



ANALYSIS

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1962, No. 40

An Act to amend the Cook Islands Act 1915

[5 December 1962]

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—This Act may be cited as the Cook Islands Amendment Act 1962, and shall be read together with and deemed part of the Cook Islands Act 1915 (hereinafter referred to as the principal Act).

2. Rehearing of criminal proceedings—The principal Act is hereby amended by inserting, after section 134, the following section:

“134A. (1) Where on the hearing of any information the accused has been convicted, the High Court, on application made at any time within sixty days after the date of the conviction, may, if it thinks fit, grant a rehearing of the information, either as to the whole matter or only as to the sentence, upon such terms as the Court thinks fit.

“(2) When a rehearing has been granted, the conviction or, as the case may be, the sentence only shall immediately cease to have effect.

“(3) If a rehearing is granted in any case where the accused was on conviction sentenced to a term of imprisonment that has not expired, but the hearing is not proceeded with immediately, the Court may, subject to the provisions of section 288 of this Act, remand the accused in custody until the date appointed for the rehearing.

“(4) On any rehearing the Court shall have the same powers and shall follow the same procedure as if it were the first hearing.

“(5) If the defendant does not appear on the date set down for the rehearing of any information, the Court may, if it thinks fit, without rehearing the case direct that the original conviction or sentence, as the case may be, shall be restored.”

3. Punishment of murder—The principal Act is hereby further amended by repealing section 180E (as substituted by section 87 of the Cook Islands Amendment Act 1957), and substituting the following section:

“180E. Every one who commits murder shall on conviction thereof be sentenced to imprisonment for life.”

4. Punishment of certain offences now punishable with imprisonment for life—The principal Act is hereby further amended—

- (a) By omitting from section 177 the words “imprisonment for life”, and substituting the words “ten years’ imprisonment”:
- (b) By omitting from section 186 the words “imprisonment for life”, and substituting the words “fourteen years’ imprisonment”:
- (c) By omitting from section 189 the words “imprisonment for life”, and substituting the words “fourteen years’ imprisonment”:

(d) By omitting from subsection (3) of section 196 the words "imprisonment for life", and substituting the words "fourteen years' imprisonment".

5. Repeal of provisions as to gaming—Section 213 of the principal Act is hereby repealed.

6. New sections inserted—The principal Act is hereby further amended by inserting, after section 268, the following sections:

"268A. **Accessory after the fact**—(1) An accessory after the fact to an offence is one who, knowing any person to have been a party to the offence, receives, comforts, or assists that person or tampers with or actively suppresses any evidence against him, in order to enable him to escape after arrest or to avoid arrest or conviction.

"(2) No married person whose spouse has been a party to an offence shall become an accessory after the fact to that offence by doing any act to which this section applies in order to enable the spouse, or the spouse and any other person who has been a party to the offence, to escape after arrest or to avoid arrest or conviction.

"268B. **Punishment of accessories**—Every one who is accessory after the fact to any offence punishable by death or by imprisonment, being an offence in respect of which no express provision is made by this Act or by some other enactment for the punishment of an accessory after the fact, is liable to imprisonment for a term not exceeding seven years if the punishment for that offence is death or the maximum punishment for that offence is imprisonment for life, and not exceeding five years if such maximum punishment is imprisonment for ten or more years; and in any other case is liable to not more than half the maximum punishment to which he would have been liable if he had committed the offence."

7. Release of prisoners transferred to New Zealand—(1) The principal Act is hereby further amended by inserting, after section 275 (as substituted by section 7 of the Cook Islands Amendment Act 1956), the following section:

"275A. (1) Where any person (in this section referred to as the offender) brought to New Zealand under the provisions of section 275 of this Act is imprisoned in New Zealand under the provisions of that section,—

“(a) The Minister of Justice, with the concurrence of the Minister of Island Territories,—

“(i) May at any time, by warrant signed by him, grant to the offender, not being an offender serving a sentence of life imprisonment, remission of any part of his sentence, not exceeding one-fourth of the term thereof, on the ground of his good conduct and industry; and

“(ii) May, in the case of any offender who is a Native and is not under sentence of exile from the Cook Islands, direct by warrant signed by him that on the release of the offender he be allowed to remain in New Zealand:

“(b) Where any offender is granted a remission of any part of his sentence under paragraph (a) of this subsection, then,—

“(i) If pursuant to this section he is to be released in New Zealand, the Minister of Justice, with the concurrence of the Minister of Island Territories, may, by the warrant referred to in subparagraph (i) of paragraph (a) of this subsection, impose such special conditions of probation as he thinks fit in addition to those that apply by virtue of the provisions of section 38 of the Criminal Justice Act 1954:

