

NAURUAN COMMUNITY ORDINANCE AMENDMENT BILL 1997

OBJECTS AND REASONS

This Bill is intended to clarify the status of members of the Nauruan Community under the Ordinance and citizenship generally. Article 71 of the Constitution provides that persons who were members of the Nauruan Community, that is Nauruans and persons from other Pacific Islands who were admitted to the Nauruan Community, as at Independence, January 31 1968, became citizens of Nauru. Although it was intended that there would thereafter be only Nauruan citizens, the Nauru Local Government Council and in later years, the Cabinet, have been admitting people to membership of the Nauruan Community under the Ordinance. The result of this has been, in recent times, questions about the constitutional validity of this action, questions which it is considered ought to be resolved once and for all.

One of the major objects, therefore of this Bill is to validate all actions of the Nauru Local Government Council and Cabinet in admitting persons to the Nauruan Community, and to make it clear that such admission is admission to full citizenship - for the past and for the future.

Another aspect of the Bill is to enable the government, in addition to those who are entitled to citizenship as of right under the Constitution, to admit as citizens persons who are of good character and who are prepared to invest in projects to benefit the Nauruan people. This purpose is one to be pursued with caution and great care and for this purpose a Nauru Immigration Investment Board is established by the Bill to investigate applicants and report to Cabinet.

CLAUSES

Clause 2 brings the Bill when passed, into effect on a date to be determined and gazetted.

Clause 3 makes some consequential changes to abolish old expressions no longer applicable or appropriate and to insert new definitions. The purpose of the definition of "citizen" is to include persons who are citizens under the Constitution, to allow the continued use of the expression "Member of the Nauruan Community" while making it clear that such persons are citizens on admission, and to allow for the new class of citizen who meet the investment criteria. The definition of "Court" brings the legislation in line with the existing situation in Nauru.

Clause 4 makes some consequential amendments to take account of the present situation in Nauru by amending references to the Council, replacing the "Administering Authority" by the Republic of Nauru" and

by making it clear that in the legislation a "Nauruan" means a "Nauruan Citizen"

Clause 5 clarifies the position of Members of the Nauruan Community by firstly including the provision of Article 71 of the Constitution and secondly by making it clear that everyone after Independence who has been or will be admitted as a Member of the Nauruan Community is a citizen.

Clause 6 introduces several new sub-sections dealing with applicants for Investment Citizenship.

sub-section 6 provides for persons, whether or not they fall within the existing class of persons who may become citizens, to apply to become investment citizens if they are able to satisfy several tests which are that they be over 18 years, of good character and health, have actually come to Nauru to be examined as prescribed, acknowledge and respect Nauruan custom, have agreed to make or have made an approved investment in Nauru and have been subject to personal examination by the Board established under the following sub-section

sub-section 7 established the Nauru Citizen Investment Board which is to consist of 5 persons, appointed by Cabinet, a chairman to be appointed by the President and a quorum of 3. The Board's powers and obligations are to review applications, examine applicants, make recommendations to Cabinet concerning applicants.

Sub-section 8 makes it clear that if the Board recommends that a person is eligible for a grant of citizenship then the Cabinet may grant it if it so wishes and if it does then the person is entitled to the rights of citizenship including the issuance of a passport. The sub-section also make provision for the infant children and spouses of citizens who may become entitled to citizenship if they meet prescribed criteria. Finally the section also applies to these citizens similar provisions as apply to persons granted membership of the Nauruan Community whose rights and status may be withdrawn if they fail to respect Nauruan custom.

Sub-section 9 clarifies the right of Cabinet to make regulations concerning the appropriate remuneration of the Board but is limited to attendance allowance and reimbursement of expenses.

Clause 7 clarifies the rights of women married to Nauruan men to apply for citizenship as provided in the Constitution.