subsections (3)(c), (d), (e) and (f) as follows:
- '(c) which stays a criminal cause or matter;*
 - (d) from the revisional jurisdiction of the Supreme Court;*
 - (e) on a case stated to the Supreme Court by the District Court; or*
 - (f) such other matters which may be prescribed from time to time by the Cabinet.'*

13 Amendment of Section 30

Section 30(2)(b) is deleted and substituted as follows:

'(b) where the Supreme Court affirms or upholds a verdict of an acquittal by the District Court except on an error of law.'

14 Amendment of Section 31

Section 31 is amended:

(a) in subsection (1), by deleting the words '*in such appellate jurisdiction*'; and

(b) by deleting and substituting subsections (2) and (3) as follows:

'(2) The judgment, decision or order of the Supreme Court under subsection (1), may with the leave of the Court, be appealed to the Court under this Part by a party to such proceedings including the Director of Public Prosecutions.

(3) The President of the Nauru Court of Appeal shall make rules for the practice and procedure for the filing and conduct of an appeal under this Section.'

15 Amendment of Section 32

The heading of Section 32 is amended by inserting '**or sentence**' after '**conviction**'.

16 Amendment of Section 36

Section 36 is amended:

- (a) in subsection (2), by deleting the number '14' and substituting with '21'; and
- (b) by inserting a new subsection (6) as follows:

'(6) The provisions of this Section apply with the necessary modifications to an application for leave to appeal, an application for leave to appeal out of time and the filing of an appeal by the Director of Public Prosecutions under Section 29(3).'

17 Amendment of Section 37

Section 37 is amended by inserting a new subsection (3) as follows:

'(3) The provisions of this Section apply with the necessary modifications to an application for leave or appeal by the Director of Public Prosecutions.'

18 Amendment of Section 41

Section 41 is amended by:

- (a) renumbering the current provision as subsection (1); and
- (b) inserting a new subsection (2) as follows:

'(2) A Justice of Appeal in exercising the powers and jurisdiction vested to a single Justice of Appeal, shall not make an order as to costs on the hearing and determination of an application under this Part.'

19 Amendment of Section 43

Section 43(3) is amended by:

- (a) deleting the word *'the'* after *'application by'* and substituting with *'an applicant or'*;
- (b) inserting the words *'applicant or'* before *'appellant may'*; and
- (c) deleting the words *'have the application determined by the Court'* after *'may'*, and substituting with *'make an application to the Court and where the Court grants the application, it may concurrently hear and determine the appeal'*.

20 Amendment of Section 55

Section 55 is amended by deleting *'Chief Justice'* and substituting with *'President of the Nauru Court of Appeal'*.

21 Amendment of Section 59

Section 59 is amended as follows:

- (a) by renumbering the current provision as subsection (1);

- (b) in the new subsection (1), by:
- (i) deleting the words '*Chief Justice*' and substituting with '*President of the Nauru Court of Appeal*';
 - (ii) inserting the words '*issue practice directions and*' after '*may*'; and
 - (iii) inserting the words '*including the Court attire for legal representatives*' after '*procedure of the Court*'; and
- (c) by inserting a new subclause (2) as follows:

'(2) *The Nauru Court of Appeal Rules 2018 and a practice direction issued prior to the commencement of the Nauru Court of Appeal (Amendment) Act 2022, continues to remain in force and is deemed to have been made under this Section.*'

22 **General amendment as to reference**

A reference to '*Chief Justice*' in regulations, rules or orders made under this Act is deleted and substituted, where appropriate, with '*President of the Nauru Court of Appeal*'.

23 **Savings and transition**

- (1) A direction given to the parties to an appeal by the Chief Justice, sitting as a single Justice of Appeal, shall be complied with by the parties and the appeal shall proceed as if it was to be heard by the Chief Justice presiding as Justice of Appeal.
- (2) A pending judgment of the Court on an appeal or interlocutory application, in which the Chief Justice as Justice of Appeal presided as part of the full Court or as a single Justice of Appeal, shall be delivered within 30 days of the coming into effect of this Act and all such matters thereafter are to be heard *de novo*.
- (3) The salaries, allowances and benefits of the Justices of Appeal made under the *Judicial Officers Conditions of Service, Salaries and Allowances Regulations 2020* shall continue to apply as if they were prescribed under this Act.
- (4) A Justice of Appeal, other than the Chief Justice, who immediately before the coming into effect of the substituted provisions, was appointed a Justice of Appeal, continues to hold the office of a Justice of Appeal until the expiry of his or her appointment.