“(ii) If pursuant to this section he is to be returned to the Cook Islands, the Minister of Justice, with the like concurrence, may, by the warrant referred to in subparagraph (i) of paragraph (a) of this subsection, direct that, until a date specified in the warrant (being a date not later than the date of expiry of the term of the original sentence), the offender shall be subject to supervision by a person to be nominated from time to time by the Resident Commissioner, and shall comply with the directions of that person with respect to such matters as are specified in the warrant:

“(c) The provisions of section 33A of the Criminal Justice Act 1954 (as enacted by section 4 of the Criminal Justice Amendment Act 1961), as far as they are applicable but subject to the provisions of this section, shall apply with respect to the offender as if he had been sentenced to imprisonment by the Supreme Court of New Zealand.

“(2) The Prisons Parole Board, on considering the case of any offender under section 33A of the Criminal Justice Act 1954 (as so enacted), shall have regard, in addition to the matters specified in subsection (6) of that section, to such other matters of any kind whatsoever as it considers relevant in the circumstances of the case, and may, in its discretion, recommend that the offender—

“(a) Unless he is under sentence of exile from the Cook Islands,—

“(i) Be returned to the Cook Islands and released on his arrival there; or

“(ii) Be returned in custody to the Cook Islands and continue to serve the sentence of imprisonment in some prison in the Cook Islands until a date specified by the Board (being, in the case of a prisoner undergoing a sentence of life imprisonment, such date as the Board thinks fit, and, in the case of any other prisoner, a date not later than three months after his return to the Cook Islands) and be released on the date so specified; or

“(b) Be released in New Zealand.

“(3) Any recommendation of the Prisons Parole Board under subsection (2) of this section may be subject to such conditions as the Board thinks fit, including, if the Board thinks fit, a condition, in the case of a prisoner to whom paragraph (a) of that subsection applies, that, until a date specified by the Board (being, in the case of an offender undergoing a sentence of life imprisonment, such date as the Board thinks fit, and in any other case a date not later than the date of the expiry of the term of the original sentence), he shall be subject to supervision by a person to be nominated from time to time by the Resident Commissioner and shall comply with the directions of that person with respect to such matters as the Board specifies.

“(4) The provisions of the Criminal Justice Act 1954 relating to the release of an offender on probation shall not apply with respect to any offender who is to be returned to the Cook Islands pursuant to this section.

“(5) Where pursuant to this section any offender is released in New Zealand, the provisions of sections 35 to 39 of the Criminal Justice Act 1954, as far as they are applicable, shall apply as if he had been so released at or before the expiry of a term of imprisonment imposed by the Supreme Court of New Zealand.

“(6) Where any offender who pursuant to this section is released in New Zealand desires to return to the Cook Islands before the expiration of the term of his probation, the Minister of Justice, on the application of the offender and with the concurrence of the Minister of Island Territories, may cancel the probationary licence as from the date on which the offender leaves New Zealand, and by warrant direct that as from the date of the arrival of the offender in the Cook Islands until a date specified in the warrant (being not later than the date on which the term of probation would have expired if the probationary licence had not been cancelled) the offender shall be subject to supervision by a person to be nominated from time to time by the Resident Commissioner and shall comply with the directions of that person with respect to such matters as are specified in the warrant.

“(7) Every offender, if he is a Native and is not under sentence of exile from the Cook Islands, shall, as soon as he is entitled to be released or as soon thereafter as may be, unless he is to be released in New Zealand under this section, be returned to the Cook Islands in pursuance of a warrant signed by the Minister of Justice, and in the meantime shall be detained in custody in some prison in New Zealand appointed by that warrant.

“(8) A recommendation of the Prisons Parole Board under this section may be given effect to in pursuance of a warrant signed by the Minister of Justice with the concurrence of the Minister of Island Territories.

“(9) For the purposes of this section, cumulative terms of imprisonment shall be treated as one term.”

(2) Section 275 of the principal Act (as substituted as aforesaid) is hereby amended—

(a) By inserting in paragraph (b) of subsection (5), before the words “He shall be imprisoned”, the words “Subject to the provisions of section 275A of this Act”:

(b) By repealing the proviso to subsection (5) and subsections (6) and (7).

