



REPUBLIC OF NAURU

CRIMINAL PROCEDURE (AMENDMENT) NO. 2 BILL 2020

No. of 2020

A Bill for an Act to amend the *Criminal Procedure Act 1972*.

Certified: []

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Enacted by the Parliament of Nauru as follows:

1 Short title

This Act may be cited as the *Criminal Procedure (Amendment) No. 2 Act 2020*.

2 Commencement

This Act commences on certification by the Speaker.

3 Amendment of the *Criminal Procedure Act 1972*

The *Criminal Procedure Act 1972* is amended by the provisions of this Act.

4 Insert new PART 5A

A new PART 5A is inserted as follows:

'PART 5A – EVIDENCE BY AUDIO VISUAL LINK

149A Testimony of witnesses in foreign jurisdiction

- (1) A court shall have the jurisdiction to grant or make such orders as may be necessary to allow a witness in a foreign jurisdiction to tender exhibits or adduce other evidence or give such other testimony through audio visual link without the need for him or her to attend court in the Republic.
- (2) For the purposes of subsection (1), a party to a cause or matter may make an application for consideration by the court.
- (3) Where the court grants or makes an order under this Section, the witness:
 - (a) shall be able to identify or refer to any document, object or other matters of evidence if shown to him or her during the course of the trial; and
 - (b) may be examined in chief or cross examined by any other party or his or her legal representative.
- (4) The witness may tender exhibits or adduce evidence in the same manner and form as he or she would have done had he or she attended court in the Republic.

- (5) The court shall give the same weight to any evidence adduced under this Section in the same manner and form as it would have done had the evidence was adduced had the witness attended court in the Republic.

149B Interpreter

- (1) For the purposes of a trial, a person qualified to be appointed as an interpreter may be appointed in any foreign jurisdiction to perform the duties and functions of an interpreter for a cause or matter to be tried in the Republic.
- (2) An interpreter appointed under subsection (1), shall take oath or affirm, before the trial magistrate, Judge or any judicial officer through audio visual link prior to performing the duties and functions of an interpreter and in the presence of the parties and their legal representatives.
- (3) An interpreter may perform the duties and functions of an interpreter from a foreign jurisdiction through an audio visual link.

149C Remand or serving prisoners

Where it may not be expedient to secure the attendance of a remand or serving prisoner to attend any proceedings, the court may order the prisoner to participate in such proceedings through audio visual link from the correctional centre.

149D Failure of audio visual link

Where an audio visual link fails during a proceeding, the court may adjourn the proceeding or make such other orders as may be appropriate.

149E Rules for the purposes of this Part

For the purposes of this Part, the Chief Justice may make rules under the *Nauru Court of Appeal Act 2018*, *Supreme Court Act 2018* or *District Court Act 2018* as may be necessary, to ensure a fair and expeditious disposal of any criminal cause or matter, where an interpreter or witness is unable to attend court in the Republic for the hearing of that cause or matter.'

5 General amendment

The Parts of the Act shall be renumbered and referred to as follows:

- (a) PART I – PART 1;
- (b) PART II – PART 2;
- (c) PART III – PART 3;
- (d) PART IV – PART 4;
- (e) PART V – PART 5;
- (f) PART VI – PART 6;
- (g) PART VII – PART 7;
- (h) PART VIII – PART 8;
- (i) PART IX – PART 9; and
- (j) PART X – PART 10.