



## ANALYSIS

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1957, No. 103

**An Act to amend the Cook Islands Act 1915**

[25 October 1957]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Cook Islands Amendment Act 1957, and shall be read together with and deemed part of the Cook Islands Act 1915 (hereinafter referred to as the principal Act).

(2) Parts I, II, and III and sections ninety-five and ninety-six of this Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Proclamation, and different dates may be so appointed for the purpose of different sections and Parts of this Act.

**PART I****THE GOVERNMENT OF THE COOK ISLANDS OTHER THAN NIUE**

**2. Interpretation**—In this Part of this Act, unless the context otherwise requires,—

“The Cook Islands” means all the islands and territories situate within the boundary lines specified in the First Schedule to the principal Act; but does not include the Island of Niue:

“Cook Islands Public Service” has the meaning assigned thereto by section seventy-six of this Act:

“Defence” means the defence of the Cook Islands and the defence of New Zealand:

“Executive Committee” means the Executive Committee of the Cook Islands established under this Part of this Act:

“External affairs” includes relations with other countries, and with international organisations, and the representation of other countries in the Cook Islands:

“Legislative Assembly” means the Legislative Assembly of the Cook Islands established under this Part of this Act:

“Ordinance” means an Ordinance made by the Legislative Assembly under the authority of this Part of this Act:

“Resident Commissioner” means the Resident Commissioner of the Cook Islands appointed under this Part of this Act.

Cf. 1915, No. 40; s. 2

*The Executive Government of the Cook Islands*

**3. Executive government vested in the Crown**—The executive government of the Cook Islands is hereby declared to be vested in Her Majesty the Queen in right of the Government of New Zealand.

**4. Resident Commissioner of the Cook Islands**—(1) There shall be a Resident Commissioner of the Cook Islands, who shall be appointed by the Governor-General, and shall in the exercise of his powers and the discharge of his functions be subject to the control of the Minister, exercised through instructions or otherwise.

(2) The Resident Commissioner shall be charged with the executive government of the Cook Islands.

(3) The Resident Commissioner shall have all such powers as may be reasonably necessary for the efficient performance of his functions, and such other powers as may from time to time be conferred on him by the principal Act and its amendments (including this Act) or any regulations thereunder or by any Ordinance or by any other enactment or law in force in the Cook Islands.

(4) The Resident Commissioner shall be stationed at Rarotonga.

(5) The person holding office at the commencement of this Part of this Act as the Resident Commissioner of Rarotonga shall, without further appointment, be deemed to have been appointed the Resident Commissioner of the Cook Islands.

Cf. 1915, No. 40, s. 9; 1931, No. 5, s. 19; 1946, No. 16, s. 32

**5. Deputy Resident Commissioner of the Cook Islands**—(1) There may be appointed under the provisions of Part III of this Act a Deputy Resident Commissioner of the Cook Islands.

(2) While the office of Resident Commissioner is vacant, the Deputy shall, without further authority or appointment, assume and exercise all the powers and perform all the functions of the Resident Commissioner, and all the provisions of

the principal Act and its amendments (including this Act) and of any regulations thereunder and of any Ordinance and of any other enactment or law in force in the Cook Islands with respect to the Resident Commissioner shall extend and apply to the Deputy accordingly.

(3) Without limiting the generality of the provisions of subsection two of this section, the office of Resident Commissioner shall be deemed to be vacant for the purposes of that subsection, if at any time a Resident Commissioner is certified by a Medical Officer, who is an employee of the Cook Islands Public Service, to be incapacitated by illness from executing a warrant of authority in accordance with the provisions of section six of this Act.

(4) The authority of the Deputy to act as aforesaid shall continue until a new Resident Commissioner has been appointed and has assumed the duties of his office in the Cook Islands, or until a certificate in writing to the effect that any incapacity as aforesaid has ceased is made by a Medical Officer, who is an employee of the Cook Islands Public Service, and delivered to the Deputy Resident Commissioner.

(5) The person holding office at the commencement of this Part of this Act as the Deputy Resident Commissioner of Rarotonga shall, without further appointment, be deemed to have been appointed the Deputy Resident Commissioner of the Cook Islands.

Cf. 1915, No. 40, s. 11; 1931, No. 5, s. 19; 1946, No. 16, s. 32

**6. Sickness or absence of Resident Commissioner—**(1) If at any time the Resident Commissioner is incapable by reason of sickness or otherwise of performing the office of Resident Commissioner, or is or proposes to be absent from the Cook Islands, or is or proposes to be absent from Rarotonga, he may, by instrument in writing, authorise the Deputy Resident Commissioner to act on his behalf during the period of that incapacity or absence.

(2) Any such instrument may limit, in such manner as the Resident Commissioner thinks fit, the authority of the Deputy with respect to the matters to which that authority extends.

(3) Subject to any limitations so expressed in the instrument, the Deputy so authorised may exercise all the powers and perform all the functions of the Resident Commissioner, and all the provisions of the principal Act and its amendments

(including this Act) and of any regulations thereunder and of any Ordinance and of any other enactment or law in force in the Cook Islands with respect to the Resident Commissioner shall extend and apply to the Deputy accordingly.

(4) Any such instrument may be at any time revoked by the Resident Commissioner.

(5) No such instrument, and no act done in pursuance thereof by the Deputy, shall be questioned or invalidated on the ground that the occasion for the instrument or for the exercise of the powers or the performance of the functions of the Deputy had not arisen or had ceased, and no act done by the Resident Commissioner shall be questioned or invalidated on the ground that any such instrument was still in force.

Cf. 1915, No. 40, s. 11

**7. Resident Agents**—(1) There may be appointed under the provisions of Part III of this Act for any island included in the Cook Islands a Resident Agent for that island, who shall be stationed in that island, and, subject to the control of the Resident Commissioner, shall be charged with the administration of that island, save so far as other provision is made in that behalf by the principal Act and its amendments (including this Act) or by any regulations or by any Ordinance or by any other enactment.

(2) The same person may be appointed to be the resident agent for more than one island included in the Cook Islands, and in that case he shall be stationed on such one of those islands as the Resident Commissioner directs.

Cf. 1915, No. 40, s. 12

**8. Executive Committee**—(1) There shall be an Executive Committee for the Cook Islands, which, subject to the provisions of section eleven of this Act, shall confer with and advise the Resident Commissioner in his administration of the executive government of the Cook Islands:

Provided that the Resident Commissioner shall not be bound to accept the advice of the Executive Committee on any matter.

(2) The Executive Committee shall consist of—

(a) The Resident Commissioner:

(b) Not more than eight other members, being elected members of the Legislative Assembly or employees of the Cook Islands Public Service, as the Resident Commissioner appoints from time to time:

Provided that the Resident Commissioner may appoint to be a member of the Committee under this paragraph one person nominated by the elected members of the Legislative Assembly, whether or not a member of the Assembly or an employee of the Cook Islands Public Service, nominated in accordance with such procedure as they adopt for the purpose.

(3) Members of the Executive Committee shall hold office during the pleasure of the Resident Commissioner.

(4) Any vacancy in the office of a member of the Executive Committee shall be filled in the manner in which the appointment to the vacant office was originally made.

(5) Elected members of the Legislative Assembly who are appointed members of the Executive Committee and any member of the Committee nominated under the proviso to paragraph (b) of subsection two of this section may receive from the Cook Islands Assembly Account such remuneration and allowances as may from time to time be prescribed by Ordinance.

**9. Procedure of Executive Committee—**(1) The Resident Commissioner shall, as far as practicable, attend and preside at all meetings of the Executive Committee.

(2) In the absence of the Resident Commissioner from any meeting, such other member of the Executive Committee as the Resident Commissioner appoints shall preside.

(3) A member of the Executive Committee shall not vote or take part in the discussion of any matter before the Committee in which he has, directly or indirectly, any pecuniary interest apart from any interest in common with the public.

(4) Subject to the provisions of this section and of sections ten and eleven of this Act, the procedure of the Executive Committee shall be determined from time to time by the Resident Commissioner.

**10. Meetings of Executive Committee—**(1) The Executive Committee shall not be summoned except by the authority of the Resident Commissioner, and shall be so summoned on the written request of at least half the members for the time being of the Executive Committee (not including the Resident Commissioner).

(2) No business except that of adjournment shall be transacted in the Executive Committee if objection is taken by any members present that there are fewer than half the members

for the time being of the Executive Committee present (not including the Resident Commissioner).

**11. Submission of matters to Executive Committee—**

(1) The Resident Commissioner only shall be entitled to submit matters to the Executive Committee, but, if the Resident Commissioner declines to submit any matter to the Committee when requested in writing by any member so to do, that member may require at a meeting of the Committee that his written request, together with the answer of the Resident Commissioner thereto, be recorded in the minutes, and the request and answer shall be recorded accordingly.

(2) A member of the Executive Committee may require that his views in respect of any matter duly submitted to the Committee shall be adequately recorded in the minutes, and those views shall be recorded accordingly.

**12. Clerk of the Executive Committee—**(1) There shall be appointed under the provisions of Part III of this Act a Clerk of the Executive Committee of the Cook Islands, who shall be responsible for arranging the business for, and keeping the minutes of, meetings of the Executive Committee and for performing with respect to the Committee such secretarial and other functions as may be required.

(2) A copy of the minutes relating to each meeting shall be transmitted by the Resident Commissioner to the Minister as soon as practicable after the meeting is held.

**13. Secretary to the Government—**There shall be appointed under the provisions of Part III of this Act a Secretary to the Government of the Cook Islands, who shall, under the control of the Resident Commissioner, be the principal administrative officer of the Government of the Cook Islands.

**14. Seal of the Cook Islands—**(1) There shall be a Public Seal of the Cook Islands (in the principal Act and its amendments, including this Act, referred to as the Seal of the Cook Islands), to be in such form or forms as the Minister from time to time approves.

(2) The Seal shall be in the custody respectively of the Minister and of the Resident Commissioner.

(3) The Seal may be used by any person in whose custody it so is, for the authentication of any public document in relation to the government of the Cook Islands or for the execution of any document required by law to be executed under the Seal of the Cook Islands.



(4) Judicial notice shall be taken of the Seal in all Courts in the Cook Islands and in New Zealand.

Cf. 1915, No. 40, s. 37

*The Public Revenues of the Cook Islands*

**15. Cook Islands Assembly Account and Cook Islands Supplementary Account**—(1) The public revenues of the Cook Islands shall be kept in two accounts to be called respectively the Cook Islands Assembly Account and the Cook Islands Supplementary Account.

(2) The Cook Islands Assembly Account shall be credited with—

- (a) Revenues of Customs collected in or derived from the Cook Islands:
- (b) Court and other fees received in the Cook Islands:
- (c) Revenues derived from the Post and Telegraph Service in the Cook Islands:
- (d) Revenues derived in the Cook Islands under any Act or regulations or under any Ordinance of the Legislative Assembly:

Provided that, where any Ordinance provides for the payment of money to any Island Council or other body or person, that money shall be paid in accordance with the provisions of the Ordinance:

- (e) All other revenues derived in respect of the Cook Islands by Her Majesty the Queen in right of the Government of New Zealand:
- (f) Money appropriated by Parliament from the Public Account of New Zealand by way of subsidy or grant to the Cook Islands Assembly Account and paid into the last-mentioned account by the Minister of Finance:
- (g) Money advanced to the Cook Islands Assembly Account by way of loan under subsection four of this section or under section sixteen of this Act:
- (h) Money transferred to the Cook Islands Assembly Account from the Cook Islands Supplementary Account under the authority of subsection five of this section.

(3) The Cook Islands Supplementary Account shall be credited with money appropriated by Parliament from the Public Account of New Zealand by way of subsidy or grant to the public revenues of the Cook Islands (other than those

appropriated to and paid into the Cook Islands Assembly Account as aforesaid) and paid into the Cook Islands Supplementary Account by the Minister of Finance.

(4) With the consent of the Minister and subject to such conditions as to repayment as the Minister thinks fit, there may from time to time be transferred by way of loan from the Cook Islands Supplementary Account to the Cook Islands Assembly Account the whole or any part of any money for the time being credited to the Cook Islands Supplementary Account.

(5) With the consent of the Minister, there may from time to time be transferred by way of grant from the Cook Islands Supplementary Account to the Cook Islands Assembly Account the whole or any part of any money for the time being credited to the Cook Islands Supplementary Account.

Cf. 1915, No. 40, ss. 31, 32

**16. Loans to Cook Islands Assembly Account**—(1) The Minister of Finance may from time to time, under the authority of and in accordance with an authorising Order in Council, pay by way of loan into the Cook Islands Assembly Account money required for public purposes in the Cook Islands.

(2) The money required by the Minister of Finance to enable him to make any such payment by way of loan shall be paid out of money appropriated by Parliament for the purpose.

(3) Every such authorising Order in Council shall specify the purpose and amount of the loan, the rate of interest payable, and the terms of repayment, and may provide for the establishment and maintenance by the Treasurer of the Cook Islands of a sinking fund sufficient to pay off the loan within the period within which the loan is to be repaid.

(4) All money payable out of the Cook Islands Assembly Account in pursuance of this section shall be a first charge on that Account after the payment of such salaries and allowances of the Cook Islands Public Service as are payable from that Account.