8. Person conditionally released from imprisonment, or portion of whose sentence is conditionally remitted, may be reimprisoned—The principal Act is hereby further amended by inserting, after section 275A (as inserted by section 7 of this Act), the following section:

“275B. (1) Any person who is released from imprisonment—

“(a) Pursuant to a remission of part of his sentence under paragraph (a) of subsection (1) of section 275A of this Act or to a recommendation of the Prisons Parole Board under paragraph (c) of that subsection subject to any conditions imposed under that section, and is returned to the Cook Islands under that section (including a person who returns to the Cook Islands pursuant to subsection (6) of that section); or

“(b) Pursuant to a remission of part of his sentence under section 314B of this Act subject to any conditions imposed under that section,—

and who commits a breach of any such condition may be arrested by any constable without warrant and brought before a Judge of the High Court, and may be sentenced to imprisonment, in the case of a person who was undergoing a sentence of life imprisonment, for such period as the Court thinks fit, and in any other case for any period not exceeding the unexpired portion of the term of his original sentence.

“(2) For the purposes of this section, cumulative terms of imprisonment shall be treated as one term.”

9. Court may order convicted person to come up for sentence if called upon—The principal Act is hereby further amended by inserting, after section 310, the following section:

“310A. (1) The Court, on convicting an accused person of an offence under any enactment, may, having regard to the circumstances, including the nature of the offence and the character of the offender, instead of passing sentence, order the offender to appear for sentence if called upon to do so, on such conditions as it thinks fit, including, if the Court thinks fit, a condition that the offender shall be subject to supervision for such period as the Court specifies, not exceeding the period specified in or pursuant to subsection (3) of this section, by a person to be nominated from time to time by the Resident Commissioner.

“(2) The making of an order under this section shall not limit or affect the power of the Court, under any enactment applicable to the offence, to make any order for the payment of costs, damages, or compensation, or for the restitution of any property, notwithstanding that the offender is not sentenced on conviction, and the provisions of every such enactment shall apply accordingly.

“(3) Any person in respect of whom an order is made under this section may be called upon to appear for sentence within any period specified by the Court in the order, being a period not exceeding three years from the date of the conviction, or if no period is so specified, within one year from the date of the conviction.

“(4) Where any person is brought up for sentence under this section, the Court may, after inquiry into the circumstances of the case and the conduct of the offender since the order was made, sentence or otherwise deal with the offender for the offence in respect of which the order was made.”

10. Pardon and remission of sentence—(1) Section 314B of the principal Act (as enacted by section 19 of the Cook Islands Amendment Act 1961) is hereby amended by adding to subsection (4) the words “including in the case of the remission of part of the sentence of an offender undergoing a sentence of imprisonment, if the Governor-General or the Resident Commissioner, as the case may be, thinks fit, a condition that, until a date specified by the Governor-General or the Resident Commissioner, as the case may be (being, in the case of an offender undergoing a sentence of life imprisonment, such date as the Governor-General thinks fit, and in any other case a date not later than the date of the expiry of the term of the original sentence), he shall be subject to supervision by a person to be nominated from time to time by the Resident Commissioner and shall comply with the directions of that person with respect to such matters as the Governor-General or the Resident Commissioner, as the case may be, specifies”.

(2) Section 314B of the principal Act (as so enacted) is hereby further amended by inserting, after subsection (4), the following subsection:

“(4A) For the purposes of this section, cumulative terms of imprisonment shall be treated as one term.”

(3) Section 314B of the principal Act (as so enacted) is hereby further amended by inserting, after subsection (5), the following subsection:

“(5A) Where any person is granted a free pardon by the Governor-General in the exercise of the powers conferred on him in that behalf, that person shall be deemed never to have committed the offence:

“Provided that the granting of a free pardon shall not affect anything lawfully done or the consequences of anything unlawfully done before it is granted.”

11. Wills of Natives—(1) Section 445 of the principal Act is hereby amended by repealing subsection (2) (as amended by section 9 of the Cook Islands Amendment Act 1956), and substituting the following subsection:

“(2) No will made by a Native shall be valid unless one of the attesting witnesses thereof is—

“(a) A Judge of the High Court, a Judge of the Native Land Court, a Solicitor of the Supreme Court of New Zealand, a Justice of the Peace for the Cook Islands other than Niue, a Justice of the Peace for Niue, a Resident Agent or any person for the time being exercising the functions of a Resident Agent, a Registrar of the High Court, or a Registrar of the Native Land Court; or

“(b) In the case of a will executed in the Island of Rakahanga, the Island of Mitiaro, the Island of Palmerston, the Island of Manuae, or the Island of Nassau, one of the persons referred to in paragraph (a) of this subsection or an employee of the Cook Islands Public Service as defined in section 76 of the Cook Islands Amendment Act 1957.”

