



REPUBLIC OF NAURU

DISTRICT COURT BILL 2018

No. of 2018

A Bill for an Act for the constitution of the District Court, the appointment of magistrates and other officers thereof and for the regulation of their duties and jurisdiction and for related purposes

Certified: []

Table of Contents

PART 1 – PRELIMINARY	4
1 Short Title	4
2 Commencement.....	4
3 Definitions.....	4
PART 2 – THE DISTRICT COURT	5
4 The District Court	5
5 Seal	5
PART 3 – COMPOSITION OF THE DISTRICT COURT	6
6 Composition of the District Court.....	6
7 Qualifications for appointment as magistrate	6
8 Magistrates to take oath or affirmation.....	7
9 Records and returns	7
10 Magistrates to be justices of the peace and Commissioners for Oaths.....	7
PART 4 – OFFICERS OF THE DISTRICT COURT	7
11 Registrar of the District Court	7

12	Deputy Register and other officers of the District Court	8
13	Duties of the Deputy Registrar or other officers.....	8
PART 5 – JURISDICTION		8
14	Jurisdiction of the District Court.....	8
15	Decisions of the District Court	9
16	Charge of proceedings in the District Court.....	9
17	Civil jurisdiction of the District Court	9
18	No jurisdiction of District Court where validity of devise, etc., in question	11
19	Jurisdiction of District Court where title in question.....	11
20	Abandonment of part of claim to give District Court jurisdiction	11
21	Extension of jurisdiction of District Court by agreement	12
22	Division of cause of action not allowed	12
23	General ancillary jurisdiction of District Court.....	12
24	Ancillary powers of magistrates.....	12
25	Absence of magistrate	12
26	Effect of proceeding or order for dissolution or winding-up of partnership.....	13
PART 6 –POWERS OF THE DISTRICT COURT		13
27	Power of District Court to refer to arbitration	13
28	Power of District Court to refer to referee.....	13
29	General Powers of Magistrates	14
30	Power to recuse	14
31	Power to transfer from District Court to Supreme Court.....	14
32	Power to award cost	15
33	Judgment, decision or order of District Court may be removed into Supreme Court	15
PART 7 – MODE OF CONDUCTING PROCEEDINGS OF THE DISTRICT COURT		16
34	Mode of conducting proceedings of the District Court.....	16
35	Language of the District Court.....	16
36	Sittings of the District Court.....	16
PART 8 – WITNESSES		17
37	Summoning witnesses.....	17
38	Compelling attendance of witness	17
39	Prisoners may be brought to give evidence	17
40	Refusal to give evidence	17
41	How allowances to witnesses are to be defrayed in civil cases	18
42	Inspection of site, property or fixed evidence	18
43	Copies of and access to records of evidence	18
44	Recording of evidence	18
PART 9 – ENFORCEMENT OF JUDGMENTS, DECISIONS OR ORDERS OF THE DISTRICT COURT		19
45	Powers of the District Court to enforce their judgments, decisions or orders	19
PART 10 – EXECUTION OF THE PROCESS OF THE DISTRICT COURT		19
46	Commissioner of Police to be responsible for execution of process of the District Court	19
47	Police to obey orders and directions of magistrates	19