**17. Treasurer of the Cook Islands**—There shall be appointed under the provisions of Part III of this Act a Treasurer of the Cook Islands, who shall be financial adviser to the Government of the Cook Islands, and shall have such functions, powers, and duties in relation to the collection,

receipt, custody, banking, issue, expenditure, and management of the money in the Cook Islands Assembly Account and the Cook Islands Supplementary Account as may from time to time be prescribed by regulations made under this Part of this Act or, where there are no such regulations or so far as the regulations do not extend, by Ordinance.

**18. Revenue and expenditure of Cook Islands Assembly Account**—(1) Except as provided in subsection three of this section, or by any specific appropriation contained in any Ordinance, all expenditure in any financial year from the Cook Islands Assembly Account shall be charged to votes specified in an Appropriation Ordinance and in accordance with the estimates for that year.

(2) Every Appropriation Ordinance shall lapse at the end of the financial year to which it relates.

(3) Subject to such limits and restrictions as may from time to time be prescribed by Ordinance, the Resident Commissioner may approve the expenditure from the Cook Islands Assembly Account of such sums as he considers necessary—

(a) In anticipation of provision to be made in the Appropriation Ordinance for any financial year; or

(b) Where during the period between the passing of the Appropriation Ordinance for any financial year and the end of that year it is desirable that money should be expended in excess of or without the appropriation of the Legislative Assembly.

(4) Subject to the foregoing provisions of this section, the collection, receipt, custody, banking, issue, expenditure, care, and management of money credited or to be credited to the Cook Islands Assembly Account shall be in accordance with such Ordinances as may be made in that behalf.

Cf. 1915, No. 40, ss. 33–35

**19. Revenue and expenditure of Cook Islands Supplementary Account**—(1) All expenditure from the Cook Islands Supplementary Account in any financial year shall be in accordance with estimates approved by the Minister, after considering any resolution by the Legislative Assembly in relation thereto under section thirty-nine of this Act.

(2) Subject to the provisions of subsection one of this section, the receipt, custody, banking, issue, expenditure, care, and management of money credited or to be credited to the

Cook Islands Supplementary Account shall be in accordance with such regulations as may be made in that behalf under this Part of this Act.

Cf. 1915, No. 40, ss. 33–35

**20. Traders' deposit accounts**—(1) Notwithstanding anything in this Part of this Act, the Resident Commissioner may accept money on deposit from any trader established in the Cook Islands.

(2) Where the Resident Commissioner holds any money on deposit for a trader under this section, the Resident Commissioner may disburse the money by paying the whole or any part thereof to the trader or by applying the whole or any part thereof, with the authority of the trader, in discharge of any liability of the trader to the Crown, and the Resident Commissioner shall not disburse any money so held in any other manner.

(3) All money which the Resident Commissioner accepts on deposit for any trader as aforesaid, and all disbursements of that money, shall be recorded in a special deposit account in the Cook Islands Assembly Account, and shall not form part of the ordinary revenue or expenditure of the Cook Islands Assembly Account.

Cf. 1951, No. 78, s. 39

**21. Audit**—The Audit Office shall be the auditor of the Cook Islands Assembly Account and of the Cook Islands Supplementary Account, and the audit of those accounts shall be in accordance with such regulations as may be made by the Governor-General in Council in that behalf.

Cf. 1915, No. 40, s. 34

#### *Public Health*

**22. Chief Medical Officer of the Cook Islands**—(1) There shall be appointed under the provisions of Part III of this Act a Chief Medical Officer of the Cook Islands.

(2) The Chief Medical Officer of the Cook Islands shall be charged, subject to the control of the Resident Commissioner, with the administration in the Cook Islands of all laws relating to public health, quarantine, insanity, hospitals, and medical aid.

Cf. 1915, No. 40, s. 38

**23. Qualification of Medical Officers—**(1) No person shall be qualified for appointment as a Medical Officer or to practise medicine or surgery in the Cook Islands, unless—

- (a) He is duly registered in New Zealand as a medical practitioner under the Medical Practitioners Act 1950; or
- (b) He is registered in accordance with the Acts regulating the registration of medical practitioners in any other country that is a member of the Commonwealth or in the Republic of Ireland; or
- (c) He is the holder of a certificate issued under the hand of the Secretary to the Medical Council of New Zealand to the effect that, in the opinion of that Council, he has attained a standard of practice in medicine and surgery equivalent to the standard required for registration in New Zealand as a medical practitioner under the Medical Practitioners Act 1950:

Provided that, notwithstanding anything in the foregoing provisions of this subsection, a graduate of the Central Medical School at Suva, Fiji, may practise medicine and surgery in the Cook Islands as an employee of the Cook Islands Public Service subject to the general control of the Chief Medical Officer of the Cook Islands, or in such other circumstances and subject to such conditions as may be prescribed by Ordinance, and not otherwise.

(2) Every one commits an offence and shall be liable to a fine not exceeding ten pounds for every day on which the offence continues who, not being qualified or entitled to practise medicine or surgery as provided in subsection one of this section, practises medicine or surgery or any branch of medicine or surgery, under the style or title of a physician, surgeon, doctor, licentiate in medicine or surgery, bachelor of medicine, or medical practitioner, or under any name, title, addition, or description implying that he holds any diploma or degree in medicine or surgery or in any branch of medicine or surgery, or is otherwise specially qualified to practise medicine or surgery or any branch of medicine or surgery.

Cf. 1915, No. 40, s. 41; 1952, No. 32, s. 2

**24. Duties of Chief Medical Officer of the Cook Islands—**

(1) It shall be the duty of the Chief Medical Officer of the Cook Islands to provide for all persons in the Cook Islands such medical aid and attendance as may be reasonably required and is reasonably practicable.

(2) Medical and surgical aid and attendance provided by the Chief Medical Officer shall, in the case of Natives, be gratuitous; and shall, in the case of all other persons, be subject to the payment of such fees (if any) as may be prescribed by the Resident Commissioner; and all fees so prescribed shall form part of the public revenues of the Cook Islands and be paid into the Cook Islands Assembly Account or into the Cook Islands Supplementary Account, as the Minister directs.

(3) No liability shall be incurred by the Crown in respect of any neglect to provide any such medical or surgical aid or attendance, or in respect of any negligence or wrongful act or omission of a Medical Officer or of a graduate of the Central Medical School at Suva, Fiji, who is duly authorised to practise medicine and surgery in the Cook Islands.

Cf. 1915, No. 40, s. 42

**25. Hospitals and other institutions of public health**—The Resident Commissioner may establish and maintain in the Cook Islands such hospitals and other institutions as he may deem necessary for the public health, and all institutions so established shall be under the control of the Chief Medical Officer of the Cook Islands.

Cf. 1915, No. 40, s. 43

**26. Compulsory transfer of lepers**—(1) Every person who at any time is found in the Cook Islands to be suffering from leprosy may, by Warrant under the hand of the Resident Commissioner and the Seal of the Cook Islands, be transferred to another place within the Cook Islands or to Fiji for treatment in the leper hospital maintained by the Government of Fiji in the Island of Makogai, as may be directed in the Warrant.

(2) In pursuance of any such Warrant every person named therein in that behalf may be placed on board any ship belonging to Her Majesty in right of New Zealand or any ship registered in New Zealand or, with the consent of the master, any other ship, to be taken to the place directed in the Warrant.

(3) Every person transferred to Fiji pursuant to this section shall be delivered, together with the Warrant of the Resident Commissioner, to the Superintendent or other person having charge of the aforesaid leper hospital.

(4) No person transferred pursuant to this section shall be entitled to be returned to the place in the Cook Islands from

which he was transferred, except on the certificate of a medical officer, who is either an employee of the Cook Islands Public Service or an officer of the aforesaid leper hospital.

(5) All expenses incurred in connection with the transfer of a person who is suffering from leprosy or with the return of any person as aforesaid shall be a charge on the public revenues of the Cook Islands and shall be debited to the Cook Islands Assembly Account or to the Cook Islands Supplementary Account, as the Minister directs.

Cf. 1925, No. 2, s. 2

### *Prisons and Police*

**27. Establishment of prisons**—The Resident Commissioner may, by Warrant under his hand and the Seal of the Cook Islands, appoint as prisons such buildings or places in the Cook Islands as he thinks suitable for that purpose.

Cf. 1915, No. 40, ss. 44, 45

**28. Detention of persons in custody**—(1) Any person in lawful custody in the Cook Islands may be detained in any such prison, and may from time to time be removed by order of the Resident Commissioner or of a Judge of the High Court to any other prison in the Cook Islands.

(2) Any person in lawful custody in the Cook Islands may, if it is inconvenient or impracticable immediately to take him to any prison for confinement therein, be temporarily detained in any other suitable place of security.

Cf. 1915, No. 40, ss. 47, 48

**29. Labour instead of imprisonment**—(1) Any person sentenced to imprisonment or committed to prison in the Cook Islands may, by order of a Judge of the High Court made either at the time of sentence or committal or at any time thereafter, be discharged from custody on condition that he labours on the roads or other public works of those islands for the term or the residue of the term for which he has been so sentenced or committed.

(2) Every prisoner so discharged shall perform the labour so appointed for him under the control and subject to the direction of some officer nominated for that purpose by the Resident Commissioner or by a Resident Agent.

(3) If any prisoner so discharged makes default in the due performance of the labour so appointed for him, or is guilty

of any insubordination or other misconduct, whether in respect of that labour or otherwise, he may be arrested without Warrant by any officer of police or of prisons; and a Judge of the High Court may in his discretion (without the necessity of any judicial inquiry) revoke the discharge of that prisoner and commit him to prison for a period equal to that for which he would have been imprisoned subsequent to the order of discharge had no such order been made, with such deduction (if any) as the Judge thinks fit, having regard to any labour duly performed by the prisoner in accordance with the conditions of his discharge.

Cf. 1915, No. 40, s. 49

**30. Appointment of officers of police and prisons**—There may be appointed under the provisions of Part III of this Act such officers of police and officers of prisons as the Commission considers necessary.

Cf. 1915, No. 40, ss. 46, 50

### *Education*

**31. Establishment and control of schools**—(1) The Minister may establish or approve of the establishment of such schools in the Cook Islands as he deems necessary for the education of the inhabitants thereof.

(2) No school shall be established in the Cook Islands after the date of the passing of this Act except by the Minister or with his approval.

(3) There may be appointed under the provisions of Part III of this Act such teachers and other employees as the Commission considers necessary for the schools established by the Minister under this section.

(4) Without limiting the generality of the power to make regulations conferred by section fifty of this Act, regulations may from time to time be made under that section—

- (a) Providing for the compulsory attendance at school of all children who are between the ages specified in the regulations:
- (b) Regulating the establishment of private schools:
- (c) Providing for the registration of private schools (whether established before or after the commencement of the regulations):
- (d) Providing for the inspection of private schools:



- (e) Requiring persons having the control and management of private schools to keep such registers of attendances and other records as may be prescribed:
- (f) Providing for the cancellation of the registration of private schools on the grounds of inefficiency:
- (g) Providing for such other matters in relation to private schools as the Governor-General thinks necessary.

Cf. 1915, No. 40, s. 51

*The Legislative Government of the Cook Islands*

**32. Legislative Assembly of the Cook Islands**—(1) There is hereby established in and for the Cook Islands a Legislative Assembly to be called the Legislative Assembly of the Cook Islands.

- (2) The Legislative Assembly shall consist of—
  - (a) Fourteen elected members, to be elected by secret ballot under a system of universal suffrage by the electors of the following islands and in the following numbers:
    - (i) The Island of Aitutaki, two members:
    - (ii) The Island of Atiu, one member:
    - (iii) The Island of Mangaia, one member:
    - (iv) The Island of Manihiki, one member:
    - (v) The Island of Mauke, one member:
    - (vi) The Island of Mitiaro, one member:
    - (vii) The Island of Penrhyn, one member:
    - (viii) The Island of Pukapuka, one member:
    - (ix) The Island of Rakahanga, one member:
    - (x) The Island of Rarotonga, four members:
  - (b) Seven elected members (being in each case a member of the electing Island Council), to be elected by the following Island Councils and in the following numbers:
    - (i) The Island Council of Aitutaki, one member:
    - (ii) The Island Council of Atiu, one member:
    - (iii) The Island Council of Mangaia, one member:
    - (iv) The Island Council of Rarotonga, four members:
  - (c) One elected member, to be elected by secret ballot under a system of universal suffrage by the European electors of the Cook Islands:
  - (d) The Secretary to the Government:
  - (e) The Treasurer of the Cook Islands:

(f) Not more than two other official members as the Resident Commissioner determines, being employees of the Cook Islands Public Service appointed by the Resident Commissioner to hold office during his pleasure.

(3) Subject to the provisions of this section and of section thirty-three of this Act, the qualifications of electors and of candidates, the mode of electing members of the Legislative Assembly, and the terms and conditions of their membership shall be as prescribed by regulations made under this Part of this Act or, where there are no such regulations or so far as the regulations do not extend, by Ordinance.

(4) The elected members of the Legislative Assembly shall receive from the Cook Islands Assembly Account such remuneration and allowances as may be prescribed by Ordinance.

(5) The powers of the Legislative Assembly shall not be affected by any vacancy in the membership thereof.

(6) Every person who executes the office of Secretary to the Government or Treasurer of the Cook Islands during a vacancy in that office or during the absence or incapacity of the holder thereof shall, while so acting, be entitled to sit and act as a member of the Assembly in place of and with the same powers and functions as are normally exercisable by that official member.