(2) Section 445 of the principal Act is hereby further amended by omitting from subsection (3) (as amended by section 9 of the Cook Islands Amendment Act 1956) the words “such Resident Agent or officer”, and substituting the words “person referred to in subsection (2) of this section”.

(3) Section 9 of the Cook Islands Amendment Act 1956 is hereby repealed.

12. Meaning of “child”—Section 541 of the principal Act is hereby amended by repealing the definition of the term “child”, and substituting the following definition:

“‘Child’ means a person under the age of sixteen years:”.

13. Merchant Shipping Act (U.K.) not to apply to Cook Islands—(1) The principal Act is hereby further amended by inserting, after section 640, the following section:

“640A. (1) It is hereby declared that the United Kingdom Merchant Shipping Act does not form part of the law of the Cook Islands.

“(2) In this section the term ‘United Kingdom Merchant Shipping Act’ means the Act of the United Kingdom Parliament intituled the Merchant Shipping Act 1894; and includes all other Acts of the United Kingdom Parliament that are to be construed as one with that Act; and also includes all

Orders in Council and Proclamations under any such Act, and all other rules, regulations, or notices made or given by any United Kingdom authority under any such Act.”

(2) This section shall come into force on a date to be fixed for the commencement thereof by the Governor-General, by Order in Council, and different dates may be so fixed for the commencement of this section in the Cook Islands (other than Niue) and in Niue.

14. Time of day in Niue—Section 651 of the principal Act (as substituted by section 3 of the Cook Islands Amendment Act 1952) is hereby amended by omitting from subsection (2) the words “one hundred and seventy degrees”, and substituting the words “one hundred and sixty-five degrees”.

15. New sections substituted—The Cook Islands Amendment Act 1957 is hereby amended by repealing sections 8 to 11, and substituting the following sections:

“8. Executive Committee—(1) There shall be an Executive Committee of the Cook Islands, which shall consist of—

“(a) The Resident Commissioner;

“(b) The Secretary to the Government of the Cook Islands;

“(c) The Treasurer of the Cook Islands; and

“(d) Not more than seven other members, being elected members of the Legislative Assembly, to be elected by the Legislative Assembly.

“(2) Elected members of the Executive Committee shall hold office during the pleasure of the Legislative Assembly:

“Provided that any elected member of the Executive Committee shall vacate his office as a member upon ceasing to hold office as a member of the Legislative Assembly.

“(3) If any elected member of the Executive Committee vacates his office or dies or resigns while the Legislative Assembly is not in session, the Executive Committee shall appoint in his place an elected member of the Legislative Assembly, to hold office subject to the proviso to subsection (2) of this section, until the Legislative Assembly elects a member pursuant to paragraph (d) of subsection (1) of this section to fill the vacancy.

“(4) Every person who executes the office of Secretary to the Government of the Cook Islands 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 act as a member of the Executive Committee in place of and with the same powers and functions as are normally exercisable by that official member.

“(5) Elected members of the Executive Committee may receive from the Cook Islands Assembly Account such remuneration and allowances as may be prescribed by Ordinance.

“9. Delegation of Resident Commissioner’s functions and powers to Executive Committee—(1) The Resident Commissioner may, with the prior approval of the Minister, and shall if the Minister so directs, delegate in writing from time to time to the Executive Committee any of the functions or powers conferred on the Resident Commissioner by any enactment for the time being in force in the Cook Islands.

“(2) Any such delegation may, with the prior approval of the Minister, and shall if the Minister so directs, be made subject to such limitations or conditions as are specified in the delegation.

“(3) The Resident Commissioner may, with the prior approval of the Minister, and shall if the Minister so directs, revoke any delegation under this section, but that revocation shall not affect in any way anything done under the delegated authority.

“(4) The fact that the Resident Commissioner delegates any function or power to the Executive Committee or revokes any such delegation shall be conclusive evidence of his authority to do so.

“10. Procedure of the Executive Committee—(1) The Executive Committee may be summoned at any time by the Resident Commissioner, and shall be so summoned on the written request of not fewer than three of its members.

“(2) The Resident Commissioner or his Deputy shall so far as practicable attend at all meetings of the Executive Committee.

“(3) The Resident Commissioner shall preside at every meeting of the Executive Committee that he attends.

“(4) In the absence of the Resident Commissioner from any meeting of the Executive Committee, the Deputy Resident Commissioner of the Cook Islands may attend and preside at the meeting in his place.

