



REPUBLIC OF NAURU

CHILD PROTECTION AND WELFARE BILL 2016

No. 33 of 2016

A Bill for an Act to provide for the welfare, care and protection of all children in Nauru and for the enforcement of the rights of children as provided for by international conventions, norms and standards, while taking account of Nauruan culture, traditions and values, and for related purposes.

Certified:

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Enacted by the Parliament of Nauru as follows:

PART 1 - PRELIMINARY

1 Short title

This Act may be cited as the *Child Protection and Welfare Act 2016*.

2 Commencement

This Act commences on the date it is certified by the Speaker.

3 Definitions

(1) In this Act, unless the context requires otherwise:

‘Authorised Officer’ means any person lawfully appointed or acting as an authorised officer in accordance with section 9;

‘Child’ or **‘Children’** means every person being below the age of 18 years;

‘Convention on the Rights of the Child’ and **‘the Convention’** mean the United Nations Convention on the Rights of the Child adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 and which entered into force on 2 September 1990;

‘Director’ means the Director for Child Protection, who is the administrative head of the Child Protection Division of the Ministry, and includes:

(a) any person lawfully acting in that position;

(b) any person lawfully delegated with authority to exercise the powers of the Director;

‘Long Term Guardian’ means any person lawfully acting as the guardian of a child in accordance with law, and includes any relative of a child who has assumed the role of the child’s parent in the absence of the child’s natural parents;

‘Magistrate’ means a Magistrate appointed to the District Court;

‘Minister’ means the Minister for Home Affairs;

‘Ministry’ means the Ministry of Home Affairs;

‘Registry’ means the Registry of the District Court of Nauru;

‘Secretary’ means the Secretary of the Ministry, and includes:

- (a) any person lawfully acting in that position;
- (b) any person lawfully delegated with authority to exercise the powers of the Secretary;

‘service providers’ mean any private company or organisation providing service and care to children in Nauru;

- (2) The reference in subsection (1) to the Ministry of Home Affairs or to the Child Protection Division includes any Ministry or Division which is later vested with authority over child protection and welfare in the place of the Ministry and the Division, by whatever names they are known.
- (3) Reference may be had to the definitions and other provisions of the Convention on the Rights of the Child to determine the meaning of any word or phrase used in this Act, and to assist in determining the purpose or effect of any process or requirement applied under this Act.
- (4) When required to act in the best interests of a child for the purposes of this Act, the action must be entirely consistent with the principles stated in Article 3 of the Convention on the Rights of the Child.

4 Act binds Government

This Act binds the Government.

5 Guiding Principles

- (1) The core principle for administering this Act is that the safety, wellbeing and best interests of a child are paramount.
- (2) This Act must be applied, implemented and enforced in accordance with Nauruan tradition, culture and community values, except where such matters conflict with the rights of children as provided for in this Act.
- (3) When interpreting or applying any provision of this Act, and when exercising any power, duty or function related to the protection of a child or the promotion of the welfare of children, all persons must act in accordance with the following principles:
 - (a) a child has a right to be protected from harm or risk of harm;
 - (b) a child’s family has the primary responsibility for the child’s upbringing, protection and development;
 - (c) the preferred way of ensuring a child’s safety and wellbeing is through supporting the child’s family;