48	Execution of process	19
49	Execution of warrants	20
50	Execution of sentence	20
	PART 11 – FEES AND FUNDS IN COURT	20
51	Fees	20
52	Courts Trust Fund and securities deposited in court.....	20
53	Moneys in the Fund and securities deposited to be held in trust by Registrar	20
54	Republic to pay bank charges and be liable for loss of moneys and securities	21
55	Rules relating to the Courts Trust Fund	21
	PART 12 – REPRESENTATION OF PARTIES	21
56	Representation of the Republic and public officers.....	21
57	Representation of parties	21
58	Rules relating to counsel's dress	21
	PART 13 – PRACTICE AND PROCEDURE.....	22
59	Practice and procedure.....	22
	PART 14 – PROTECTION OF MAGISTRATES AND OFFICERS OF THE DISTRICT COURT	22
60	Protection of Magistrates and officers of the District Court.....	22
	PART 15 – AFFIDAVITS	22
61	Swearing of affidavits outside the Republic.....	22
	PART 16– CONTEMPT OF COURT	23
62	Contempt of court.....	23
	PART 17 – MISCELLANEOUS.....	23
63	District Court not to be held on certain days.....	23
64	Vacations	24
65	Adjournment.....	24
	PART 18 – RULES OF THE DISTRICT COURT.....	24
66	Rules of the District Court	24
	PART 19 - SAVINGS AND TRANSITIONAL PROVISIONS.....	25
67	Judicial officers to continue in office	25
68	Other officers of court to continue in office	25
69	Proceedings, etc, continue under relevant Act	25

Enacted by the Parliament of Nauru as follows:

PART 1 – PRELIMINARY

1 Short Title

This Act may be cited as the *District Court Act 2018*.

2 Commencement

This Act commences on 15 May 2018.

3 Definitions

In this Act:

‘barrister and solicitor’ means a person entitled to practice as a barrister and solicitor under the Legal Practitioners Act 1973;

‘cause or matter’ includes any action, suit or other original proceeding in any Court between the person originating the proceeding and one or more other parties as defendant or respondent, and includes any original criminal proceeding;

‘chambers’ means not in open court;

‘Commissioner for Oaths’ means a person who is a Commissioner for Oaths either by virtue of appointment under the provisions of section 8 of this Act or ex officio under the provisions of any other section of this Act;

‘Commissioner of Police’ means the public officer in charge of the Nauru Police Force including a public officer appointed to act as the Commissioner of Police;

‘Deputy Registrar’ means the person appointed under section 10;

‘District Court’ means the District Court formerly established under the Courts Act 1972 and which continues under this Act;

‘Fund’ means the Courts Trust Fund established under the provisions of section 52 of this Act;

‘heard’ includes tried;

‘hearing’ includes trial;

‘judgement, decision or order’ where applicable, includes decree, conviction and sentence;

‘lay magistrate’ means any magistrate other than the Resident Magistrate;

‘legal representative’ means barrister and solicitor or a pleader duly admitted to practice law under the Legal Practitioners Act 1973 or any other written law;

'magistrate' means a person appointed under the provisions of section 5 of this Act to be the Resident Magistrate, a lay magistrate or a person appointed to act as the Resident Magistrate;

'Minister' means the Minister for Justice;

'Registrar' means the Registrar of the Courts;

'Resident Magistrate' means a person appointed under the provisions of section 7 to be, or to act as, the Resident Magistrate;

'rules of the court' means rules of court made under, or continued in force by, any law for the time being in force;

'Supreme Court' means the Supreme Court established under Article 48 of the Constitution.

PART 2 – THE DISTRICT COURT

4 The District Court

- (1) There continues to be a District Court of the Republic under this Act, which is a court of summary jurisdiction.
- (2) The District Court is subordinate to the Supreme Court and consists of:
 - (a) 2 Resident Magistrates; and
 - (b) not less than 3 lay Magistrates.
- (3) The Resident Magistrates and the lay magistrates shall be appointed by the President after consultation with the Chief Justice.
- (4) If either or both Resident Magistrates are unable by reason of illness, absence from the Republic or other cause to perform all or any duties as a Resident Magistrate, the Registrar of Courts shall act as the Resident Magistrate.
- (5) The appointment under subsection (4) may either be for a specified period or for the hearing and determination of a specified cause or matter.

5 Seal

- (1) The Court shall have a seal bearing the emblem of the Republic with the inscription '*District Court of Nauru*'.
- (2) The Registrar shall have custody and control of the seal of the Court.
- (3) The seal shall be used for sealing judgments, decisions, orders or certificates and for any other purposes where the District Court may require a seal.