



ANALYSIS

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1976, No. 11

An Act to amend the Electoral Act 1966 (10 September 1976)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:-

1. Short Title - This Act may be cited as the Electoral Amendment Act 1976 and shall be read together with and deemed part of the Electoral Act 1966 (hereinafter referred to as the principal Act).

2. Qualification of members - Section 6 of the principal Act is hereby amended by adding the following new subsection -

"(3) In the case of any by-election for any constituency a person shall be deemed to be capable of being elected as a member for that constituency if he was registered as an elector on the roll of any constituency at the last election held for that constituency and at the time of nomination still possesses the qualifications to be registered as an elector."

3. Procedure for registration - Section 12 of the principal Act is hereby amended by adding the following new subsection -

"(9) No application for registration shall be deemed to have been received by the Registrar in charge of the roll on which the applicant is entitled to have his name entered before the close of that roll unless that application is received by an electoral officer in the Cook Islands before 4 p.m. on the day set for the close of that roll pursuant to section 18 of this Act."

4. General election: Public Notice - Subsection (1) of section 28 of the principal Act is hereby amended by omitting the words, "within seven clear days of" and substituting the words "not later than seven clear days following".

5. Nominations - Section 29 of the principal Act is hereby amended by adding the following new subsection -

"(6) Any person nominating any elector as a candidate may withdraw his nomination of that elector by submitting a written statement to that effect to the Returning Officer in charge, provided that the elector had not before the receipt of that statement by the Returning Officer signed his consent in form 6."

6. Voters not to be spoken to in booth - Subsection (1) of section 46 is hereby amended by inserting after the words "except the presiding officer" and before the words " (with an interpreter, if necessary)", the words "or poll clerk".

7. Votes by declaration - The principal Act is hereby further amended by inserting after section 47 and before section 48 the following new section -

"47A.(1) Any registered elector, not being able to find his name on the roll, may complete a declaration in form 11A, and on receiving such a declaration the Presiding Officer shall issue to the elector -

- (a) an ordinary voting paper; and
- (b) an envelope marked "Vote by Declaration", and addressed to the Returning Officer in charge.

(2) The applicant shall then proceed into the compartment provided and alone and secretly on the voting paper indicate the candidate or candidates for whom he desires to vote, place the voting paper duly folded into the envelope, and return the envelope to the Presiding Officer.

(3) The Presiding Officer shall attach declaration 11A to the outside of the returned envelope and retain all such envelopes with declarations in his possession until after the preliminary count of votes and shall forward the envelopes, unopened, and accompanied by their respective declaration forms, to the Returning Officer.

(4) The Returning Officer shall then forward the declaration forms, to the Registrar of Electors for the constituency, and the Registrar after due enquiry shall satisfy himself whether the person casting the vote is a registered elector. The Registrar shall then take the following action:

- (a) if the person is a registered elector the Registrar shall endorse on the declaration form the name of the person as entered on the electoral roll, and also the word "qualified";

- (b) if the person is not a registered elector of the constituency in which he voted the Registrar of Electors shall endorse on the declaration the words "not qualified".

(5) The Returning Officer shall disallow any vote the declaration for which has been endorsed "not qualified" and the same shall be disposed of in accordance with the provisions of section 61 of this Act.

(6) Where the Registrar of Electors has endorsed the name of the elector as it appears on the roll and the word "qualified", the Returning Officer at the commencement of the scrutiny shall cross off the roll of the booth where the vote by declaration was taken, the name of the person found to be a qualified elector who voted by declaration, and where at the scrutiny it appears the elector has voted more than once the vote by declaration shall be disallowed.

(7) Where at the scrutiny it appears that the voter has not received more than one voting paper, the vote by declaration shall be included in the counting of votes undertaken pursuant to section 58 of this Act.

8. Special votes - Section 52 of the principal Act is hereby amended by adding the following new subsection -

"(5) The Returning Officer of any constituency where an election is not being contested, shall, between the hours of 9 a.m. and 4 p.m. on election day, issue and receive, in accordance with this section, any special vote made pursuant to this section."

9. Special votes in advance - The principal Act is hereby further amended by inserting after section 52 and before section 53 the following new section -

"52A.(1) Any registered elector who, having applied for a special certificate pursuant to section 52 of this Act may deliver that special certificate to the Returning Officer or Assistant Returning Officer of any constituency and apply to vote in advance of poll.

(2) Where the Returning Officer satisfied that the person will be outside the Cook Islands on polling day he shall proceed to issue a vote in advance of poll in accordance with subsections (2), (3), (4), and (5) of section 53 of this Act.

(3) Notwithstanding any other provision herein the Chief Electoral Officer may at his discretion, allow registered electors of the Takitumu and Puaikura constituencies to cast votes in advance in the Te-au-o-tonga constituency without having applied for a special voter's certificate.

(4) Each Returning Officer shall make up into a packet all such voting in advance envelopes received by him and shall send them unopened to the Chief Electoral Officer.

(5) The Chief Electoral Officer may, at his discretion, forward the votes in advance taken outside the constituency to the Returning Officer of the constituency for which they were cast, or if the Chief Electoral Officer is satisfied that there is insufficient communication and that the votes were cast in accordance with the provisions of this Act, he may transmit the number of votes in advance received by each candidate to the Returning Officer who shall include these numbers in his report to the Chief Electoral Officer made in accordance with subsection (1) of section 58 of this Act.

