

REPUBLIC OF NAURU

CONFLICT OF LAWS ACT 1974

(No. 14 of 1974)

ARRANGEMENT OF SECTIONS

Section

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AN ACT

To prescribe the proper law to be applied to decide questions where there is a conflict of laws.

(Certified: 5th December, 1974)

Enacted by the Parliament of Nauru as follows:

SHORT TITLE

1. This Act may be cited as the Conflict of Laws Act 1974.

LAW TO BE APPLIED WHERE THERE IS A CONFLICT OF LAWS

2. Subject to sections 3, 4 and 5 and to the express provisions of any other Act, whether enacted before or after the commencement of this Act where any question arises in Nauru as to any matter which is not governed by the internal laws of Nauru, or which is not governed exclusively by those laws, the proper law to which effect is to be given for the purpose of deciding that question is to be ascertained in accordance with the rules of private international law in force in England on the thirty-first day of January, 1968, for determining the proper law to which effect should be given in respect of such matters.

HABITUAL RESIDENCE TO TAKE THE PLACE OF DOMICILE

3. Where the proper law to which effect would have to be given under the provisions of section 2 for the purpose of deciding any question would be the law of the country of any person's domicile, the proper law to which effect is to be given for the purpose of deciding that question is the law of the country in which that person habitually resides.

PROPER LAW TO BE INTERNAL LAW OF COUNTRY

4. Where in accordance with section 2 or section 3 the law of any country has been ascertained to be the proper law to which effect is to be given for the purpose of deciding any

question. the law to which effect is to be given is the internal law of that country, and no regard is to be had or effect given to, the rules of private international law which would be applied by the courts of that country.

EFFECT NOT TO BE GIVEN TO FOREIGN LAW IN CERTAIN CASES

5. (1) Where in respect of any matter the law of any country ascertained in accordance with the provisions of section 2 or section 3 as the proper law to which effect should be given to decide any question relating to that matter is a penal or revenue law or conflicts, wholly or in part, with the overriding principles of the laws of Nauru, effect shall not be given to that foreign law, or to the part of that foreign law which is a penal or revenue law or conflicts with those overriding principles, as the case may be; and effect shall be given to the internal laws of Nauru in place of that foreign law, or of that part of that foreign law.

(2) For the purposes of this section, a law, or a part of a law, shall be deemed to conflict with the overriding principles of the laws of Nauru where it, or the status of any person which would result from effect being given to it, offends the concept of human rights and freedoms set out in Part II of the Constitution or where, if effect were given to it-

(a) the fundamental concepts of justice of Nauru would be disregarded;

(b) the concepts of morality of Nauru would be infringed; or

(c) the interests of Nauru or its good relations with other countries would be prejudiced.

APPLICATION OF THIS ACT

6. This Act shall apply to all questions which require to be decided after its commencement but for the purpose of deciding such questions shall be deemed to have come into force on the twenty-first day of February, 1972:

Provided that nothing in this Act shall affect the validity of any judgment or order of any Court in Nauru given or made before the commencement of this Act.