

# CONSTITUTIONAL REVIEW COMMITTEE

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# Constitutional Review Committee Act 2004

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# Constitutional Review Committee Act 2004

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## TABLE OF AMENDMENTS

The Constitutional Review Committee Act 2004 No 17 was certified and commenced on 3 November 2004 (GN No 319/2004; Gaz 92/2004).

<b>Amending Legislation</b>	<b>Certified</b>	<b>Date of Commencement</b>
Constitutional Review Committee (Amendment) Act 2007 No 1	14 March 2007	14 March 2007
Constitutional Review Committee (Amendment) Act 2009 No 13	27 November 2009	27 November 2009
Statute Law Revision Act 2011 No 8	15 April 2011	15 April 2011
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021



An Act to provide for a Parliamentary Standing Committee for the purpose of reviewing the *Constitution*, proposing possible changes to the *Constitution* and for establishing the procedure for conducting a referendum.

Enacted by the Parliament of Nauru as follows:

## **1 Short title and commencement**

This Act may be cited as the *Constitutional Review Committee Act 2004* and came into effect on 3 November 2004.

## **2 Interpretation**

In this Act:

*'member'* means a member of the Committee;

*'the Chairperson'* means the person appointed under Section 5 of this Act as Chairperson of the Constitutional Review Committee and includes the person appointed under that section as Deputy Chairperson of the Constitutional Review Committee and any other person who is for the time being authorised to preside at meetings of the Constitutional Review Committee; and

*'the Constitutional Review Committee'* or *'the Committee'* means the Constitutional Review Committee established by Section 3 of this Act.

## **3 Constitutional Review Committee**

There shall be a Parliamentary Standing Committee, which shall be known as the Constitutional Review Committee, for the purpose of reviewing the *Constitution*, proposing and considering amendments to the *Constitution*, which agreed amendments shall be then put to the Parliament in accordance with the provisions of Article 84(2) of the *Constitution* and if passed in accordance therewith put to a Referendum in accordance with Article 84(3), (4) and (5) of the *Constitution* as necessary.

## **4 Membership of Committee**

(1) As soon as practicable after the commencement of this Act and thereafter at or after the first session of each Parliament, 9 members of the Parliament of Nauru shall be appointed to the Committee according to the practice of Parliament with reference to the appointment of members to serve on standing committees of Parliament.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[42], opn 15 Apr 2011]

(2) Each member holds office during the pleasure of the House.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[42], opn 15 Apr 2011]

(3) Each member shall cease to hold office upon resignation by notice in writing signed by the member and delivered to the Chairperson or the Speaker, on ceasing to be a Member of Parliament or when the Parliament expires by effluxion of time or is dissolved.

[subs (3) am Act 1 of 2007 s 3, opn 14 Mar 2007; Act 8 of 2011 s 12 and Sch 1[42], opn 15 Apr 2011]

## 5 Chairperson of the Committee

- (1) There shall be a Chairperson and a Deputy Chairperson of the Committee who shall be elected by the members from time to time and shall hold office as Chairperson and Deputy Chairperson during the pleasure of the Committee.
- (2) The Chairperson shall preside at all meetings of the Committee at which he or she is present.

[subs (2) renum Act 8 of 2011 s 12 and Sch 1[41], opn 15 Apr 2011]

- (3) In the event of the absence of the Chairperson from a meeting of the Committee, the Deputy Chairperson shall if he or she is present at that meeting preside at that meeting.

[subs (3) renum Act 8 of 2011 s 12 and Sch 1[41], opn 15 Apr 2011]

- (4) In the event of the absence of both the Chairperson and the Deputy Chairperson from a meeting of the Committee, the members present may appoint one of their number to preside at the meeting and the member so presiding shall in relation to the meeting have all the powers and functions of the Chairperson.

[subs (4) renum Act 8 of 2011 s 12 and Sch 1[41], opn 15 Apr 2011]

## 6 Meetings of the Committee

- (1) The first meeting of the Committee shall be held at a time and a place within the Republic fixed by the Speaker of Parliament and on a date not later than 30 days following the appointment of the Committee pursuant to Section 4.
- (2) Subsequent meetings of the Committee shall be held at times and places as the Committee by resolution determines or subject to any resolution of the Committee as the Chairperson determines but shall not meet at any place outside the Republic.
- (3) The Committee may meet and transact business notwithstanding any prorogation of the Parliament.
- (4) Unless the Committee otherwise resolves, the Committee shall take all evidence in public.
- (5) The Parliamentary Legal Counsel or other person acting in such capacity shall be a non-voting Secretary to the Committee (*ex-officio*).

[subs (5) am Act 8 of 2011 s 12 and Sch 1[42], opn 15 Apr 2011]

## 7 Resourcing of the Committee

- (1) The Committee shall be provided with all necessary staff, consultants, facilities and resources to achieve its objectives.
- (2) The Treasury Fund is appropriated to the extent necessary for the purpose of subsection (1).

## 8 Procedure

- (1) At a meeting of the Committee, 5 members constitute a quorum.
- (2) All questions to be decided by the Committee shall be decided by a majority of the votes of the members present.
- (3) The Chairperson or other member presiding shall have a deliberative vote and in the event of an equality of votes shall also have a casting vote.



- (4) The Committee shall have vote of dissent.
- (5) Subject to this Act, the Committee shall otherwise determine its own procedure.

