



REPUBLIC OF NAURU
Crimes Bill 2016

Bill No. of 2016

TABLE OF PROVISIONS

PART 1 – PRELIMINARY	1
1 Short title	1
2 Commencement	1
3 Application	1
4 Codification	1
5 Standard geographical jurisdiction	2
6 Extraterritorial jurisdiction—ship or aircraft outside Nauru	2
7 Extraterritorial jurisdiction—transnational crime	4
PART 2 – INTERPRETATION	6
8 Definitions	6
9 Definition of <i>consent</i>	13
PART 3 – PRINCIPLES OF CRIMINAL RESPONSIBILITY	14
DIVISION 3.1 – PURPOSE AND APPLICATION	14
10 Purpose of this Part	14
11 Application of this Part	14
DIVISION 3.2 – ELEMENTS OF AN OFFENCE	15
12 Elements of an offence	15
13 Establishing criminal responsibility for offences	15
14 Physical elements	15
15 Omissions	15
16 Fault elements	16
17 Intention	16
18 Knowledge	16
19 Recklessness	16
20 Reckless indifference to consent	17
21 Negligence	17
22 Offences that do not provide fault elements	17

23	Strict liability	18
24	Absolute liability	18
<i>DIVISION 3.3 – PROOF OF CRIMINAL RESPONSIBILITY</i>		19
25	Burden of proof on prosecution.....	19
26	Evidential burden of proof on defendant	19
27	Legal burden of proof on defendant	20
28	Use of averments.....	20
<i>DIVISION 3.4 – EXTENSIONS OF CRIMINAL RESPONSIBILITY</i>		21
29	Aiding, abetting, counselling and procuring	21
30	Incitement	21
31	Conspiracy.....	22
32	Joint commission	23
33	Commission by proxy.....	24
34	Attempts.....	24
35	Accessory after the fact	25
36	Offences under this Division	25
<i>DIVISION 3.5 – CORPORATE CRIMINAL RESPONSIBILITY</i>		25
37	Act applies to bodies corporate.....	25
38	Application of physical elements to bodies corporate	26
39	Application of fault elements to bodies corporate.....	26
<i>DIVISION 3.6 – CIRCUMSTANCES WHERE THERE IS NO CRIMINAL RESPONSIBILITY</i>		27
40	Children under 10 years old	27
41	Children aged 10 to 14 years	28
42	Mental impairment	28
43	Intoxication.....	29
44	Mistake or ignorance of fact—fault elements other than negligence.....	29
45	Mistake or ignorance of fact—strict liability	30
46	Mistake of law	30
47	Claim of right.....	30
48	Intervening events.....	31
49	Duress	31
50	Sudden or extraordinary emergency.....	31
51	Self-defence.....	32
52	Lawful authority	32
53	Surgical operations and medical treatment.....	33
PART 4 – OFFENCES CAUSING DEATH		34
<i>DIVISION 4.1 – GENERAL</i>		34
54	Abolition of particular rules about murder	34
<i>DIVISION 4.2 – CAUSING DEATH</i>		34
55	Murder	34
56	Manslaughter	34
57	Causing death by criminal negligence	35
58	Causing death—criminal responsibility despite certain other factors	35
59	Defence of provocation	36
<i>DIVISION 4.3 - SUICIDE</i>		37
60	Aiding or abetting suicide	37
61	Encouraging suicide.....	37

62	Defence of using reasonable force to prevent suicide	37
DIVISION 4.4 – CAUSING DEATH OF CHILDREN		38
63	Meaning of ‘ <i>lawful medical procedure</i> ’	38
64	Meaning of ‘ <i>miscarriage</i> ’	39
65	Infanticide.....	39
66	Killing unborn child.....	40
67	Concealing body of dead child	41
68	Carrying out abortion	42
69	Supplying items for miscarriage	42
DIVISION 4.5 – OTHER OFFENCES.....		43
70	Misconduct in relation to dead human bodies	43
PART 5 – OFFENCES CAUSING HARM AND RELATED OFFENCES		44
DIVISION 5.1 – ASSAULT.....		44
71	Intentionally causing serious harm.....	44
72	Recklessly causing serious harm.....	44
73	Negligently causing serious harm	44
74	Intentionally causing harm	45
75	Recklessly causing harm	45
76	Causing harm to public official	45
77	Causing harm to police officer.....	46
78	Common assault.....	46
79	Aggravating circumstances for assault offences	47
DIVISION 5.2 – ENDANGERING LIFE OR SAFETY		47
80	Endangering life	47
81	Risking serious harm	48
82	Risking serious harm intending to commit offence or avoid apprehension	48
83	Risking harm	48
84	Risking harm with intent to commit offence or avoid apprehension	49
85	Obstructing medical personnel.....	49
PART 6 – OTHER OFFENCES AGAINST THE PERSON		50
86	Stalking	50
87	Kidnapping.....	51
88	Deprivation of liberty	52
89	Removing child unlawfully.....	52
90	Defences for deprivation of liberty offences	53
91	Threatening to kill.....	53
92	Threatening to cause serious harm.....	54
93	Threatening to cause serious harm to public official	54
94	Neglecting child or vulnerable adult	55
95	Failure to protect child or vulnerable adult	56
96	Statutory duty—carer to provide necessities of life to child or vulnerable adult.....	57
97	Statutory duty—person providing medical treatment	58
98	Statutory duty—person in charge of dangerous object etc	58
99	Statutory duty—person to avoid omissions endangering life	58
100	Effect of breach of statutory duty	59