(7) Where any member of the Legislative Assembly appointed under paragraph (f) of subsection two of this section is absent from Rarotonga or is incapacitated by reason of sickness or otherwise from attending meetings of the Assembly, the Resident Commissioner may appoint any employee of the Cook Islands Public Service as the substitute for that member, and the employee so appointed shall, so long as the absence or incapacity continues, be entitled to sit and act as a member of the Assembly in place of the member whose substitute he is.

(8) The Legislative Council of the Cook Islands established under the Cook Islands Amendment Act 1946 is hereby abolished.

Cf. 1946, No. 30, ss. 3-5

**33. Election of members—**(1) The first election of the elected members of the Legislative Assembly shall be held within six months after the date of the commencement of this Part of this Act on a date to be fixed by the Resident Commissioner by notice in the *Cook Islands Gazette*.

(2) The Resident Commissioner may at any time, by notice published in the *Cook Islands Gazette*, prorogue or dissolve the Legislative Assembly.

(3) The Resident Commissioner shall dissolve the Legislative Assembly at the expiration of three years from the date of the last preceding general election, if it has not been sooner dissolved.

(4) There shall be a general election of the elected members of the Legislative Assembly at such time within three months after every dissolution of the Assembly as the Resident Commissioner appoints by notice published in the *Cook Islands Gazette*.

**34. Members to take Oath of Allegiance—**(1) No member of the Legislative Assembly shall be permitted to sit or vote therein until he has taken and subscribed the following oath before the Resident Commissioner, or before some person authorised by the Resident Commissioner to administer that oath, namely:

I, \_\_\_\_\_, swear that I will be faithful and bear true allegiance to Her [or His] Majesty [*Specify the name of the reigning Sovereign, as thus: Queen Elizabeth the Second*], Her [or His] heirs and successors, according to law. So help me God.

(2) Every such member shall be entitled as of right to make his affirmation, instead of taking an oath.

(3) Every such affirmation shall be as follows: "I, \_\_\_\_\_, sincerely promise and affirm", and shall then proceed with the words of the oath prescribed by subsection one of this section, omitting any words of imprecation or calling to witness.

**35. Procedure—**(1) The Legislative Assembly shall meet at such places and at such times (not being less than once annually) as the Resident Commissioner from time to time appoints in that behalf.

(2) The Resident Commissioner shall be entitled to preside over every meeting of the Assembly; but, if he is not present at any meeting, the members of the Legislative Assembly present shall elect one of their number to preside over that meeting.

(3) Every question before the Legislative Assembly shall be decided by a majority of the votes of the members present.

(4) Every member present when any question is put to the Legislative Assembly shall vote thereon.

(5) The Resident Commissioner or member presiding over any meeting of the Assembly shall not have a deliberative vote, but, in case of an equality of votes, he shall have a casting vote.

(6) No business shall be transacted at any meeting of the Assembly if the number of members present is less than fourteen.

(7) Subject to the provisions of the principal Act and its amendments (including this Act), the Legislative Assembly may from time to time make Standing Orders for the regulation and orderly conduct of its proceedings and the despatch of business.

Cf. 1946, No. 30, ss. 6-9

**36. Privileges of Legislative Assembly and of its members—**(1) The validity of any proceedings in the Legislative Assembly or in any committee thereof shall not be questioned in any Court.

(2) No officer or member of the Legislative Assembly in whom powers are vested for the regulation of procedure or the conduct of business or the maintenance of order shall in relation to the exercise by him of any of those powers be subject to the jurisdiction of any Court.

(3) No member of the Legislative Assembly and no person entitled to speak therein shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in the Assembly or in any committee thereof.

(4) No person shall be liable to any proceedings in any Court in respect of the publication by or under the authority of the Legislative Assembly of any report, paper, vote, or proceeding.

(5) Subject to the provisions of this section, the privileges of the Legislative Assembly and of the committees thereof, and the privileges of members of the Assembly and of the persons entitled to speak therein, may be determined by Ordinance:

Provided that no such privilege of the Assembly or of any committee thereof may extend to the imposition of a fine or to committal to prison for contempt or otherwise, unless provision is made by Ordinance for the trial and punishment of the person concerned by the High Court.

**37. Clerk of the Legislative Assembly—**(1) There shall be appointed under the provisions of Part III of this Act a Clerk of the Legislative Assembly of the Cook Islands, who shall keep the records of the Assembly and perform with

respect to the Assembly such secretarial and other functions as may be required.

(2) The Clerk shall keep minutes of the proceedings of the Legislative Assembly, and a copy of the minutes shall be transmitted by the Resident Commissioner to the Minister as soon as practicable after the close of each session.

Cf. 1946, No. 30, s. 10

### *Ordinances*

**38. Legislative Assembly may make Ordinances—**(1) Subject to the provisions of the principal Act and its amendments (including this Act), the Legislative Assembly may make laws (to be known as Ordinances) for the peace, order, and good government of the Cook Islands.

(2) Without limiting the generality of the power conferred by subsection one of this section to make laws for the peace, order, and good government of the Cook Islands, that power shall, save as otherwise provided in the principal Act and its amendments (including this Act), include—

(a) The imposition of tolls, rates, dues, fees, fines, taxes, and other charges, other than duties of Customs on goods imported into the Cook Islands:

(b) The imposition of conditions, restrictions, and prohibitions upon the export or import of goods from or into the Cook Islands.

(3) Notwithstanding anything in the foregoing provisions of this section, the power conferred by subsection one of this section to make laws for the peace, order, and good government of the Cook Islands shall not include the making of laws—

(a) Relating to defence (except in relation to the taking of land for defence purposes and to the recruitment and maintenance of a volunteer force for local defence):

(b) Relating to external affairs:

(c) Affecting the title of the Crown to any land.

(4) No Ordinance shall be deemed to be invalid solely on the ground that it confers on the Resident Commissioner authority to make rules or regulations or that it delegates to or confers on the Resident Commissioner or to or on any other person or body any discretionary authority.

(5) All Ordinances made by the Legislative Council of the Cook Islands under section two of the Cook Islands Amendment Act 1946 and in force at the commencement of this

Part of this Act shall enure for the purposes of the principal Act and its amendments (including this Act) as if they had been made by the Legislative Assembly under this section, and accordingly shall, where necessary, be deemed to have been so made.

Cf. 1946, No. 30, s. 2

**39. Ordinances repugnant to New Zealand Acts and regulations**—(1) It shall not be lawful or competent by any Ordinance—

- (a) To make any provision repugnant to any provision of a reserved enactment; or
- (b) To appropriate or authorise the expenditure of any portion of that part of the public revenues of the Cook Islands credited to the Cook Islands Supplementary Account:

Provided that the Legislative Assembly shall be entitled, at any time appointed by the Resident Commissioner, to discuss the expenditure from the Cook Islands Supplementary Account, and the Resident Commissioner shall transmit to the Minister a copy of every resolution passed by the Assembly in relation to that expenditure.

(2) For the purposes of this section the following shall be deemed to be reserved enactments:

- (a) The enactments specified in the First Schedule to this Act to the extent therein specified:

Provided that no regulations made under the principal Act and its amendments (including this Act) shall be deemed to be reserved enactments for the purposes of this section, unless the regulations expressly so provide or unless they are declared pursuant to paragraph (b) of this subsection to be reserved enactments for the purposes of this section:

- (b) Any other enactment declared by any Act or by any regulations (whether made under this Part of this Act or otherwise) to be a reserved enactment for the purposes of this section.

(3) Any Ordinance which is in any respect repugnant to the provisions of any reserved enactment (whether made before or after the Ordinance) shall be read subject to that enactment, and shall, to the extent of that repugnancy and not otherwise, be and remain absolutely void and inoperative.

(4) Except to the extent to which it is inconsistent with the provisions of a reserved enactment, no Ordinance and no

provision of any Ordinance shall be deemed to be repugnant for the purposes of this section solely on the ground that it deals with a matter already dealt with by a reserved enactment or is repugnant to the law of England as established in the Cook Islands by section six hundred and fifteen of the principal Act.

Cf. 1946, No. 30, ss. 2, 17

**40. Partial validity of Ordinances**—If any Ordinance is in part repugnant to any reserved enactment or is otherwise in part *ultra vires*, the Ordinance shall nevertheless be valid as to the residue thereof, if and so far as the residue is in substance and effect severable from the part which is so repugnant or *ultra vires*.

Cf. 1946, No. 30, s. 16

**41. Introduction of Bills, etc., into Legislative Assembly**—Subject to the provisions of this Part of this Act and of the Standing Orders of the Legislative Assembly, any member of the Assembly may introduce any Bill or propose any motion for debate in or present any petition to the Assembly, and the same shall be considered and disposed of in accordance with the Standing Orders:

Provided that, except with the recommendation or consent of the Resident Commissioner, the Assembly shall not proceed upon any Bill which, in the opinion of the Resident Commissioner or member presiding, would dispose of or charge any of the public revenues of the Cook Islands credited to the Cook Islands Assembly Account, or revoke or alter any disposition thereof or charge thereon, or impose or alter or abolish any toll, rate, due, fee, fine, or tax.

**42. Resident Commissioner may assent to, refuse assent to, or amend Bills**—(1) No Ordinance shall become law until it has been passed by the Legislative Assembly in the form of a Bill and has been assented to by the Resident Commissioner.

(2) Whenever any Bill which has been passed by the Legislative Assembly is presented to the Resident Commissioner for his assent, he shall, within twenty-one days thereafter, declare according to his discretion, but subject to the provisions of this Part of this Act and to such instructions as may from time to time be given in that behalf by the Minister, that he assents to the Bill, or that he refuses his assent to the Bill, or that he reserves the Bill for the Governor-General's pleasure:

Provided that the Resident Commissioner, before making any such declaration in respect of any Bill so presented to him, may within the said period of twenty-one days make such amendments in the Bill as he thinks fit, and by message return the Bill with the amendments to the Legislative Assembly for consideration by the Assembly, and in that case the Resident Commissioner shall make the declaration specified in this subsection within twenty-one days after the date of the passing of a resolution of the Assembly in relation to those amendments.

(3) The assent of the Resident Commissioner to an Ordinance shall be testified by signing a copy of the Ordinance and sealing the same with the Seal of the Cook Islands.

(4) The Resident Commissioner shall at the same time enter upon the copy so signed and sealed the date of his assent thereto.

Cf. 1946, No. 30, s. 11

**43. Commencement of Ordinances**—Every Ordinance assented to by the Resident Commissioner shall come into operation either on the day on which it is assented to, or on any date (whether earlier or later than the date on which it is assented to) specified in that behalf in the Ordinance, and different dates may be so specified in respect of different provisions of the Ordinance:

Provided that no provision of any Ordinance imposing any liability or disability shall come into operation before the date on which the Ordinance is assented to.

Cf. 1946, No. 30, s. 12

**44. Transmission to Minister of Ordinances assented to**—When the Resident Commissioner assents to an Ordinance, he shall forthwith transmit a copy thereof to the Minister.

Cf. 1946, No. 30, s. 13

**45. Disallowance of Ordinances**—(1) At any time within one year after the assent of the Resident Commissioner has been so given to an Ordinance, the Governor-General may, by notice published in the *Cook Islands Gazette*, disallow that Ordinance either wholly or in part.

(2) On any such disallowance the Ordinance shall, to the extent to which it is so disallowed, become wholly void as if it had been then repealed.



(3) Any such disallowance shall take effect as aforesaid either on the day of the publication of the notice of disallowance in the *Cook Islands Gazette* or at such other date (whether before or after the date of that publication) as is specified in that behalf in the notice.

Cf. 1946, No. 30, s. 14

**46. Transmission to Minister of reserved Bills**—When a Bill is reserved by the Resident Commissioner for the Governor-General's pleasure, he shall forthwith transmit a copy thereof to the Minister to be laid before the Governor-General.

**47. Assent to reserved Bills**—(1) A Bill reserved for the Governor-General's pleasure shall become an Ordinance as soon as the Governor-General has, by notice published in the *Cook Islands Gazette*, given his assent thereto.

(2) An Ordinance so assented to by the Governor-General shall come into operation on the date of that notice or on any date (whether earlier or later than the date on which it is so assented to) specified in that behalf in the Ordinance:

Provided that no provision of any such Ordinance imposing any liability or disability shall come into operation before the date on which the Ordinance is so assented to.

**48. Language of Ordinances**—Every Ordinance may be passed either in the English language alone, or both in the English language and in the Rarotongan language; but if, in the latter case, there is any conflict between the English and the Rarotongan version of the Ordinance, the English version shall prevail.

Cf. 1946, No. 30, s. 15

**49. Publication in the *Cook Islands Gazette***—(1) Subject to the provisions of any Ordinance in that behalf, all Ordinances, regulations, Orders in Council, Proclamations, Warrants, appointments, and other instruments and Acts relative to the government of the Cook Islands made after the commencement of this Part of this Act shall, unless the Resident Commissioner otherwise directs, be published in the English language in the Cook Islands in an official *Gazette*, to be known as the *Cook Islands Gazette*, and issued at such times and intervals as the Resident Commissioner directs.

(2) All Ordinances and all regulations in force in the Cook Islands made after the commencement of this Part of this Act shall, unless the Resident Commissioner otherwise directs, also be published in the Rarotongan language in the *Cook Islands Gazette* or some other official publication.

### *Regulations*

#### **50. Governor-General in Council may make regulations—**

(1) In addition to all special powers of making regulations conferred upon the Governor-General in Council by this or any other Act, the Governor-General in Council may make all such regulations as he thinks necessary for the peace, order, and good government of the Cook Islands.