## **9 Sectional Committees**

- (1) The Committee may appoint a Sectional Committee or Sectional Committees of 3 or more of its members to inquire into and report to the Committee upon such matters with which the Committee is concerned as the Committee directs.
- (2) The provisions of this Act apply in relation to a Sectional Committee in like manner as they apply in relation to the Committee and for the purposes of these provisions as so applying, a reference to the Chairperson or the Deputy Chairperson of the Committee shall be read as a reference to the Chairperson or the Deputy Chairperson of the Sectional Committee.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[42], opn 15 Apr 2011]

## **10 Evidence**

- (1) The Committee may call for oral or written submissions from any person or body within or outside the Republic with respect to any proposal, matter or thing being inquired into or being considered by the Committee.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[42], opn 15 Apr 2011]

- (2) The Committee may summon a person to appear before it to give evidence and produce documents, papers and records.
- (3) Any person or body may make written submissions to the Committee with respect to any proposal, matter or thing being inquired into or being considered by the Committee.
- (4) The Committee may commission any person or persons to investigate and report to the Committee on any aspect of a proposal, matter or thing being inquired into or being considered by the Committee.
- (5) The Committee may, instead of or in addition to commissioning an investigation under subsection (4), with the consent of the Chief Secretary, make use of the services of any of the officers of the public service or the instrumentalities of the Republic with the consent of the respective Chairperson.

[subs (5) am Act 8 of 2011 s 12 and Sch 1[42], opn 15 Apr 2011]

## **11 Evidence before a Committee no longer existing**

- (1) Where the Committee as constituted at any time or a Sectional Committee as constituted at any time has taken evidence in relation to a matter but the Committee as so constituted has ceased to exist before reporting on the matter, the Committee as next constituted may consider that evidence as if it had been given before it.
- (2) Evidence taken by the Parliamentary Select Committee known as the 15<sup>th</sup> Parliament may be considered by Committees constituted under this Act as if it had been given before it.

## **12 Duties of the Committee**

The duties of the Committee are:

- (a) to examine, inquire and report to Parliament by way of recommendations, proposed amendments to be carried out in the *Constitution* as a whole including, Part I, Part II, and Parts III to XI *vis-à-vis* the Articles of the *Constitution* and the 6 Schedules;
- (b) to inquire into any question in relation to proposed amendments to the *Constitution* moved in Parliament or referred to it by Parliament and to report to the House upon that question;
- (c) to inquire into and recommend new provisions to be incorporated into the *Constitution* as deemed fit; and
- (d) to inquire into and report on all related and consequential matters that may arise subsequent to adoption of proposed amendments including but not limited to the impact on, relation to or required amendments in various statutes, rules and regulations,

and include such other duties as are assigned to the Committee by Standing Orders of Parliament.

[s 12 am Act 8 of 2011 s 12 and Sch 1[42], opn 15 Apr 2011]

### 13 Proposed amendments that require public consultation and referendum

The Committee shall undertake public consultation in relation to the following matters:

- (a) the freedoms and rights enumerated in Articles 3 to 14 but not so as to reduce or derogate from any such freedom or right;
- (b) the appointment of the President;
- (c) the appointment of a Vice President;
- (d) the relationship of the President and Cabinet to the Parliament;
- (e) the appointment of the Speaker and Deputy Speaker;
- (f) votes of no-confidence;
- (g) the election of members of Parliament;
- (h) the issue of a fixed tenure for the Executive;
- (i) the Independence of the Parliament Secretariat; and
- (g) and any other matters as it deems fit.

[s 13 am Act 1 of 2007 s 4, opn 14 Mar 2007]

### 14 Result of the Deliberations of the Committee

- (1) The Committee may at any time prior to making a final report to the Parliament:
  - (a) make one or more interim reports to the Parliament on the proposal, matter or thing; or
  - (b) publish a document pertaining to the proposal, matter or thing.
- (2) Upon the conclusion of its deliberations, the Committee shall submit its recommendations on proposed Constitutional amendments by means of a Final Report to the Parliament which shall include, as an appendix or appendices, any dissenting report of a member and such Report shall upon being tabled in Parliament be published and made available to any person upon payment of a sum of not more than \$20, provided that if Parliament does not meet within 30 days of the production of the Report it shall be published and made available to any person.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[42], opn 15 Apr 2011]

- (3) The Chairperson of the Committee shall lay each report before the Parliament at the next sitting following the report being adopted by the Committee.

[subs (3) am Act 8 of 2011 s 12 and Sch 1[42], opn 15 Apr 2011]

- (4) A Member of Parliament may at any time after the presentation of the Report of the Committee propose a Bill in accordance with Article 84 to amend the *Constitution* in accordance with a recommendation of the Committee.

[subs (4) am Act 8 of 2011 s 12 and Sch 1[42], opn 15 Apr 2011]

- (5) No recommendation or Report shall be tabled that reduces or derogates from any freedom or right as provided in Articles 3 to 14 of the *Constitution*.

## **15 Conduct of Referendum**

[s 15 rep Act 13 of 2009 s 4, opn 27 Nov 2009]

## **16 Regulations**

The Cabinet may make regulations, not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.



**SCHEDULE**

**CONDUCT OF A REFERENDUM**

[Sch rep Act 13 of 2009 s 5, opn 27 Nov 2009]

