

REPUBLIC OF NAURU

CRIMINAL PROCEDURE (AMENDMENT) BILL 2018

EXPLANATORY MEMORANDUM

The *Criminal Procedure (Amendment) 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 known as the *Criminal Procedure (Amendment) Act 2018*.

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

Clause 3 provides that this Bill makes amendment to the Criminal Procedure Act 1972.

Clause 4 amends section 50C by omitting and substituting section 50C (1) (c) and to include in the function of the Office of the Public Legal Defenders to provide representation in the Nauru Court of Appeal upon request to do so. Currently it is only limited to the Supreme Court or District Court. This is also to ensure that legal representation is available in proceedings before any of the Courts where a person is unable to retain the services of a legal representative.

Clause 5 inserts a new Clause 50D which ensures that the Office of the Public Legal Defender must be able to represent a significant number of persons requiring legal assistance or legal representation. However, there may be situations where the Office of the Public Legal Defender is not able to assist or may have a conflict of interest, the Director of the Office of the Public Legal Defender is therefore given the power to engage the services of a legal representative who is duly admitted as a Barrister and Solicitor of the Republic of Nauru.

Clause 6 inserts a new Clause 50E to include rates of legal fees, which the Director of the Office of the Public Legal Defender has to pay a legal representative that he or she may engage to fulfil the objective of the provision which is to provide any legal representation in the interest of justice. The amount is to be fixed by Parliament to ensure the public funds are utilised in accordance with the laws of the Republic. This clause anticipates that the Parliament will appropriate a sum of money in the budget for this purpose.

Sub clause (4) is to ensure there is parity in the payment of legal fees by the Republic for the purposes of payment of any legal fees or disbursements which it may become liable to pay by virtue of any order of a court or any other authority.

Clause 7 provides for a savings clause to ensure that any judgment, decision or order of the court or any decision of the Director of the Office of the Public Legal Defender in respect of any assignment or engagement of a legal representative under a written law that is made prior to the certification of this Amendment is preserved.