PART 7 – SEXUAL OFFENCES	60
DIVISION 7.1 – GENERAL.....	60
101 Abolition of particular rules about corroboration.....	60
102 Aggravating circumstances for sexual offences	60
103 Defence for offences under Part 7	61
DIVISION 7.2 – UNLAWFUL SEXUAL ACTS.....	61
104 Application to marriage and de facto partners.....	61
105 Rape	61
106 Indecent acts.....	62
107 Engaging person to provide commercial sexual services	63
108 Holding interest in premises used for commercial sexual services	64
109 Compelling prostitution and giving of earnings from prostitution	64
110 Observing private acts	65
111 Taking images of private acts without consent.....	66
112 Taking images of private parts without consent.....	66
113 Installing device to facilitate observation or image-taking	67
114 Incest	67
115 Bestiality.....	68
DIVISION 7.3 – SEXUAL ACTS WITH CHILDREN.....	69
116 Rape of child under 16 years old	69
117 Indecent acts in relation to child under 16 years old	70
118 Causing etc child under 16 years old to engage in sexual activity	71
119 Engaging child to provide commercial sexual services	72
120 Obtaining benefits from commercial sexual services with child.....	72
121 Observing private acts of child	73
122 Taking images of private acts of child	74
123 Taking images of private parts of child.....	74
124 Installing device to facilitate observation or image-taking of child.....	75
125 Promoting or organising travel for unlawful sexual activity with child under 16 years old	75
126 Consent not a defence.....	76
127 Defences for certain offences under Division 7.3.....	76
DIVISION 7.4 – EVIDENCE ABOUT COMPLAINANT	77
128 Application—Division 7.4	77
129 Meaning of ‘sexual history evidence’	77
130 No questions or evidence about complainant’s sexual reputation.....	77
131 Leave required for questions or evidence about complainant’s sexual activities	78
132 Notice of application for leave	78
133 Content of application for leave.....	78
134 Hearing application for leave.....	78
135 Deciding application for leave	79
136 Court must give reasons if leave granted.....	79
137 Admissibility of sexual history evidence	79
138 Limitation on sexual history evidence	79
PART 8 – OFFENSIVE MATERIAL AND OTHER OFFENCES	80
139 Dealing with pornography	80
140 Dealing with abuse material	80

141	Involving child to produce or perform in offensive material	81
142	Dealing with offensive material involving child	82
143	Exposing child to offensive material.....	83
144	Forfeiture of offensive material to Government.....	83
145	Defences for offensive material offences	84
146	Distributing image of private act.....	85
147	Threatening to distribute image of private act	86
148	Serious animal cruelty.....	86
149	Bigamy	87
PART 9 – THEFT, FRAUD, BRIBERY AND RELATED OFFENCES		88
DIVISION 9.1 – INTERPRETATION.....		88
150	Meaning of ' <i>dishonest</i> ' and ' <i>dishonestly</i> '	88
151	Meaning of ' <i>gain</i> ' and ' <i>loss</i> ' etc	88
152	When does property ' <i>belong</i> ' to a person	88
153	Permanently deprive another person of property.....	89
DIVISION 9.2 – THEFT		89
154	Theft.....	89
155	Theft in fiduciary relationship	89
156	Looting	90
157	Making off without payment	91
158	Robbery	91
159	Aggravated robbery	92
160	Burglary.....	92
161	Aggravated burglary.....	93
162	Going equipped for theft etc.....	93
163	Going equipped with offensive weapon for theft etc.....	94
164	Being found in certain places without lawful authority or excuse	94
165	Receiving	95
DIVISION 9.3 – FRAUD.....		96
166	Meaning of ' <i>deception</i> '	96
167	Obtaining property by deception	96
168	Obtaining financial advantage or causing financial disadvantage by deception	97
169	False statement by promoter	97
170	Dishonestly damaging property.....	98
171	Removing boundary marks	98
DIVISION 9.4 – BRIBERY AND CORRUPTION.....		98
172	Interpretation—Division 9.4.....	98
173	Bribery	99
174	Giving or receiving other corrupting benefits.....	100
175	Bribery of foreign public official	100
176	Bribery outside Nauru of foreign public official	102
177	Exception for acts lawful in country of foreign public official	102
178	Abuse of public office	102
179	Embezzlement	103
DIVISION 9.5 – BLACKMAIL		104
180	Interpretation—Division 9.5.....	104
181	Blackmail.....	105