

## REPUBLIC OF NAURU

### CRIMINAL PROCEDURE (AMENDMENT) NO.2 BILL 2018

#### EXPLANATORY MEMORANDUM

The *Criminal Procedure (Amendment) No. 2 Bill 2018* is a Bill for the amendment to the Criminal Procedure Act 1972.

This memorandum provides an explanation of the Bill and is only intended to indicate the general effect.

**Clause 1** provides that once enacted the short title of the Bill will be the *Criminal Procedure (Amendment) No. 2 Act 2018*.

**Clause 2** provides for the commencement of the Act upon certification by the Speaker.

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

**Clause 4** repeals and replaces section 7. This provision increases the jurisdiction of the District Court to pass sentence and impose fines.

The Crimes Act 2016 contains updated and higher criminal penalties for a wide range of offences including intentionally causing harm, recklessly causing harm and causing harm to a police officer. Such cases are more often than not heard in the District Court where the District Court even after a finding of guilty cannot impose a high sentence due to its jurisdictional limits.

The District Court under the current Act may only pass a sentence of imprisonment for a term not exceeding 3 years and may only impose fines in an amount of not more than \$3,000. The current section is amended to allow the District Court to pass a sentence for a term of imprisonment of not exceeding 5 years and a fine of not more than \$50,000.

The District Court may not pass any sentence or make any order under any written law that expressly provides that the District Court has no jurisdiction or that the Supreme Court has original jurisdiction over the criminal cause or matter.

**Clause 5** amends section 9 by deleting and substituting the current subsection (3). This amendment relates to maximum aggregate sentences of imprisonment and fine which the District Court may impose on any person at one trial. The maximum term of imprisonment is now 10 years and fines totalling \$75,000.

**Clause 6** repeals section 118 of the Act. This section relates to costs ordered against an accused person or the prosecution.

**Clause 7** inserts a new section 118A which deals with the jurisdiction of the District Court, Supreme Court and Nauru Court of Appeal to order costs in any criminal cause or matter. This new clause now overrides all other written law. The Court has no jurisdiction to order costs for or against both the accused persons or the Prosecution.

**Clause 8** repeals section 119 of the Act. This section relates to appeals against orders to pay costs.

**Clause 9** makes a consequential amendment to the Crimes Act 2016 by deleting the existing fine of \$3000 and substituting with \$5000. This is to ensure consistency in the limits of the fines the District Court may impose under the Crimes Act 2016 and the Criminal Procedure Act 1972.