(2) No regulation made under the provisions of this section shall be of any force or effect so far as it is repugnant to the principal Act and its amendments (including this Act) or any other Act in force in the Cook Islands, but no such regulation shall be deemed to be repugnant for the purposes of this subsection because it is repugnant to the law of England as established in the Cook Islands by section six hundred and fifteen of the principal Act, or because it deals with a matter already dealt with by any such Act; and every such regulation shall take effect according to its tenor, save so far as inconsistent with any such Act.

(3) Notwithstanding anything in subsection two of this section or in the Customs Act 1913, regulations made under the provisions of this section may impose such conditions, restrictions, and prohibitions upon the export or import of goods from or into the Cook Islands as the Governor-General thinks necessary.

(4) Without limiting the generality of the power conferred by subsection one of this section to make regulations for the peace, order, and good government of the Cook Islands, that power shall include the imposition of tolls, rates, dues, fees, taxes, duties, and other charges.

(5) The maximum penalty which may be prescribed for the breach of any regulation made by the Governor-General in Council under this section shall not exceed—

(a) In the case of an individual, imprisonment for a term not exceeding one year or a fine not exceeding one hundred pounds and, where the offence is a continuing one, a further fine not exceeding twenty pounds for every day or part of a day during which the offence has continued:

(b) In the case of a body corporate, a fine not exceeding five hundred pounds and, where the offence is a continuing one, a further fine not exceeding twenty pounds for every day or part of a day during which the offence has continued.

(6) Rules or regulations made by the Governor-General or the Governor-General in Council under this or any other Act in force in the Cook Islands may be made applicable either to all of the said islands or to one or more thereof exclusively.

Cf. 1915, No. 40, ss. 53-58

### *Miscellaneous*

**51. Island Councils**—(1) Subject to the provisions of this Part of this Act, the Legislative Assembly may provide by Ordinance for and in relation to the establishment in any island forming part of the Cook Islands of an Island Council with such constitution, membership, functions, and powers as may from time to time be prescribed by Ordinance.

(2) Without limiting the generality of the powers conferred on the Legislative Assembly by subsection one of this section, the powers of an Island Council as aforesaid may include power to make bylaws for—

- (a) The imposition of tolls, rates, dues, fees, fines, taxes and other charges, other than the power to impose duties of Customs on goods imported into the island; and
- (b) The borrowing of money; and
- (c) The creation of Village Councils with such functions and powers as may be prescribed in the bylaws.

(3) Any bylaw which is in any respect repugnant to the provisions of any Ordinance or to any Act or regulations or law in force in the Cook Islands (whether made before or after the bylaw) shall be read subject to the Ordinance or Act or regulations, and shall, to the extent of that repugnancy and not otherwise, be and remain absolutely void and inoperative:

Provided that, except to the extent to which it is inconsistent with the provisions of any Ordinance or of any Act or regulations in force in the Cook Islands, no bylaw and no provision of any bylaw shall be deemed to be repugnant for the purposes of this subsection solely on the ground that it deals with a matter already dealt with by any Ordinance or by any such Act or regulations or is repugnant to the law of England as established in the Cook Islands by section six hundred and fifteen of the principal Act.

(4) No bylaw made by an Island Council under this section shall become law until it has been assented to by the Resident Commissioner, who, in relation to any such bylaw presented to him for his assent, shall have the same powers as are conferred on him by section forty-two of this Act in relation to Bills passed by the Legislative Assembly, and the provisions of that section and of sections forty-three to forty-seven of this Act, as far as they are applicable and with the necessary modifications, shall apply as if references in those sections to a Bill or to an Ordinance were references to a bylaw, and as if references in those sections to the Legislative Assembly were references to an Island Council.

(5) All Island Ordinances made by the Island Council for any island under section seventy of the principal Act and in force at the commencement of this Part of this Act shall enure for the purposes of this Part of this Act and the principal Act and its amendments as if they were bylaws made by the Island Council for that island constituted under this section, and accordingly shall, where necessary, be deemed to have been so made.

Cf. 1915, No. 40, ss. 59–100; 1946, No. 30, s. 18

**52. Resident Commissioner may assent to Island Council bylaws by telegram**—(1) Notwithstanding anything in section forty-two of this Act (as applied by section fifty-one of this Act to bylaws made under that section),—

(a) Any bylaw made by an Island Council may be presented to the Resident Commissioner for his assent by transmitting to him by telegram a true copy thereof:

(b) The Resident Commissioner may, by telegram to the Resident Agent, exercise in relation to any bylaw made by an Island Council any of the powers conferred on the Resident Commissioner by subsection two of section forty-two of this Act as so applied.

(2) Where under paragraph (b) of subsection one of this section the Resident Commissioner has assented to a bylaw by telegram, the bylaw shall have effect as if it had been duly assented to in the manner provided in section forty-two of this Act as so applied, but as soon as practicable the bylaw shall be presented to the Resident Commissioner for his assent, and he shall assent thereto in the manner provided in that section.

(3) In this section the term “telegram” has the same meaning as in section one hundred and forty-six of the Post and Telegraph Act 1928.

**53. Judicial powers of Village Committees**—(1) Notwithstanding anything in the principal Act and its amendments, the Resident Commissioner may, by order published in the *Cook Islands Gazette*, designate any number of persons (being not fewer than six), either individually by name or by reference to a specified Village Council or some other group of which those persons are members, as a Village Committee for the purposes of this section.

(2) The Resident Commissioner shall in any such order as aforesaid specify—

(a) Any Ordinance, any Island Council bylaw, or any rule, regulation, or bylaw of any authority in the Cook Islands duly authorised to make such a rule, regulation, or bylaw in respect of which the Village Committee is to have competence in accordance with the provisions of this section:

(b) The area for which the Village Committee has competence.

(3) The Resident Commissioner may at any time, by order published in the *Cook Islands Gazette*, revoke any such order as aforesaid or vary its terms.

(4) As regards the Ordinances, bylaws, rules, or regulations specified as aforesaid, it shall be the duty of the Village Committee to investigate all breaches thereof in the area for which the Committee has competence.

(5) If the Committee is satisfied that any such breach as aforesaid has been committed, it may authorise the taking of proceedings before the High Court in respect of the offence, or it may, in its discretion, impose on the offender a penalty (not being imprisonment) in respect thereof of such amount as it thinks fit, not exceeding the maximum penalty prescribed by or under any such Ordinance, bylaw, rule, or regulation as aforesaid:

Provided that no penalty shall be imposed by the Committee under this subsection if the person charged elects to be dealt with in the High Court and, before imposing any penalty, the Committee shall make known to the offender his right of election.

(6) No penalty may be imposed on any person under this section for any offence in respect of which proceedings have been taken before the High Court.

(7) For the purpose of investigating any breach as aforesaid and determining the amount of the penalty, a Committee may, subject to any directions by the Resident Commissioner, adopt such forms of procedure as it thinks suitable:

Provided that a Committee shall not impose any penalty on an offender without giving him a reasonable opportunity of being heard in his own defence.

(8) Where a person fails to pay any penalty duly imposed on him by a Committee under this section, the amount of the penalty shall be recoverable in the High Court as a debt due to the Village Committee by the person so failing to pay the penalty:

Provided that that person may defend the proceedings, and in any such case the matter shall be reheard by the Court, which in its discretion may give judgment for the plaintiff for the amount of the penalty or such greater or lesser amount as it thinks fit, or may give judgment for the defendant.

(9) A Committee may, subject to any direction by the Resident Commissioner, delegate all or any of its functions and powers under this section to a subcommittee comprising not fewer than four members of the Committee, and the investigation of the breach and the determination of any penalty by that subcommittee shall for the purposes of this section be an investigation or determination of the Committee.

(10) Nothing in this section shall derogate from any powers of any officer of police.

**54. Penalties imposed by Village Committees—**(1) The amount of any penalty imposed by a Village Committee under section fifty-three of this Act shall be paid by the offender to the Committee or, where the Committee has been constituted by reference to a specified Village Council, to that Village Council, and shall form part of the funds of the Committee or Council, as the case may be.

(2) The amount of any penalty imposed by the High Court pursuant to the proceedings authorised in that behalf under subsection five of that section, and the amount of any penalty so imposed on a person who has elected under that subsection to be dealt with by the High Court, and any amount recovered by a Village Committee under subsection eight of that section, shall be paid into the funds of the Village Committee or Village Council, as the case may be, in whose area the offence was committed.

(3) Any penalty so paid to a Village Committee or Village Council may be applied by it for the physical, economic, educational, social, and moral benefit and advancement in life of persons within its area, either generally or specially, and for such other purposes as the Resident Commissioner may from time to time in writing authorise or approve, but not otherwise.

(4) The Resident Commissioner may from time to time issue directions as to the payment into or deposit with any bank or post office of the funds of a Village Committee, as to the persons entitled to withdraw those funds, and as to the provision and keeping of books of account, the furnishing of periodic statements, and the auditing of those books and statements.

## PART II

### THE GOVERNMENT OF NIUE

**55. Interpretation**—In this Part of this Act, unless the context otherwise requires,—

“Cook Islands Public Service” has the meaning assigned thereto by section seventy-six of this Act:

“Defence” means the defence of Niue and the defence of New Zealand:

“External affairs” includes relations with other countries, and with international organisations, and the representation of other countries in Niue:

“Island Assembly” means the Niue Island Assembly established under this Part of this Act:

“Ordinance” means an Ordinance made by the Island Assembly under the authority of this Part of this Act:

“Resident Commissioner” means the Resident Commissioner of Niue appointed under this Part of this Act.

Cf. 1915, No. 40, s. 2

### *The Executive Government of Niue*

**56. Executive government vested in the Crown**—The executive government of Niue is hereby declared to be vested in Her Majesty the Queen in right of the Government of New Zealand.

**57. Resident Commissioner of Niue**—(1) There shall be appointed under the provisions of Part III of this Act a Resident Commissioner of Niue.

(2) The Resident Commissioner shall, in the exercise of his powers and the discharge of his functions, be subject to the control of the Minister, exercised through instructions or otherwise.

(3) The Resident Commissioner shall be charged with the executive government of Niue.

(4) The Resident Commissioner shall have all such powers as may be reasonably necessary for the efficient performance of his functions and such other powers as may from time to time be conferred on him by the principal Act and its amendments (including this Act) or any regulations thereunder or by any Ordinance or by any other enactment or law in force in Niue.

(5) The Resident Commissioner shall be stationed in Niue.  
Cf. 1915, No. 40, s. 10; 1931, No. 5, s. 19; 1946, No. 16, s. 32

**58. Sections 5, 6, and 14 of this Act applied**—The following provisions of Part I of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to Niue, as if references therein to the Cook Islands were references to Niue, namely:

- (a) Section five (which provides for the appointment of a Deputy Resident Commissioner):
- (b) Section six (which defines the authority of the Deputy Resident Commissioner to act during the sickness or absence of the Resident Commissioner):
- (c) Section fourteen (which relates to the Seal of the Cook Islands).

Cf. 1915, No. 40, ss. 11, 37

#### *The Public Revenues of Niue*

**59. Niue Assembly Account and Niue General Account**—

(1) The public revenues of Niue shall be kept in two accounts to be called respectively the Niue Assembly Account and the Niue General Account.

- (2) The Niue Assembly Account shall be credited with—
  - (a) Revenues derived in Niue under any Ordinance:
  - (b) Money appropriated by Parliament from the Public Account of New Zealand by way of subsidy or grant to the Niue Assembly Account and paid into the last-mentioned account by the Minister of Finance:
  - (c) Money advanced to the Niue Assembly Account by way of loan under subsection four of this section or under section sixty of this Act:
  - (d) Money transferred to the Niue Assembly Account from the Niue General Account under the authority of subsection five of this section.
- (3) The Niue General Account shall be credited with—
  - (a) Revenues of Customs collected in or derived from Niue:



- (b) Court and other fees received in Niue:
- (c) Revenues derived in Niue under any Act or regulations:
- (d) All other revenues derived in respect of Niue by Her Majesty the Queen in right of the Government of New Zealand:
- (e) Money appropriated by Parliament from the Public Account of New Zealand by way of subsidy or grant to the public revenues of Niue (other than money appropriated to and paid into the Niue Assembly Account as aforesaid) and paid into the Niue General Account by the Minister of Finance.

(4) With the consent of the Minister and subject to such conditions as to repayment as the Minister thinks fit, there may from time to time be transferred by way of loan from the Niue General Account to the Niue Assembly Account the whole or any part of any money for the time being credited to the Niue General Account.

(5) With the consent of the Minister, there may from time to time be transferred by way of grant from the Niue General Account to the Niue Assembly Account the whole or any part of any money for the time being credited to the Niue General Account.

Cf. 1915, No. 40, ss. 31, 32

**60. Loans to Niue Assembly Account**—(1) The Minister of Finance may from time to time, under the authority of and in accordance with an authorising Order in Council, pay by way of loan into the Niue Assembly Account money required for public purposes in Niue.

(2) The money required by the Minister of Finance to enable him to make any such payment by way of loan shall be paid out of money appropriated by Parliament for the purpose.

(3) Every such authorising Order in Council shall specify the purpose and amount of the loan, the rate of interest payable, and the terms of repayment, and may provide for the establishment and maintenance by the Treasurer of Niue of a sinking fund sufficient to pay off the loan within the period within which the loan is to be repaid.

