

**No. 19617**

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**AUSTRALIA  
and  
NAURU**

**Agreement relating to appeals to the High Court of  
Australia from the Supreme Court of Nauru. Signed at  
Nauru on 6 September 1976**

*Authentic text: English.*

*Registered by Australia on 11 March 1981.*

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**AUSTRALIE  
et  
NAURU**

**Accord relatif aux appels devant la Haute Cour australienne  
des décisions de la Cour Suprême de Nauru. Signé à  
Nauru le 6 septembre 1976**

*Texte authentique : anglais.*

*Enregistré par l'Australie le 11 mars 1981.*

## AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE REPUBLIC OF NAURU RELATING TO APPEALS TO THE HIGH COURT OF AUSTRALIA FROM THE SUPREME COURT OF NAURU

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The Government of Australia and the Government of the Republic of Nauru,

Recalling that, immediately before Nauru became independent, the High Court of Australia was empowered, after leave of the High Court had first been obtained, to hear and determine appeals from all judgments, decrees, orders and sentences of the Court of Appeal of the Island of Nauru, other than judgments, decrees or orders given or made by consent,

Taking into account the desire of the Government of the Republic of Nauru that suitable provision now be made for appeals to the High Court of Australia from certain judgments, decrees, orders and sentences of the Supreme Court of Nauru, and

Conscious of the close and friendly relations between the two countries,  
Have agreed as follows:

*Article 1.* Subject to article 2 of this Agreement, appeals are to lie to the High Court of Australia from the Supreme Court of Nauru in the following cases:

- A. In respect of the exercise by the Supreme Court of Nauru of its original jurisdiction:
  - (a) In criminal cases: as of right, by a convicted person, against conviction or sentence;
  - (b) In civil cases:
    - (i) As of right, against any final judgment, decree or order; and
    - (ii) With the leave of the trial judge or the High Court of Australia, against any other judgment, decree or order.
- B. In respect of the exercise by the Supreme Court of Nauru of its appellate jurisdiction: in both criminal and civil cases, with the leave of the High Court.

*Article 2.* An appeal is not to lie to the High Court of Australia from the Supreme Court of Nauru:

- (a) Where the appeal involves the interpretation or effect of the Constitution of Nauru;
- (b) In respect of a determination of the Supreme Court of Nauru of a question concerning the right of a person to be, or to remain, a member of the Parliament of Nauru;
- (c) In respect of a judgment, decree or order given or made by consent;
- (d) In respect of appeals from the Nauru Lands Committee or any successor to that Committee that performs the functions presently performed by the Committee; or

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<sup>1</sup> Came into force on 21 March 1977, the date on which the two Governments notified each other by an exchange of notes that their constitutional and other requirements had been complied with, in accordance with article 5.

(e) In a matter of a kind in respect of which a law in force in Nauru at the relevant time provides that an appeal is not to lie to the High Court.

*Article 3.* 1. Subject to paragraph 2 of this article and to article 4 of this Agreement, procedural matters relating to appeals from the Supreme Court of Nauru to the High Court of Australia are to be governed by Rules of the High Court.

2. Applications for the leave of the trial judge to appeal to the High Court of Australia in civil matters are to be made in accordance with the law of Nauru.

*Article 4.* 1. Pending the determination of an appeal from the Supreme Court of Nauru to the High Court of Australia, the judgment, decree, order or sentence to which the appeal relates is to be stayed, unless the Supreme Court of Nauru otherwise orders.

2. Orders of the High Court of Australia on appeals from the Supreme Court of Nauru (including interlocutory orders of the High Court) are to be made binding and effective in Nauru.

*Article 5.* This Agreement shall come into force on the date on which the two Governments exchange Notes notifying each other that their respective constitutional and other requirements necessary to give effect to this Agreement have been complied with.

*Article 6.* 1. Subject to paragraph 2 of this article, this Agreement shall continue in force until the expiration of the ninetieth day after the day on which either Government has given to the other Government notice in writing of its desire to terminate this Agreement.

2. Termination of this Agreement is not to affect:

- (a) The hearing and determination of an appeal from the Supreme Court of Nauru instituted in the High Court before the date of the termination; or
- (b) The institution, hearing and determination of an appeal from the Supreme Court of Nauru in pursuance of leave of the trial judge or of the High Court of Australia given before the date of the termination.

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments, have signed the present Agreement.

DONE at Nauru this sixth day of September one thousand nine hundred and seventy-six in two originals in the English language.

[Signed — Signé]<sup>1</sup>

For the Government  
of Australia

[Signed — Signé]<sup>2</sup>

For the Government  
of the Republic of Nauru

<sup>1</sup> Signed by A. L. Fogg — Signé par A. L. Fogg.

<sup>2</sup> Signed by A. Bernicks — Signé par A. Bernicks.