“(5) In the absence of both the Resident Commissioner and the Deputy Resident Commissioner from any meeting, the Executive Committee shall elect one of its members present to preside.

“(6) A member of the Executive Committee shall not vote on 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.

“(7) The presiding member shall not be entitled to a deliberative vote at any meeting, but in the event of an equality of votes he shall be entitled to exercise a casting vote.

“(8) Any matter considered by the Executive Committee shall be decided by the majority vote of the members present and voting.

“(9) No business except that of adjournment shall be transacted at any meeting of the Executive Committee if fewer than five members, of whom at least three are elected members, are present.

“(10) Subject to the provisions of this section, the Executive Committee shall determine its own procedure.

“11. Functions of the Executive Committee—The functions of the Executive Committee shall be—

“(a) To perform and exercise such functions and powers as are conferred on it by any enactment:

“(b) To perform and exercise any functions and powers that are for the time being delegated to it by the Resident Commissioner:

“(c) To report and make recommendations on any matter referred to the Executive Committee from time to time by the Resident Commissioner or the Legislative Assembly in that behalf.”

16. Revenue and expenditure from Cook Islands Assembly Account—Section 18 of the Cook Islands Amendment Act 1957 is hereby amended—

(a) By inserting in subsection (3), after the words “Resident Commissioner”, the words “or, where any Ordinance so provides, the Executive Committee”:

(b) By omitting from subsection (3) the words “he considers”, and substituting the words “he or it considers”.

17. Bonds by employees or prospective employees of Cook Islands Public Service—The Cook Islands Amendment Act 1957 is hereby further amended by inserting, after section 83, the following section:

“83A. (1) An employee or prospective employee to whom money is advanced or on whose behalf expenditure is incurred with the approval of the Commission in connection with transportation, education, training, or sustenance, or for any other special purpose, may be required, as a condition of that advance or expenditure, to sign a bond in a form to be determined by the Commission requiring him to pay to the Crown the sum therein specified if he makes default in the performance of any condition of the bond.

“(2) The Commission may require that such a bond shall also be signed by a parent or guardian, or by some other person approved by the Commission, as surety, or the Commission may accept any other security offered by the employee or prospective employee. The parent or guardian or person who signs such a bond shall be jointly and severally liable thereunder.

“(3) Every such bond shall be enforceable against the employee or prospective employee and the surety who signs it, notwithstanding anything in any enactment or any rule of law.”

18. Employment in New Zealand and Cook Islands Public Services—The Cook Islands Amendment Act 1957 is hereby further amended by repealing section 85, and substituting the following section:

“85. (1) Any person permanently employed in the New Zealand Government Service may, with the consent of the New Zealand controlling authority, be appointed to any position in the Cook Islands Public Service in all respects as if he were an employee thereof; but, until he is appointed to a position in the Cook Islands Public Service, no such person shall have any right of appeal against any determination of the Public Service Commission in relation to any appointment, promotion, or transfer in or to the Cook Islands Public Service.

“(2) Any employee of the Cook Islands Public Service may be appointed to any position in the New Zealand Government Service in all respects as if he were permanently employed therein; but, until he is appointed to a position in 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 the New Zealand Government Service. For the purposes of this subsection, the seniority of any such person shall be determined with reference to his grading (if any) in the New Zealand Government Service.

“(3) Any person appointed to a position in the Cook Islands Public Service under subsection (1) of this section or to a position in the New Zealand Government Service under subsection (2) of this section may hold positions concurrently in both services, and in such a case—

“(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.

“(4) 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 or, as the case may be, from the Cook Islands Public Service, unless the New Zealand controlling authority or, as the case may be, the Public Service Commission otherwise directs.

“(5) When an employee of the New Zealand Government Service is appointed to a position in the Cook Islands Public Service, and then or thereafter ceases to hold a position in the New Zealand Government Service, he shall not be deemed for that reason to have retired from the New Zealand Government Service, but shall become a supernumerary employee of that service, and, unless he sooner resigns from the New Zealand Government Service, shall so remain until he ceases to be employed in the Cook Islands Public Service and for such further period, not exceeding six months, as the New Zealand controlling authority may from time to time in any case allow.

“(6) When an employee of the Cook Islands Public Service is appointed to a position in the New Zealand Government Service, and then or thereafter ceases to hold a position in the Cook Islands Public Service, he shall not be deemed for that reason to have retired from the Cook Islands Public Service, but shall become a supernumerary employee of that service, and, unless he sooner resigns from the Cook Islands Public Service, shall so remain until he ceases to be employed in the New Zealand Government Service and for such further period, not exceeding six months, as the Public Service Commission may from time to time in any case allow.