(4) All money payable out of the Niue Assembly Account in pursuance of this section shall be a first charge on that Account after the payment of such salaries and allowances of the Cook Islands Public Service as are payable from that Account.

**61. Treasurer of Niue**—There shall be appointed under the provisions of Part III of this Act a Treasurer of Niue, who shall have such functions, powers, and duties in relation to the collection, receipt, custody, banking, issue, expenditure, and management of the money in the Niue Assembly Account and the Niue General Account as may from time to time be prescribed by regulations made under this Part of this Act or, where there are no such regulations or so far as the regulations do not extend, by Ordinance.

**62. Revenue and expenditure of Niue Assembly Account**—  
(1) Except as provided in subsection three of this section, or by any specific appropriation contained in any Ordinance, all expenditure in any financial year from the Niue Assembly Account shall be charged to votes specified in an Appropriation Ordinance and in accordance with the estimates for that year.

(2) Every Appropriation Ordinance shall lapse at the end of the financial year to which it relates.

(3) Subject to such limits and restrictions as may from time to time be prescribed by Ordinance, the Resident Commissioner may approve the expenditure from the Niue Assembly Account of such sums as he considers necessary—

(a) In anticipation of provision to be made in the Appropriation Ordinance for any financial year; or

(b) Where during the period between the passing of the Appropriation Ordinance for any financial year and the end of that year it is desirable that money should be expended in excess of or without the appropriation of the Island Assembly.

(4) Subject to the foregoing provisions of this section, the collection, receipt, custody, banking, issue, expenditure, care, and management of money credited or to be credited to the Niue Assembly Account shall be in accordance with such Ordinances as may be made in that behalf.

Cf. 1915, No. 40, ss. 33–35

**63. Sections 19 to 21 of this Act applied**—The following provisions of Part I of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to Niue, as if references therein to the Cook Islands were references to Niue and references therein to the Cook Islands Supplementary Account were references to the Niue General Account, namely:

- (a) Section nineteen (which relates to expenditure from the Cook Islands Supplementary Account):
  - (b) Section twenty (which relates to traders' deposit accounts):
  - (c) Section twenty-one (which relates to audit).
- Cf. 1915, No. 40, ss. 33–35; 1951, No. 78, s. 39

### *Public Health*

**64. Sections 22 to 26 of this Act applied**—The following provisions of Part I of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to Niue, as if references therein to the Cook Islands (except in the references to the Cook Islands Public Service) were references to Niue, and references therein to the Cook Islands Supplementary Account were references to the Niue General Account, namely:

- (a) Section twenty-two (which provides for the appointment of the Chief Medical Officer):
- (b) Section twenty-three (which prescribes the qualification of Medical Officers):

Provided that, where the office of Chief Medical Officer of Niue is vacant and there is no Medical Officer qualified under paragraph (a) or paragraph (b) or paragraph (c) of subsection one of that section, as applied to Niue, practising medicine and surgery in Niue, a graduate of the Central Medical School at Suva, Fiji, may practise medicine and surgery in Niue as an employee of the Cook Islands Public Service subject to the general control of the Resident Commissioner, or in such other circumstances and subject to such conditions as may be prescribed by Ordinance, and not otherwise:

- (c) Section twenty-four (which prescribes the duties of the Chief Medical Officer):
- (d) Section twenty-five (which provides for the establishment and maintenance of hospitals and other institutions):
- (e) Section twenty-six (which provides for the compulsory transfer of lepers).

Cf. 1915, No. 40, ss. 39, 41–43; 1925, No. 2, s. 2; 1952, No. 32, s. 2

*Prisons and Police*

**65. Sections 27 to 30 of this Act applied**—The following provisions of Part I of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to Niue, as if references therein to the Cook Islands were references to Niue, namely:

- (a) Section twenty-seven (which provides for the establishment of prisons):
- (b) Section twenty-eight (which relates to the detention of prisoners and other persons in lawful custody):
- (c) Section twenty-nine (which provides for the performance of labour instead of imprisonment):
- (d) Section thirty (which provides for the appointment of officers of police and officers of prisons).

Cf. 1915, No. 40, ss. 44–50

*Education*

**66. Establishment and control of schools**—The provisions of section thirty-one of this Act (which provides for the establishment and control of schools) shall apply with respect to Niue as if references therein to the Cook Islands were references to Niue.

Cf. 1915, No. 40, s. 51

*The Legislative Government of Niue*

**67. Niue Island Assembly**—(1) There is hereby established in and for the Island of Niue a Legislative Assembly to be called the Niue Island Assembly.

(2) The Island Assembly shall consist of—

(a) The Resident Commissioner; and

(b) Not more than sixteen members, to be appointed by the Governor-General and, subject to the provisions of subsection five of this section, to hold office either during the pleasure of the Governor-General or for such specified period not exceeding five years as the Governor-General in each case directs. Any member so appointed shall be eligible for reappointment.

(3) Subject to the provisions of this section, the qualifications required of and the conditions to be fulfilled by any person who is a candidate for appointment as a member of the Island Assembly may be prescribed by regulations made under this Part of this Act.

(4) Every appointed member of the Island Assembly may resign his office by notice in writing delivered by him to the

Resident Commissioner, and the resignation shall take effect if and when it has been accepted in writing by the Resident Commissioner, and not sooner or otherwise.

(5) Where the Resident Commissioner is satisfied that any appointed member of the Island Assembly has been continuously absent from Niue for a period of six months or more, he shall declare that member to have forfeited his membership of the Assembly, and that member shall forfeit his membership accordingly.

(6) The appointed members of the Island Assembly shall receive from the Niue Assembly Account or from the Niue General Account or partly from one such account and partly from the other, as the Minister directs, such remuneration as may be determined by the Minister.

(7) The powers of the Island Assembly shall not be affected by any vacancy in the membership thereof.

(8) The Island Council of Niue established under subsection two of section forty-seven of the principal Act is hereby abolished.

Cf. 1915, No. 40, ss. 59–69; 1921, No. 14, s. 3

**68. Sections 34 to 37 of this Act applied**—The following provisions of Part I of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to Niue, as if references therein to the Legislative Assembly were references to the Island Assembly, namely:

(a) Section thirty-four (which requires members to take the Oath of Allegiance):

(b) Section thirty-five (which prescribes the procedure for meetings of the Assembly and authorises the making of Standing Orders):

Provided that, in its application to Niue, subsection six of that section shall be read as if for the word “fourteen” there were substituted the word “seven”:

(c) Section thirty-six (which defines the privileges of the Assembly and its members):

(d) Section thirty-seven (which provides for the appointment of a Clerk of the Assembly).

Cf. 1915, No. 40, ss. 92–100

#### *Ordinances*

**69. Island Assembly may make Ordinances**—(1) Subject to the provisions of the principal Act and its amendments (including this Act), the Island Assembly may make laws

(to be known as Ordinances) for the peace, order, and good government of Niue.

(2) Without limiting the generality of the power conferred by subsection one of this section to make laws for the peace, order, and good government of Niue, that power shall, save as otherwise provided in the principal Act and its amendments (including this Act), include—

- (a) The imposition of tolls, rates, dues, fees, fines, taxes, and other charges, other than duties of Customs on goods imported into Niue:
- (b) The imposition of conditions, restrictions, and prohibitions upon the export or import of goods from or into Niue.

(3) Notwithstanding anything in the foregoing provisions of this section, the power conferred by subsection one of this section to make laws for the peace, order, and good government of Niue shall not include the making of laws—

- (a) Relating to defence (except in relation to the taking of land for defence purposes and to the recruitment and maintenance of a volunteer force for local defence) :
- (b) Relating to external affairs:
- (c) Affecting the title of the Crown to any land.

(4) No Ordinance shall be deemed to be invalid solely on the ground that it confers on the Resident Commissioner authority to make rules or regulations or that it delegates to or confers on the Resident Commissioner or to or on any other person or body any discretionary authority.

(5) All Ordinances made by the Island Council of Niue under section seventy of the principal Act and in force at the commencement of this Part of this Act shall enure for the purposes of the principal Act and its amendments (including this Act) as if they had been made by the Island Assembly under this section, and accordingly shall, where necessary, be deemed to have been so made.

Cf. 1915, No. 40, ss. 70, 73, 76

**70. Ordinances repugnant to New Zealand Acts and regulations—**(1) It shall not be lawful or competent by any Ordinance—

- (a) To make any provision repugnant to any provision of a reserved enactment; or
- (b) To appropriate or authorise the expenditure of any portion of that part of the public revenues of Niue credited to the Niue General Account:

Provided that the Island Assembly shall be entitled, at any time appointed by the Resident Commissioner, to discuss the expenditure from the Niue General Account, and the Resident Commissioner shall transmit to the Minister a copy of every resolution passed by the Assembly in relation to that expenditure.

(2) For the purposes of this section the following shall be deemed to be reserved enactments:

(a) The enactments specified in the First Schedule to this Act to the extent therein specified:

Provided that no regulations made under the principal Act and its amendments (including this Act) shall be deemed to be reserved enactments for the purposes of this section, unless the regulations expressly so provide or unless they are declared pursuant to paragraph (b) of this subsection to be reserved enactments for the purposes of this section:

(b) Any other enactment declared by any Act or by any regulations (whether made under this Part of this Act or otherwise) to be a reserved enactment for the purposes of this section.

(3) Any Ordinance which is in any respect repugnant to the provisions of any reserved enactment (whether made before or after the Ordinance) shall be read subject to that enactment, and shall, to the extent of that repugnancy and not otherwise, be and remain absolutely void and inoperative.

(4) Except to the extent to which it is inconsistent with the provisions of a reserved enactment, no Ordinance and no provision of any Ordinance shall be deemed to be repugnant for the purposes of this section solely on the ground that it deals with a matter already dealt with by a reserved enactment or is repugnant to the law of England as established in the Cook Islands by section six hundred and fifteen of the principal Act.

Cf. 1915, No. 40, ss. 71, 73, 76, 78

**71. Sections 40 to 47 of this Act applied**—The following provisions of Part I of this Act, as far as they are applicable and with the necessary modifications, shall apply with respect to Niue, as if references therein to the Cook Islands were references to Niue and references therein to the Legislative Assembly were references to the Island Assembly, namely:

(a) Section forty (which relates to the partial validity of Ordinances):

- (b) Section forty-one (which relates to the introduction of Bills into the Assembly and the proposing of motions and presentation of petitions):
- (c) Section forty-two (which relates to the power of the Resident Commissioner to assent to, refuse assent to, or amend Bills):
- (d) Section forty-three (which relates to the date of commencement of Ordinances):
- (e) Section forty-four (which requires copies of Ordinances to be transmitted to the Minister):
- (f) Section forty-five (which relates to the disallowance of Ordinances by the Governor-General):

Provided that in the application of that section to Niue subsection one shall be read as if for the words "the *Cook Islands Gazette*" there were substituted the words "such manner as the Resident Commissioner directs" and as if the words "in the *Cook Islands Gazette*" were omitted from subsection three:

- (g) Section forty-six (which requires reserved Bills to be transmitted to the Minister):
- (h) Section forty-seven (which relates to reserved Bills assented to by the Governor-General):

Provided that in the application of that section to Niue subsection one shall be read as if for the words "the *Cook Islands Gazette*" there were substituted the words "in such manner as the Resident Commissioner directs".

Cf. 1915, No. 40, ss. 79–89; 1956, No. 27, s. 2

**72. Language of Ordinances**—Every Ordinance may be passed either in the English language alone, or both in the English language and in the language of Niue; but if, in the latter case, there is any conflict between the English and the Niuean version of the Ordinance, the English version shall prevail.

Cf. 1915, No. 40, s. 90

### *Regulations*

**73. Regulations**—The provisions of subsections one to five of section fifty of this Act (which authorises the Governor-General in Council to make regulations for the peace, order, and good government of the Cook Islands) shall apply with respect to Niue as if references therein to the Cook Islands were references to Niue.

Cf. 1915, No. 40, ss. 53–58



*Village Committees*

74. **Judicial powers of Village Committees**—(1) Notwithstanding anything in the principal Act and its amendments, the Resident Commissioner may, by order published in such manner as he thinks fit, designate any number of persons (being not fewer than six), either individually by name or by reference to a specified Village Council established by Ordinance or some other group of which those persons are members, as a Village Committee for the purposes of this section.

(2) The Resident Commissioner shall in any such order as aforesaid specify—

(a) Any Ordinance or any bylaw of a Village Council in respect of which the Village Committee is to have competence in accordance with the provisions of this section:

(b) The area for which the Village Committee has competence.

(3) The Resident Commissioner may at any time, by order published in such manner as he thinks fit, revoke any such order as aforesaid or vary its terms.

(4) As regards the Ordinances and bylaws specified as aforesaid, it shall be the duty of the Village Committee to investigate all breaches thereof in the area for which the Committee has competence.

(5) If the Committee is satisfied that any such breach as aforesaid has been committed, it may authorise the taking of proceedings before the High Court in respect of the offence or it may, in its discretion, impose on the offender a penalty (not being imprisonment) in respect thereof of such amount as it thinks fit, not exceeding the maximum penalty prescribed by or under any such Ordinance or bylaw as aforesaid:

Provided that no penalty shall be imposed by the Committee under this subsection if the person charged elects to be dealt with in the High Court and, before imposing any penalty, the Committee shall make known to the offender his right of election.

(6) No penalty may be imposed on any person under this section for any offence in respect of which proceedings have been taken before the High Court.

