

**REPUBLIC OF NAURU**  
**REFUGEES CONVENTION (DERIVATIVE STATUS) (AMENDMENT) BILL 2016**

**SECOND READING SPEECH**

**Honourable David Adeang MP**

**22 December 2016**

Mr. Speaker Sir,

I have the pleasure of introducing to the House today a Bill for the amendment of the *Refugees Convention Act 2012*. That Act established the Refugee Status Review Tribunal, and permitted asylum seekers to apply to the Tribunal for merits review of determinations made by the Secretary. The Act also confers on the Supreme Court the right to hear and determine appeals from the Tribunal decisions on a point of law.

Since the commencement of that Act, the Tribunal has accepted a significant number of applications for merits review of determinations made by the Secretary. The Tribunal has completed its review of over 150 determinations, and decisions made by the Tribunal have been handed down to over 150 applicants. To date, 91 appeals have been commenced in the Supreme Court with respect to Tribunal decisions, 6 of which have been determined, with judgment reserved in a further 36 matters.

The Bill I introduce to the House today contains several amendments to the *Refugees Convention Act 2012*. The amendments aim to:

- formalise the legislative basis for an application for derivative status, and the determination of any such application;
- ensure that the removal of an asylum seeker from Nauru, whose application for protection has been determined and who has exhausted all statutory merits review and appeal rights, cannot be frustrated by subsequent asylum claims;
- put beyond doubt the primacy of the common law of Nauru, with respect to the Tribunal's obligation to act according to the principles of natural justice, and further ensure that the Tribunal merits review process functions smoothly and efficiently.

Several amendments are made with retrospective effect. The primary reason for this is because some of those amendments merely give legislative effect to practices adopted, as a matter of policy, to date. The retrospective enactment of the amendments will ensure that there is a legislative basis for those practices, including in the past. The second reason is to ensure that all asylum seekers in Nauru are treated equally with respect to their applications for merits review, and their appeals to the Supreme Court of Nauru. The third reason is to ensure that possible technical challenges or objections do not hinder or cast doubt upon the work performed and decisions made by the Tribunal to date.

Finally, the Bill also contains two substantive provisions. The first substantive provision is clause 22, which supports the retrospective repeal of section 37 of the Act, by validating Tribunal decisions that may have been found to be invalid as a result of a particular interpretation of section 37 of the Act. The second substantive provision is clause 6, which makes clear, for the avoidance of any doubt, that the Tribunal has always been and continues to be bound to act according to the principles of natural justice, and to afford procedural fairness, under the common law of Nauru.

Mr. Speaker, the explanatory memorandum explains this Bill in more detail.

Mr. Speaker, I commend the Bill to the House.