

**REPUBLIC OF NAURU**  
**CRIMINAL PROCEDURE (AMENDMENT) BILL 2016**

**EXPLANATORY MEMORANDUM**

The *Criminal Procedure (Amendment) Bill 2016* is a Bill for the *Criminal Procedure (Amendment) Act 2016*.

**EXPLANATION OF CLAUSES**

**Clause 1** provides that, once enacted, the short title of the Bill will be the *Criminal Procedure (Amendment) Act 2016*.

**Clause 2** sets out when the Bill's provisions will commence.

**Clause 3** is the enabling provisions for the amendment of the *Criminal Procedure Act 1972*.

**Clause 4** amends section 2, the interpretation section, by deleting the definition of the word 'preliminary inquiry' and amending the definition of 'sentence' to incorporate the new Motor Traffic Act 2014.

**Clause 5** makes an amendment to section 21 by inserting the word 'practicable' so to allow more flexibility when it comes to a person in custody being brought before the Court.

**Clause 6** inserts a new section 50A that establishes the office of the Public Legal Defender that will be headed by a Director who is a barrister or solicitor appointed by the President.

**Clause 7** inserts a new section 50B that allows the Director of the office of the Public Legal Defender, on the approval of the Chief Secretary, to hire other employees.

**Clause 8** inserts a new section 50C outlines the functions of the Public Legal Defender.

**Clause 9** amends section 61 which makes reference to the now repealed Motor Traffic Act 1937. This is replaced by the Motor Traffic Act 2014.

**Clause 10** amends section 73 to replace the existing title to Chief Correctional Officer, as this term is what is used.

**Clause 11** inserts a new section 80A which deal with the considerations for bail. These are considerations for the court when a person is first charged with an offence and the court needs to determine whether it is in theirs and the public's interest to grant them bail. The court will consider:

(a) the strength of the prosecution's case;

- (b) the circumstances, nature and seriousness of the charge;
- (c) the likelihood that the person may continue to commit offences if granted bail;
- (d) the protection of the person from the public; and
- (e) the public interest and the protection of the community.

**Clause 12** updates the Criminal Procedure Act by amending the words 'prison' to 'correctional centre' and the word 'Superintendent' to 'Chief Correctional Officer'.

**Clause 13** makes the same amendment in clause 12.

**Clause 14** amends section 87A(3) by replacing the current subsection with a new that gives the Court a discretion when it concerns persons who breach their bail conditions. If after considering documents submitted by the police, the Court may:

- (a) revoke the persons bail and remand the person; or
- (b) release the person on new bail recognisance with conditions.

**Clause 15** 112 by deleting the current section and replacing it with a new section.

**Clause 16** amends section 114 by deleting a reference to preliminary inquiry in the District Court and repealing subsection (b)(ii) of section s114.

**Clause 17** removes the reference to a preliminary inquiry in section 148(1).

**Clause 18** omits the current definitions of 'prescribed period' and 'the prosecutor' and replaces them with new definitions.

**Clause 19** amends section 160 by repealing the current section and substituting it with a section that allows the District Court to transfer proceedings to the Supreme Court if the Court feels that the case is one that should be heard by the Supreme Court.

**Clause 20** inserts a new heading for Part VII. The reason for this change is to ensure consistency especially with the removal of the preliminary inquiry.

**Clause 21** repeals sections 163 through to section 171 inclusive. The reason for this deletion is to remove the requirement and procedure for a preliminary inquiry.

**Clause 22** amends section 179 by omitting the current section and replacing it with a new section to ensure consistency following the removal of the provisions on committal hearings.

**Clause 23** amends section 181(2) by removing a reference to preliminary inquiry in the District Court.

**Clause 24** omits the word 'deposition' from section 199 and replaces it with the word 'statements'. This is an amendment to ensure consistency with the removal of the preliminary inquiry requirements.

**Clause 25** repeals section 200.

**Clause 26** is a transitional and savings provision to allow the transition of the public legal defender's office from the current act to the new provisions in this amendment.