“(7) A supernumerary employee shall receive no pay in respect of the service of which he is a supernumerary employee, but shall for all other purposes be deemed to remain an employee of that service.

“(8) Any employee of the Cook Islands Public Service may, with the consent of the New Zealand controlling authority, be attached to the New Zealand Government Service for training or experience, and during the period of his service in New Zealand that employee shall be paid such salary and allowances as may be determined by the New Zealand controlling authority.”

19. Contribution to Government Superannuation Fund by employees of the Cook Islands Public Service—(1) The Cook Islands Amendment Act 1957 is hereby further amended by repealing section 85A (as inserted by section 6 of the Cook Islands Amendment Act 1958), and substituting the following section:

“85A. (1) The provisions of subsections (2) and (3) of section 50 of the Superannuation Act 1956 shall not apply to any permanent employee of the Cook Islands Public Service who was not ordinarily resident in the Cook Islands immediately before his appointment to the Cook Islands Public Service, unless at any time, by notice in writing to the Superintendent of the Government Superannuation Fund, he elects to become a contributor to that Fund; and, if he so elects,—

“(a) He shall be a contributor to that Fund from the dates specified in subsection (2) or subsection (3), as the case may be, of the said section 50, or from such date as he may elect pursuant to the provisions of section 22 of the Superannuation Act 1956; and

“(b) He shall have the right, pursuant to section 28 of that Act, to cease to be a contributor.

“(2) While any employee to whom subsection (1) of section 85 of this Act applies holds positions concurrently in both services, or is a supernumerary employee of the New Zealand Government Service in accordance with the provisions of subsection (5) of that section, and is a contributor to the Government Superannuation Fund, the salary together with increments, if any, that in the opinion of the New Zealand controlling authority he would have been entitled to receive in respect of his employment in the New Zealand Government Service had he not been appointed to the Cook Islands Public Service shall be deemed to be his salary for the purposes of the Superannuation Act 1956:

“Provided that, when any such employee has held a position in the Cook Islands Public Service for a continuous period of six years, he may, at any time after the expiration of that period while he still holds a position in that service, or if he is transferred to or returns to employment in the New Zealand Government Service, within one year after the termination of service in the Cook Islands, elect to contribute on the salary received by him in respect of his employment in the Cook Islands Public Service (exclusive of any special allowance received by him in respect of his residence in the Cook Islands) with effect from the date of his appointment in the last-mentioned service.

“(3) While any person to whom subsection (2) of section 85 of this Act applies holds positions concurrently in both services or is a supernumerary employee of the Cook Islands Public Service under subsection (6) of section 85 of this Act, or is attached to the New Zealand Government Service under subsection (8) of that section, the salary together with increments, if any, that in the opinion of the Public Service Commission he would have been entitled to receive in respect of his employment in the Cook Islands Public Service had he not been appointed to a position in or been attached to the New Zealand Government Service shall be deemed to be his salary for the purposes of the Superannuation Act 1956:

“Provided that, when any such employee has held a position in the New Zealand Government Service for a continuous period of six years, he may, at any time after the expiration of that period while he still holds a position in that service, or if he is transferred to or returns to employment in the Cook Islands Public Service, within one year after the termination of service in New Zealand, elect to contribute on the salary received by him in respect of his employment in the New Zealand Government Service with effect from the date of his appointment in the last-mentioned service.

“(4) Upon any such election, there shall be payable by the employee to the Fund, within such time and in such manner as the Government Superannuation Board determines, such sum as the Board fixes in respect of the excess of his salary during the past period as an employee of the Cook Islands Public Service or of the New Zealand Government Service, as the case may be, over the amount deemed to be his salary during that period under the foregoing provisions of this subsection.

“(5) In this section the term ‘employee’ includes—

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

“(b) A Judge of the High Court of the Cook Islands:

“(c) A Judge of the Native Land Court of the Cook Islands:

“(d) The holder of any position specified in a declaration made pursuant to section 78 of this Act:

“(e) The holder of any position specified in a notice given pursuant to paragraph (e) of subsection (9) of section 50 of the Superannuation Act 1956 (as enacted by section 2 of the Superannuation Amendment Act 1958).”

(2) Section 6 of the Cook Islands Amendment Act 1958 is hereby repealed.

This Act is administered in the Department of Island Territories.