(7) For the purpose of investigating any breach as aforesaid and determining the amount of the penalty, a Committee may, subject to any directions by the Resident Commissioner, adopt such forms of procedure as it thinks suitable:

Provided that a Committee shall not impose any penalty on an offender without giving him a reasonable opportunity of being heard in his own defence.

(8) Where a person fails to pay any penalty duly imposed on him by a Committee under this section, the amount of the penalty shall be recoverable in the High Court as a debt due to the Village Committee by the person so failing to pay the penalty:

Provided that that person may defend the proceedings, and in any such case the matter shall be reheard by the Court, which in its discretion may give judgment for the plaintiff for the amount of the penalty or such greater or lesser amount as it thinks fit, or may give judgment for the defendant.

(9) A Committee may, subject to any direction by the Resident Commissioner, delegate all or any of its functions and powers under this section to a subcommittee comprising not fewer than four members of the Committee, and the investigation of the breach and the determination of any penalty by that subcommittee shall for the purposes of this section be an investigation or determination of the Committee.

(10) Nothing in this section shall derogate from any powers of any officer of police.

**75. Penalties imposed by Village Committees**—The provisions of section fifty-four of this Act (which relates to penalties imposed by Village Committees constituted under section fifty-three of this Act) shall apply with respect to Village Committees constituted under this section as if for the words “section fifty-three” in subsection one there were substituted the words “section seventy-three”.

### PART III

#### THE COOK ISLANDS PUBLIC SERVICE

**76. Interpretation**—In this Part of this Act, unless the context otherwise requires,—

“Cook Islands Public Service” means the service of the government of the Cook Islands other than Niue, or the service of the government of Niue; but does not include service remunerated by way of fees or commission only, or honorary service, or service in any of the following capacities, namely, as—

- (a) Minister of Island Territories:
- (b) Secretary of Island Territories:
- (c) Resident Commissioner of the Cook Islands:

(d) A Judge or Commissioner of the High Court of the Cook Islands, or a Judge of the Native Appellate Court or of the Native Land Court, or a Judge, Commissioner, or Assessor of any other Court that may be established in the Cook Islands:

(e) A Justice of the Peace for the Cook Islands:

(f) An elected member of the Legislative Assembly of the Cook Islands:

(g) A member of the Niue Island Assembly, unless he is an employee of the Cook Islands Public Service in some other capacity:

(h) A member of an Island Council (other than a Resident Agent):

(i) A member of the Executive Committee of the Cook Islands who is either an elected member of the Legislative Assembly of the Cook Islands or is appointed to the Committee on the nomination of those elected members:

(j) The holder of any position specified in a declaration made pursuant to section seventy-eight of this Act:

“Employee” means a person employed in the Cook Islands Public Service:

“New Zealand controlling authority” means, in respect of a person employed in any branch of the New Zealand Government Service to which the Public Service Act 1912 applies, the Commission, and, in respect of a person employed in any other branch of the New Zealand Government Service, the Minister in charge of that branch:

“New Zealand Government Service” means the service of Her Majesty in respect of the Government of New Zealand, not being honorary service; and includes service which is education service within the meaning of the Superannuation Act 1956.

**77. Appointments of employees**—(1) Subject to the provisions of the principal Act and its amendments (including this Act), the Commission may appoint to the Cook Islands Public Service such employees as it considers necessary.

(2) Notwithstanding anything to the contrary in the principal Act or in any other Act, all employees of the Cook Islands Public Service shall be appointed by the Commission, and, subject to the provisions of any regulations made under

section eighty-two of this Act, shall hold office subject to such conditions as may from time to time be prescribed or determined by the Commission.

(3) In case of the absence from duty of any employee (from whatever cause arising) or on the occurrence from any cause of a vacancy in any position in the Cook Islands Public Service (whether by reason of death, resignation, or otherwise), and from time to time while the absence or vacancy continues, all or any of the powers and duties of the employee or pertaining to the position may be exercised and performed by any other employee for the time being directed by the Commission to exercise and perform them, whether the direction has been given before the absence or vacancy occurs or while it continues.

(4) No such direction and no acts done by any employee acting pursuant to any such direction shall in any proceedings be questioned on the ground that the occasion for the direction had not arisen or had ceased, or on the ground that the employee had not been appointed to any position to which the direction relates.

Cf. 1915, No. 40, ss. 13, 18; 1931, No. 5, s. 19; 1946, No. 16, s. 32; 1946, No. 30, s. 42 (1); 1949, No. 47, s. 39 (2)

**78. Exemptions**—(1) The Governor-General in Council, on the recommendation of the Commission, may declare that any specified position or class of position in the Cook Islands Public Service shall cease to be positions in that Service, and thereupon any person then holding that position or any position in that class shall cease to be an employee of the Cook Islands Public Service, and shall thereafter hold his appointment during the pleasure of the Minister and upon such terms and conditions as the Minister directs from time to time.

(2) If any position to which a declaration under subsection one of this section refers is vacant at the time the declaration comes into force or thereafter becomes vacant, any appointment thereto shall be made by the Minister and shall continue during his pleasure and upon such terms and conditions as the Minister directs from time to time.

(3) The Governor-General in Council, on the recommendation of the Minister, may revoke any declaration made under this section in whole or in part, and thereupon the person then holding any position in respect of which the

declaration was so revoked shall, if his appointment is confirmed by the Commission, be deemed to have been duly appointed thereto by the Commission, and shall hold office as an employee of the Cook Islands Public Service.

Cf. 1931, No. 5, s. 19 (3); 1949, No. 47, s. 39 (2)

**79. Public Service Act 1912 not applicable**—Except as provided in this Part of this Act, the Public Service Act 1912 shall have no application to the Cook Islands Public Service or to employees of the New Zealand Public Service in their capacity as employees of the Cook Islands Public Service.

Cf. 1915, No. 40, s. 29; 1931, No. 5, s. 19; 1946, No. 16, s. 32; 1949, No. 47, s. 39 (2)

**80. Delegation of powers**—(1) The Commission may from time to time, either generally or particularly, delegate any of its powers in relation to the Cook Islands Public Service (including this power of delegation) to any of its members or to any other person or persons.

(2) Subject to any general or special directions given by the Commission, the person to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(4) Any delegation under this section may be made to a specified person or to persons of a specified class, or may be made to the holder for the time being of a specified office.

(5) The delegation of any powers under this section shall not prevent the exercise of those powers by the Commission or by any person making the delegation.

Cf. 1915, No. 40, s. 15; 1931, No. 5, s. 19; 1946, No. 16, s. 32; 1949, No. 47, s. 39 (2)

**81. Duties of Commission**—(1) The Commission shall from time to time take such action as it thinks necessary to ensure a proper standard of efficiency in the Cook Islands Public Service.

(2) The Commission may from time to time issue instructions for carrying into effect the provisions of this Part of this Act and of any regulations made pursuant to section eighty-two of this Act.

(3) In the exercise of its powers and duties in relation to the Cook Islands Public Service, the Commission may conduct such inquiries and investigations as it thinks necessary. For the purposes of conducting any such inquiry or investigation, the Commission shall have the same powers and authority to summon witnesses and receive evidence as are conferred on a Commission of Inquiry by the Commissions of Inquiry Act 1908; and all the provisions of that Act shall apply to witnesses so summoned, and evidence so received and given as completely and effectually as if the witnesses had been summoned and the evidence had been received or given by virtue or under the authority of that Act, and as if that Act were in force in the Cook Islands.

**82. Public Service Regulations**—(1) The Commission may, with the approval of the Governor-General, make regulations as to the pay, allowances, discipline, control, and management of the Cook Islands Public Service. Any such regulations may be made either generally or with respect to any particular case or class of cases, and may be made applicable to the Cook Islands (including Niue) or exclusively to the Cook Islands other than Niue or exclusively to Niue.

(2) Without limiting the generality of the powers conferred by subsection one of this section, the Commission may under that subsection make regulations relating to the appointment, promotion, transfer, retirement, removal, suspension, and dismissal of employees of the Cook Islands Public Service, including the review of or appeals against any decisions in relation thereto.

(3) Without limiting any other powers of the Commission, the Commission may affix to breaches of any regulations under this section or prescribe for offences against discipline a fine not exceeding ten pounds according to the nature and gravity of the offence; and those fines shall be recoverable by deduction from salary or otherwise.

(4) Any regulation made under this section shall come into force on a date to be specified therein in that behalf (whether before or after the date on which it is made), and if no such date is specified shall come into force on the date of the publication in the *New Zealand Gazette* of a notification of the making of the regulation:

Provided that no provision of any regulation imposing any liability or disability shall come into operation before the date on which the regulation is made.

(5) No regulation made under this section shall be held to be invalid on the ground that it confers any discretionary authority on the Commission or on any person, or that it authorises the Commission or any person to determine the conditions on which leave of absence may be approved or allowances paid or any conditions of service not inconsistent with the principal Act and its amendments (including this Act), or that it leaves any matter to be determined, applied, dispensed with, prohibited, or regulated by the Commission or by any person from time to time by instruction either generally or for any classes of case or in any particular case.

Cf. 1915, No. 40, ss. 16, 19; 1931, No. 5, s. 19; 1946, No. 16, s. 32; 1949, No. 47, s. 39 (2)

**83. Payment of salary and allowances—**(1) Subject to the provisions of any regulations made under section eighty-two of this Act, employees of the Cook Islands Public Service shall receive such pay and allowances as the Commission thinks fit.

(2) The pay and allowances of employees of the Cook Islands Public Service who are stationed in the Cook Islands other than Niue shall be paid out of money appropriated by the Legislative Assembly of the Cook Islands from the Cook Islands Assembly Account, and, so far as those appropriations do not extend, then out of the Cook Islands Supplementary Account.

(3) The pay and allowances of employees of the Cook Islands Public Service who are stationed in Niue shall be paid out of money appropriated by the Niue Island Assembly from the Niue Assembly Account, and, so far as those appropriations do not extend, then out of the Niue General Account.

Cf. 1915, No. 40, s. 17

**84. Concurrent offices—**An employee of the Cook Islands Public Service may hold concurrently any offices, whether judicial or administrative, to which he may be appointed.

Cf. 1915, No. 40, s. 14; 1931, No. 5, s. 19; 1946, No. 16, s. 32; 1949, No. 47, s. 39 (2)

**85. Employment in both services—**(1) When an employee of the New Zealand Government Service is appointed to a position in the Cook Islands Public Service, he shall, as the New Zealand controlling authority in each case determines, hold the position to which he is appointed either concurrently

with or in substitution for the position held by him in the New Zealand Government Service.

(2) When any person so holds positions concurrently in both services,—

- (a) His status, rights, and liabilities in each service shall be unaffected by the fact that he holds a position in the other service; and
- (b) In respect of each position he shall be subject to the laws governing the service to which that position belongs, irrespective of his tenure of a position in the other service; and
- (c) He shall in respect of each service be qualified for promotion, increase of salary, and appointment to any other position as if he held no position in the other service.

(3) So long as any person so holds positions concurrently in both services, he shall be deemed to be absent on leave without pay from the New Zealand Government Service, unless the New Zealand controlling authority otherwise directs.

(4) When an employee of the New Zealand Government Service is appointed to a position in the Cook Islands Public Service in substitution for the position held by him in the New Zealand Government Service, he shall thereupon become a supernumerary employee of the New Zealand Government Service and shall so remain so long as he continues to be employed in the Cook Islands Public Service.

(5) Supernumerary employees shall receive no pay in respect of the New Zealand Government Service, but shall for all other purposes be deemed to remain employees of that service.

(6) Any person employed in the Cook Islands Public Service shall be eligible for appointment or transfer to any position in the New Zealand Government Service in all respects as if he were an officer of the New Zealand Government Service, but, unless he is already an officer of the New Zealand Government Service, no such person shall have any right of appeal against any determination of the New Zealand controlling authority in relation to any appointment, promotion, or transfer in or to the New Zealand Government Service.

Cf. 1915, No. 40, ss. 20–22, 24–26; 1931, No. 5, s. 19; 1933, No. 41, s. 55; 1946, No. 16, s. 32; 1949, No. 47, s. 39



## PART IV

## MISCELLANEOUS PROVISIONS

**86. Justices of the Peace**—The principal Act is hereby amended by inserting, after section one hundred and eight, the following section:

“108A. (1) The Governor-General may appoint such Justices of the Peace for the Cook Islands other than Niue and such Justices of the Peace for Niue as he thinks necessary, who shall hold office during his pleasure, and may be paid such remuneration as the Resident Commissioner of the Cook Islands or, as the case may be, the Resident Commissioner of Niue may determine.

“(2) Any two or more Justices of the Peace for the Cook Islands other than Niue acting together may exercise in the Cook Islands other than Niue the jurisdiction of a Commissioner of the High Court, and any two or more Justices of the Peace for Niue may exercise in Niue the jurisdiction of a Commissioner of the High Court, and section one hundred and eight of this Act, with the necessary modifications, shall apply as if references therein to a Commissioner were references to two or more Justices of the Peace for the Cook Islands other than Niue or, as the case may be, two or more Justices of the Peace for Niue.”

**87. New sections substituted**—The principal Act is hereby amended by repealing sections one hundred and seventy-eight to one hundred and eighty, and substituting the following sections:

“178. **Homicide defined**—Homicide is the killing of a human being by another, directly or indirectly, by any means whatsoever.

