

Republic of Nauru – 20<sup>th</sup> Parliament

**Interpretation (Amendment) Bill 2012**

**SECOND READING SPEECH**

Hon Dominic Tabuna MP

21 December 2012

Mr Speaker,

I am pleased to introduce to the House today a Bill to amend the *Interpretation Act 2011*.

The *Interpretation Act* is one of the central Acts on the Statute Book of Nauru. In the making, reading and application of all written laws in Nauru it is always working, providing processes and procedures, clarity and definitions and rules for effectiveness and ease of use. It could be said that it provides the oil in the engine room of the law in Nauru.

This Bill, the *Interpretation (Amendment) Bill 2012*, is intended to improve the *Interpretation Act* and the functioning of the Statute Book in 4 areas: the making of rules and by-laws, references to substituted laws, breaches of statutory duty and the saving of rights of the Republic.

Firstly, in relation to the making of rules and by-laws, the Bill proposes to amend section 18 which provides a mechanism for submission of rules and by-laws to the Minister administering the provision and for that Minister to recommend changes. This amendment provides that the mechanism does not apply to court rules and also extends the existing exemption for rules or by-laws made by the President or a Minister, to rules or by-laws made by Cabinet.

Secondly, in relation to references to substituted or superseded laws, the Bill proposes to repeal section 31 and 39 and shift the substance of these provision to new sections 39 and 39A. These sections will be located in Part 6 because they relate

to references to law, the subject of that Part. Proposed section 39 provides that a reference to a written law is taken to be a reference to that law as in force from time to time or as substituted. New section 39A explains what substitution of a written law means, which includes a law that has been superseded by another.

Thirdly, in relation to breaches of statutory duty, the Bill proposes to insert a new section 49A to clarify that a person may bring an action at common law for a breach of a duty that is imposed by Statute. This provision adds weight to any duty that is imposed by written law on a person in Nauru.

Last of all, in relation to the saving of rights of the Republic, the Bill proposes a new section 49B that imposes a presumption that written laws do not bind the Republic unless expressly provided or necessarily implied. This is a continuation of the law that applied under the previous *Interpretation Act 1971* that was superseded by the 2011 Act. As a result of this presumption the Parliament considers, on a case by case basis, which laws bind the Republic and which will not. This is similar to the law of many other common law jurisdictions, and is the modern, limited expression of the historical principle of Crown immunity. In practice, as members are aware, Parliament usually elects to rebut this presumption by using in most Bills the express words 'this Act binds the Republic'.

Mr Speaker, the explanatory memorandum describes in detail each provision of the Bill.

I commend the Bill to the House.