(6) Where the votes in advance received and dealt with by the Chief Electoral Officer pursuant to this section are not forwarded to the Returning Officer, the Chief Electoral Officer shall dispose of the voting in advance papers, certificates, declarations, and counterfoils as provided in subsection (1) of section 61 of this Act."

10. Scrutiny of the rolls - Subsection (2) of section 57 of the principal Act is hereby amended by inserting after the words "the presiding officers" and before the words "and one person" the words "the Chief Electoral Officer."

11. Counting the votes - Section 58 of the principal Act is hereby amended by -

- (a) Omitting from subsection (1) the words "subsection (6)" and substituting the words "subsection (7)".
- (b) Adding the following new subsection -

"(4) Where, owing to lack of communication, it is impossible for special votes to be received by the Returning Officer of the constituency for which the special votes were cast by the date set for the counting of votes under this section, the Chief Electoral Officer, if satisfied that a special vote has been made in accordance with section 52 of this Act, and that the special vote has been correctly transmitted, may direct the Returning Officer to add the special vote to the total number of votes received by the candidate for whom it was recorded, and the total number of votes, with the special vote or votes included shall be reported to the Chief Electoral Officer pursuant to this section."

12. Offences in respect of voting papers and ballot boxes - Paragraph (e) of subsection (1) of section 67 of the principal Act is hereby amended by inserting after the words "voting papers" and before the words "then in use" the words "or any other electoral forms".

13. Appropriation of expenses of elections - The principal Act is hereby further amended by inserting after section 88 the following new section -

"88A. All sums required to be paid by any Chief Electoral Officer, Deputy Chief Electoral Officer or Registrar for the purposes of this Act shall be paid out of the Cook Islands Government Account without further appropriation than this section".

14. Schedule - The Schedule to the principal Act is hereby amended by -

- (a) Omitting Form 1 and substituting the following Form:

FORM 1

APPLICATION FOR REGISTRATION AS AN ELECTOR

(Modified pursuant to the provisions of Section 11 of the Electoral Act 1966)

I hereby claim to have my name entered upon the Electoral Roll for the _____ Constituency, and I declare that the answers to the following questions are true and correct in every particular:

1. (a) Your Full Name: _____
(Surname) (First Name) (Middle Name)
- (b) Your Father's Name: _____
(Surname) (First Name) (Middle Name)
- (c) Your Husband's Name: _____
(Surname) (First Name) (Middle Name)
2. Your present occupation: _____
3. Your present residential address: Tapere or Street _____
Village, Town or City _____
4. How long have you lived at your present address?

_____ Days/Months/Yrs
5. (a) If at the time of making this application you have been present in the Cook Islands continuously for less than the last three months, how long were you continuously absent from the Cook Islands before your return?

_____ Days/Months/Yrs
- (b) If you are living away from the Cook Islands at present, how long have you been continuously absent from the Cook Islands? _____
6. (a) If you are not now residing in the Cook Islands, in which constituency did you reside immediately before your departure from the Cook Islands? _____
- (b) How long did you reside in that constituency? _____
- (c) If your residence in that constituency was for less than three months, what was the last constituency you resided in continuously for three months before leaving the Cook Islands? _____

7. Put a cross X in the square which applies 8. Write in these squares.

Are you	Are you
male	single
female	married
	other

Your date of birth

Day/Month/Year
Your age today _____

9. Are you a British Subject? _____
10. (a) Have you at some period resided continuously in the Cook Islands for 12 months or more? _____
- (b) (i) If you have not actually resided in the Cook Islands for at least three months immediately preceding the date of this Application, or if at the time of this Application you are outside the Cook Islands did you during the time of your absence from the Cook Islands always have the intention to return to the Cook Islands and reside therein indefinitely? _____
- (ii) If you are outside of the Cook Islands at the time of making this application do you now intend to return to the Cook Islands and reside in the Cook Islands indefinitely? _____
- (c) If after actually residing in the Cook Islands you have been outside the Cook Islands for a period of more than three years continuously, were you absent from the Cook Islands for the purpose of undergoing a course of education or of technical training or instruction during the whole or substantially the whole of that period? _____

If yes, give details: _____

Signature of Applicant: _____

Signed and declared by the Applicant this _____ day of _____ 19

Signature of Witness: _____

Residential Address of Witness: _____

Qualification of Witness: _____
(Electoral Officer, Police Officer, or Elector)

- (b) Inserting after Form 11 and before Form 12 the following new form:

FORM 11 A

Sec. 47A (1)

DECLARATION BY AN ELECTOR WHOSE
NAME CANNOT BE FOUND UPON THE
ELECTORAL ROLL

I HEREBY declare that to the best of my knowledge and belief
the following statements are true:

1. My surname and Christian names are:

Surname _____ Full Christian Name _____

2. My address is _____

3. My occupation is _____

4. I am registered as an elector of the _____ Constituency

5. I am still possessed of the qualification in respect of
which I am registered.

6. I have not already voted at this election.

Signature of Elector _____ Date _____

(Official Mark of Polling Booth)

This Act is administered by the Chief Electoral Officer.