“179. **Killing of a child**—(1) A child becomes a human being within the meaning of this Act when it has completely proceeded in a living state from the body of its mother, whether it has breathed or not, whether it has an independent circulation or not, and whether the navel string is severed or not.

“(2) The killing of such a child is homicide if it dies in consequence of injuries received before, during, or after birth.

“180. **Culpable homicide**—(1) Homicide may be either culpable or not culpable.

“(2) Homicide is culpable when it consists in the killing of any person—

“(a) By an unlawful act; or

- “(b) By an omission without lawful excuse to perform or observe any legal duty; or
  - “(c) By both combined; or
  - “(d) By causing that person by threats or fear of violence, or by deception, to do an act which causes his death; or
  - “(e) By wilfully frightening that person, if he is a child under the age of seven years or is sick or infirm.
- “(3) Culpable homicide is either murder or manslaughter.
- “(4) Homicide that is not culpable is not an offence.

“180A. **Murder defined**—Culpable homicide is murder in each of the following cases:

- “(a) If the offender means to cause the death of the person killed:
- “(b) If the offender means to cause to the person killed any bodily injury that is known to the offender to be likely to cause death, and is reckless whether death ensues or not:
- “(c) If the offender means to cause death, or, being so reckless as aforesaid, means to cause such bodily injury as aforesaid to one person, and by accident or mistake kills another person, though he does not mean to hurt the person killed:
- “(d) If the offender for any unlawful object does an act that he knows or ought to have known to be likely to cause death, and thereby kills any person though he may have desired that his object should be effected without hurting any one.

“180B. **Further definition of murder**—(1) Culpable homicide is also murder in each of the following cases, whether the offender means or does not mean death to ensue, or knows or does not know that death is likely to ensue:

- “(a) If he means to inflict grievous bodily injury for the purpose of facilitating the commission of any of the offences mentioned in subsection two of this section, or the flight of the offender upon the commission or attempted commission thereof, or for the purpose of resisting lawful apprehension in respect of any other offence whatsoever, and death ensues from such injury:
- “(b) If he administers any stupefying or overpowering thing for any of the purposes aforesaid, and death ensues from the effects thereof:

“(c) If he by any means wilfully stops the breath of any person for any of the purposes aforesaid, and death ensues from such stopping of the breath.

“(2) The offences referred to in subsection one of this section are—

“(a) Those within the meaning of the following provisions of this Act, namely:

“(i) Section one hundred and seventy-six (treason):

“(ii) Section one hundred and seventy-seven (inciting to mutiny):

“(iii) Section one hundred and eighty A (murder):

“(iv) Section one hundred and ninety-six (rape):

“(v) Sections two hundred and twenty-two to two hundred and twenty-four (escape or rescue from prison or lawful custody):

“(vi) Section two hundred and thirty-three (robbery):

“(vii) Section two hundred and forty-one (burglary):

“(viii) Section two hundred and forty-seven (arson):

“(b) Any offence within the meaning of section four of the Cook Islands Amendment Act 1921 (abduction) or of section five of that Act (resisting a constable in the lawful execution of his duty).

“180c. **Provocation**—(1) Culpable homicide, which would otherwise be murder, may be reduced to manslaughter if the person who causes death does so in the heat of passion caused by sudden provocation.

“(2) Any wrongful act or insult of such a nature as to be sufficient to deprive an ordinary person of the power of self control may be provocation if the offender acts upon it on the sudden and before there has been time for his passion to cool.

“(3) Whether any particular wrongful act or insult amounts to provocation, and whether the person provoked was actually deprived of the power of self control by the provocation he received, are questions of fact.

“(4) No one shall be held to give provocation to another by doing that which he had a legal right to do, or by doing anything which the offender incited him to do in order to provide the offender with an excuse for killing or doing bodily harm to any person.

“180D. **Illegal arrest may be evidence of provocation**—An arrest shall not necessarily reduce the offence from murder to manslaughter because the arrest was illegal; but if the illegality was known to the offender it may be evidence of provocation.

“180E. **Punishment of murder**—Every one who commits murder shall upon conviction thereof be sentenced to death.

“180F. **Manslaughter**—Culpable homicide not amounting to murder is manslaughter.

“180G. **Punishment of manslaughter**—Every one who commits manslaughter is liable to imprisonment for a term not exceeding fourteen years.”

**88. Sentence of death may be carried out in New Zealand**—Section two hundred and seventy-one of the principal Act is hereby amended by adding to subsection two the following proviso:

“Provided that, where any such person has been transferred to New Zealand pursuant to section two hundred and seventy-five of this Act, the sentence may be carried out in New Zealand under the provisions of sections eleven to twenty-three of the Crimes Act 1908, as if that person had been condemned to death by the Supreme Court of New Zealand in the Supreme Court district in which is situated the prison to which he has been transferred.”

**89. New sections inserted**—(1) The principal Act is hereby amended by inserting, after section one hundred and ninety-three, the following sections:

“193A. **Intentionally endangering persons on aerodromes, etc.**—Every one is liable to imprisonment for a term not exceeding fourteen years who, with intent to injure or endanger the safety of any person on any aerodrome or in any aircraft,—

“(a) Places anything upon or across any aerodrome; or

“(b) Does any act likely to interfere with, injure, endanger, or obstruct any aircraft; or

“(c) Shoots or throws anything at any person in any aircraft or at, into, or upon, or causes anything to come in contact with any aircraft; or

“(d) Does anything whatever to any part of any aerodrome or to any machinery or signal belonging to or near to any aerodrome or to any aircraft on or about to land on or take off from, any aerodrome; or

“(e) Deals in any way with any signal or light on or near to any aerodrome, or makes or shows any false signal or light, or makes any sign whatever on or near to any aerodrome; or

“(f) Wilfully omits to do any act which it is his duty to do.

“193B. **Wantonly endangering persons on or near aerodromes, etc.**—Every one is liable to two years’ imprisonment who unlawfully and wilfully, in a manner likely to injure or endanger the safety of any person on any aerodrome or in any aircraft,—

“(a) By any act, omission, or neglect endangers or obstructs any aircraft; or

“(b) Does any act likely to interfere with or to cause injury to any aircraft; or

“(c) Shoots or throws anything at any person in any aircraft or at, into, or upon, or causes anything to come in contact with, any aircraft; or

“(d) Does anything whatever to any part of any aerodrome or to any machinery or signal belonging to or near to any aerodrome or to any aircraft on, or about to land on or take off from, any aerodrome; or

“(e) Deals in any way with any signal or light on or near to any aerodrome, or makes or shows any false signal or light, or makes any sign whatever on or near to any aerodrome; or

“(f) By any culpable neglect of duty endangers the safety of any person conveyed in any aircraft.”

(2) Section two of the principal Act is hereby amended, by inserting, before the definition of the term “alienation”, the following definition:

“‘Aerodrome’ and ‘aircraft’ have the same meanings as in the Civil Aviation Act 1948:”.

**90. Unlawful entry of dwellinghouse, etc.**—(1) The principal Act is hereby amended by repealing section two hundred and forty-one A (as enacted by section two of the Cook Islands Amendment Act (No. 2) 1948 and amended by section thirteen of the Cook Islands Amendment Act 1950), and substituting the following section:

“241A. (1) Every one is liable to five years’ imprisonment with hard labour who unlawfully enters or is in any dwellinghouse by night with intent to commit a criminal offence therein, or who is found by night in any dwellinghouse without lawful justification for his presence there.

“(2) Every one is liable to imprisonment for three months or to a fine of ten pounds who without lawful excuse (the proof of which excuse shall be on him), but in circumstances that do not disclose the commission of or an intention to commit any other offence, is found at any time in any dwellinghouse, or in any enclosed yard, garden, or area, or in or on board any ship, launch, dredge, yacht, boat, barge, or other vessel, or any aircraft.

“(3) For the purpose of this section—

“‘Dwellinghouse’ means—

“(a) Any building, hut, tent, caravan, or other structure or erection, whether permanent or temporary, which is used or intended to be used in whole or in part for human habitation or occupation; or

“(b) Any building, public or private, which is used or intended to be used in whole or in part for the purpose of education or the reception or lodging of any person for medical treatment or recuperation or entertainment or any other purpose:

“‘Night’ means the time commencing on the expiration of the first half hour after sunset and concluding at the beginning of the last hour before sunrise.”

(2) Section thirteen of the Cook Islands Amendment Act 1950 is hereby repealed.

**91. Adoption**—(1) Section four hundred and sixty-one of the principal Act is hereby amended by adding the following subsection as subsection two thereof:

“(2) Notwithstanding anything in paragraph (a) of subsection one of this section, but subject in each case to the provisions of paragraphs (b), (c), and (d) of that subsection, the Native Land Court may make an order of adoption on an application for adoption which has been filed with the Registrar at Niue at any time, if the Court is satisfied that at the time when the application was filed the child to be adopted was under the age of fifteen years.”

(2) Section eighteen of the Cook Islands Amendment Act 1950 is hereby repealed.

**92. New sections substituted**—The principal Act is hereby amended by repealing sections four hundred and eighty-seven and four hundred and eighty-eight, and substituting the following sections:

“487. **Establishment of Native reservations**—(1) The Governor-General may, by Order in Council, set apart and

reserve any Native land, whether freehold or customary, or any part thereof as a Native reservation for the purposes of a burial ground, fishing ground, village site, landing place, place of historical or scenic interest, source of water supply, church site, building site, recreation ground, bathing place, or any other specified purpose whatsoever.

“(2) The Governor-General may, by Order in Council, declare any other Native land to be included in any Native reservation, and thereupon the land shall form part of that reservation accordingly.

“(3) No Order in Council pursuant to the provisions of subsections one and two of this section shall be made except on the recommendation of a Judge of the Native Land Court.

“(4) Every such recommendation shall be accompanied by a report and a statement that the Judge has satisfied himself that the owner of the Native land, if there is only one, or both owners of the Native land, if there are two, or, if there are more than two owners, a majority of the owners who are ordinarily resident in the Cook Islands have assented to the constitution of their land as a Native reservation and that those of the owners who are not ordinarily resident in the Cook Islands will not suffer undue hardship as a result of the operation of the proposed order.

“(5) Every Native reservation under this section shall be held for the common use or benefit of the owners or of Natives of the class or classes specified in the Order in Council. For the purposes of this subsection the term ‘Natives’ includes persons who are descendants of Natives.

“488. **Revocation or variation of reservation**—(1) On the recommendation of a Judge of the Native Land Court, an Order in Council constituting a Native reservation or including land in a Native reservation may be at any time revoked by Order in Council, or may at any time be varied in like manner, whether as to the boundaries of the land included in the reservation or as to the purposes thereof.

“(2) Where by reason of the revocation or variation of any Order in Council under this section any land ceases to be a Native reservation or part of a Native reservation, the land shall vest, as of its former estate, in the persons in whom it was vested immediately before it was constituted as or included in the Native reservation, or in their successors. In any such case the Native Land Court may make an order vesting the land in the person or persons found by it to be entitled thereto.”

**93. When enactment in force in Cook Islands, amendments and substituted enactments also in force**—(1) Section six hundred and nineteen of the principal Act is hereby amended by omitting the word “Act” wherever it occurs, and substituting in each case the word “enactment”.

(2) Section six hundred and twenty of the principal Act is hereby amended by omitting the words “Every Act”, and substituting the words “Every enactment”.

**94. Certain officers to take Oath of Allegiance and Judicial Oath**—The principal Act is hereby amended by inserting, after section six hundred and fifty-seven, the following heading and section:

*“Oath of Allegiance and Judicial Oath*

“657A. (1) The oath in this section referred to as the Oath of Allegiance shall be in the form following, that is to say:

“I, \_\_\_\_\_, swear that I will be faithful and bear true allegiance to Her [or His] Majesty [*Specify the name of the reigning Sovereign, as thus: Queen Elizabeth the Second*], Her [or His] heirs and successors, according to law. So help me God.

“(2) The oath in this section referred to as the Judicial Oath shall be in the form following, that is to say:

“I, \_\_\_\_\_, swear that I will well and truly serve Her [or His] Majesty [*Specify as above*], Her [or His] heirs and successors, according to law, in the office of \_\_\_\_\_; and I will do right to all manner of people after the laws and usages of the Cook Islands, without fear or favour, affection or ill will. So help me God.

“(3) Every person required to take the Oath of Allegiance and the Judicial Oath shall be entitled as of right to make his affirmation, instead of taking an oath.

“(4) Every such affirmation shall be as follows: ‘I \_\_\_\_\_, sincerely promise and affirm’, and shall then proceed with the words of the oaths prescribed by subsections one and two of this section, omitting any words of imprecation or calling to witness.

“(5) The Oath of Allegiance and the Judicial Oath shall be taken by each of the following officers (being persons appointed to those offices after the commencement of this section) as soon as may be after his acceptance of office:

“(a) The Resident Commissioner of the Cook Islands:

“(b) The Resident Commissioner of Niue:



- “(c) The Chief Judge of the High Court:
- “(d) The other Judges of the High Court:
- “(e) The Commissioners of the High Court:
- “(f) The Judges of the Native Land Court:
- “(g) The Judges of the Native Appellate Court who are not also Judges of the Native Land Court:
- “(h) Justices of the Peace for the Cook Islands other than Niue and Justices of the Peace for Niue:
- “(i) Every person holding an office by virtue of which he is a Magistrate within the meaning of section two hundred and seventy-eight of this Act:
- “(j) Sheriffs.

“(6) The oaths to be taken under this section may be taken either in the Cook Islands or in New Zealand, and shall be taken before the following persons in such manner as the person administering the oath sees fit to adopt:

- “(a) In the case of the Resident Commissioner of the Cook Islands or the Resident Commissioner of Niue, before the Chief Judge or any other Judge of the High Court or before the Minister, or before any other person specified by the Minister in any particular case:
- “(b) In the case of the Chief Judge of the High Court, before any other Judge of the High Court or before the Resident Commissioner of the Cook Islands, or before any other person specified by the Minister in any particular case:
- “(c) In the case of any other Judge of the High Court and of the Commissioners of the High Court, before the Chief Judge or any other Judge of the High Court or the Resident Commissioner of the Cook Islands or the Resident Commissioner of Niue, or before any other person specified by the Minister in any particular case:
- “(d) In the case of any Judge of the Native Land Court and of any Judge of the Native Appellate Court and of any Justice of the Peace and of any Magistrate within the meaning of section two hundred and seventy-eight of this Act or of any Sheriff, before the Chief Judge or any other Judge of the High Court or the Resident Commissioner of the Cook Islands or the Resident Commissioner of Niue, or before any other person specified by the Minister in any particular case.

“(7) If any person mentioned in subsection five of this section declines or neglects, when the oaths required to be taken by him under this section are duly tendered, to take those oaths, he shall if he has already entered on his office vacate the same, and if he has not entered on the same be disqualified from entering on the same; but no person shall be compelled in respect of the same appointment to the same office to take any oath more than once:

“Provided that no proceedings before any such person may be questioned in any Court solely on the ground that that person has failed to take the oaths prescribed by this section.”

**95. Consequential amendments**—(1) The principal Act is hereby amended in the manner indicated in the Second Schedule to this Act.

(2) Section fifty-seven of the Cook Islands Amendment Act 1946 is hereby amended by omitting from subsection one and also from subsection two the words “Cook Islands Treasury”, and substituting in each case the words “Cook Islands Assembly Account or the Niue Assembly Account, as the case may require”.

(3) All references to the Resident Commissioner of Rarotonga in any Act, regulation, Ordinance, order, or other enactment, or in any agreement, deed, instrument, application, licence, notice, or other document whatsoever shall be read hereafter as references to the Resident Commissioner of the Cook Islands.

(4) All references to the Legislative Council of the Cook Islands in any Act, regulation, Ordinance, order, or other enactment, or in any agreement, deed, instrument, application, licence, notice, or other document whatsoever shall be read hereafter as references to the Legislative Assembly of the Cook Islands, and all proceedings, resolutions, and other acts of authority of the Legislative Council of the Cook Islands shall be deemed to be proceedings, resolutions, and acts of authority of the Legislative Assembly of the Cook Islands.

(5) All references to the Island Council of Niue in any Act, regulation, Ordinance, order, or other enactment, or in any agreement, deed, instrument, application, licence, notice, or other document whatsoever shall be read hereafter as references to the Niue Island Assembly, and all proceedings, resolutions, and other acts of authority of the Island Council of Niue shall be deemed to be proceedings, resolutions, and acts of authority of the Niue Island Assembly.

**96. Repeals, revocation, and savings**—(1) The enactments specified in the Third Schedule to this Act are hereby repealed.

(2) The regulations as to the Cook Islands Public Service made by Order in Council on the fifth day of June, nineteen hundred and sixteen, and published in the *Gazette* on the eighth day of June, nineteen hundred and sixteen, at page 1910, are hereby revoked.

(3) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal or revocation of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or revoked or under any corresponding former provision, and every such document or thing, so far as it is subsisting and in force at the time of the repeal or revocation and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

(4) Every Island Council (except the Island Council of Niue) constituted under Part II of the principal Act at the date of the commencement of Part I of this Act shall be deemed to have been duly constituted by an Ordinance under section fifty-one of this Act, but any Ordinance made under that section may abolish any such Island Council or alter its constitution or any of its powers or functions. Until the coming into force of any such Ordinance, the provisions of sections sixty-two to seventy-two, section seventy-four, sections seventy-six to seventy-eight, and sections ninety-two to one hundred of the principal Act and of any regulations thereunder relating to that Island Council shall, notwithstanding the repeal of Part II of the principal Act, continue to apply with respect to that Island Council as if those provisions were contained in an Ordinance made under section fifty-one of this Act, and as if the references to Island Ordinances in those sections or in any such regulations were references to bylaws, and as if the reference in section sixty-three of the principal Act to the Cook Islands Treasury were a reference to the Cook Islands Assembly Account.

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## SCHEDULES

Sections 39 (2) (a),  
70 (2) (a)FIRST SCHEDULE  
RESERVED ENACTMENTS

Title of Enactment	Extent of Reservation
1915, No. 40— The Cook Islands Act 1915 .....	The whole Act, except Parts XX and XXIII.
1921, No. 14— The Cook Islands Amendment Act 1921	The whole Act, except section 10.
1923, No. 9— The Cook Islands Amendment Act 1923	The whole Act.
1939, No. 36— The Visiting Forces Act 1939	The whole Act.
1941, No. 26 — The Statutes Amendment Act 1941	Section 7.
1943, No. 4— The Island Territories Act 1943 .....	The whole Act.
1945, No. 40— The Statutes Amendment Act 1945	Section 13.
1945, No. 41— The Atomic Energy Act 1945 .....	The whole Act.
1946, No. 30— The Cook Islands Amendment Act 1946	The whole Act.
1948, No. 12— The Civil Aviation Act 1948 .....	The whole Act.
1948, No. 15— The British Nationality and New Zealand Citizenship Act 1948	The whole Act.
1950, No. 13— The Republic of Ireland Act 1950	The whole Act.
1950, No. 14— The Republic of India Act 1950	The whole Act.
1950, No. 54— The Crown Proceedings Act 1950	The whole Act.
1951, No. 48— The Enemy Property Act 1951 .....	The whole Act.
1951, No. 77— The Official Secrets Act 1951 .....	The whole Act.
1952, No. 32— The Cook Islands Amendment Act 1952	The whole Act.
1954, No. 30— The Cook Islands Amendment Act 1954	The whole Act.
1954, No. 67— The Land and Income Tax Act 1954	The whole Act.

FIRST SCHEDULE—*continued*  
RESERVED ENACTMENTS—*continued*

Title of Enactment	Extent of Reservation
1956, No. 10— The Republic of Pakistan Act 1956	The whole Act.
1956, No. 47— The Superannuation Act 1956 .....	The whole Act.
1957, No. 4— The Federation of Malaya Act 1957	The whole Act.
1957, No. 21— The Diplomatic Immunities and Privileges Act 1957	The whole Act.
1957, No. 103— The Cook Islands Amendment Act 1957	Parts I, II, and III and the First Schedule.

ANNEX 19

N. S.

SECOND SCHEDULE

Section 95

SECTIONS OF PRINCIPAL ACT AMENDED

Number of Section	Nature of Amendment
Section 2	<p>By inserting, after the definition of the term "Collector of Customs", the following definition: " 'Commission' means the Public Service Commission constituted under the Public Service Act 1912:."</p> <p>By repealing the definition of the term "Cook Islands Public Service", and substituting the following definition: " 'Cook Islands Public Service' has the meaning assigned thereto by section seventy-six of the Cook Islands Amendment Act 1957:."</p> <p>By repealing the definition of the term "Cook Islands Treasury".</p> <p>By repealing the definition of the term "Medical officer", and substituting the following definition: " 'Medical Officer' means the Chief Medical Officer of the Cook Islands or of Niue, as the case may require; and includes any Medical Officer who is an employee of the Cook Islands Public Service; and also, in relation to Niue, includes any graduate of the Central Medical School at Suva, Fiji, who, under the provisions of paragraph (b) of section sixty-four of the Cook Islands Amendment Act 1957, is authorised to practise medicine and surgery under the general control of the Resident Commissioner of Niue:."</p>

SECOND SCHEDULE—*continued*SECTIONS OF PRINCIPAL ACT AMENDED—*continued*

Number of Section	Nature of Amendment
Section 2— <i>ctd.</i> ..	By repealing the definition of the term "New Zealand Public Service". By repealing the definition of the term "Ordinance", and substituting the following definition: " 'Ordinance' means an Ordinance of the Legislative Assembly of the Cook Islands or of the Niue Island Assembly, as the case may require: ". By omitting from the definition of the term "Resident Commissioner" the word "Rarotonga", and substituting the words "the Cook Islands".
Section 106 .	By omitting from subsection (1) the word "Rarotonga", and substituting the words "the Cook Islands".
Section 109 . . .	By omitting from subsection (1) the words "by the Governor-General and to hold office during his pleasure", and substituting the words "under the provisions of Part III of the Cook Islands Amendment Act 1957".
Section 110	By omitting the words "The Governor-General may also appoint such Deputy Registrars of the High Court as he thinks necessary, who shall hold office during his pleasure, and", and substituting the words "There may also be appointed under the provisions of Part III of the Cook Islands Amendment Act 1957 such Deputy Registrars of the High Court as may be necessary".
Section 111	By inserting, after the word "appointed", the words "under the provisions of Part III of the Cook Islands Amendment Act 1957".
Section 275*	By omitting the words "the Governor-General deems", and substituting the words "may be". By inserting in subsection (1) and also in subsection (4), after the words "Seal of the Cook Islands", the words "or the Seal of Niue, as the case may require".
Section 297 . . . . .	By omitting the words "the Cook Islands Treasury", and substituting the words "the Cook Islands Assembly Account or the Niue Assembly Account, as the case may require".
Section 310 .	By omitting the words "the Cook Islands Treasury", and substituting the words "the Cook Islands Assembly Account or the Niue Assembly Account, as the case may require".
Section 325 . . .	By inserting, after the words "Seal of the Cook Islands", the words "and of the Seal of Niue".

\*As substituted by section 7 of the Cook Islands Amendment Act 1956.

SECOND SCHEDULE—*continued*SECTIONS OF PRINCIPAL ACT AMENDED—*continued*

Number of Section	Nature of Amendment
Section 350* .....	By omitting from paragraph (d) of subsection (2) the word "Rarotonga", and substituting the words "the Cook Islands".
Section 359 .....	By omitting the words "the Cook Islands Treasury", and substituting the words "the Cook Islands Assembly Account or the Niue Assembly Account, as the case may require".
Section 364 .....	By adding the words "other than Niue or of the Government of Niue".
Section 371 .....	By omitting the words "by the Governor-General and to hold office during his pleasure" and substituting the words "under the provisions of Part III of the Cook Islands Amendment Act 1957"
Section 372 .....	By omitting the words "The Governor-General may also appoint such Deputy Registrars of the Native Land Court as he thinks necessary, who shall hold office during his pleasure, and ", and substituting the words "There may also be appointed under the provisions of Part III of the Cook Islands Amendment Act 1957 such Deputy Registrars of the Native Land Court as may be necessary".
Section 377 .....	By inserting, after the word "appointed", the words "under the provisions of Part III of the Cook Islands Amendment Act 1957".
Section 490 .....	By omitting the words "the Governor-General thinks", and substituting the words "may be".
Section 490 .....	By omitting the words "Island Council", and substituting the words "Legislative Assembly of the Cook Islands or, as the case may be, the Niue Island Assembly".
Section 511 .....	By inserting in subsection (1), after the words "Seal of the Cook Islands", the words "or, as the case may require, the Seal of Niue".
Section 513 .....	By adding to subsection (2) the words "or, as the case may require, the Seal of Niue".
Section 513 .....	By omitting from subsection (3) the words "Cook Islands Treasury", and substituting the words "Cook Islands Assembly Account or the Niue Assembly Account, as the case may require".
Section 602 .....	By omitting from subsection (2) the words "Cook Islands Treasury", and substituting the words "Cook Islands Assembly Account or the Niue Assembly Account, as the case may require".
Section 614 .....	By inserting, after the words "Cook Islands", the words "or, as the case may require, the Seal of Niue".

\*As substituted by section 32 of the Crown Proceedings Act 1950.

## Section 96

## THIRD SCHEDULE

## ENACTMENTS REPEALED

- 1915, No. 40—The Cook Islands Act 1915: Parts I and II. (1931 Reprint, Vol. II, p. 658.)
- 1921, No. 14—The Cook Islands Amendment Act 1921: Section 3. (1931 Reprint, Vol. II, p. 786.)
- 1923, No. 9—The Cook Islands Amendment Act 1923: Subsection (2) of section 4. (1931 Reprint, Vol. II, p. 790.)
- 1925, No. 2—The Cook Islands Amendment Act 1925. (1931 Reprint, Vol. II, p. 790.)
- 1926, No. 21—The Cook Islands Amendment Act 1926. (1931 Reprint, Vol. II, p. 791.)
- 1931, No. 5—The Finance Act 1931 (No. 2): Section 19. (1931 Reprint, Vol. II, p. 880.)
- 1933, No. 41—The Finance Act 1933 (No. 2): Section 55.
- 1946, No. 16—The Finance Act 1946: Section 32.
- 1946, No. 30—The Cook Islands Amendment Act 1946: Part I and section 42.
- 1949, No. 47—The Samoa Amendment Act 1949: Section 39.
- 1951, No. 78—The Finance Act 1951: Section 39.
- 1952, No. 32—The Cook Islands Amendment Act 1952: Sections 2 and 4.
- 1956, No. 27—The Cook Islands Amendment Act 1956: Section 2.
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