



ANALYSIS

- | | | | |
|-----|--|-----|--|
| 1. | Title | 17. | Powers to cease on termination of office |
| 2. | Short Title and commencement | 18. | <u>OFFENCES</u>
Gaining admission to Police by false representations |
| 3. | Interpretation | 19. | Member failing to return property |
| 4. | <u>ADMINISTRATION</u> | 20. | Personation of member |
| 5. | Department of Police | 21. | Unlawful possession of police property |
| 6. | Minister of Police | 22. | Failing to give assistance |
| 7. | Officers of Department | 23. | Unlawful dealings with prisoners |
| 8. | Principal functions of Department | 24. | Bribing members of the Police |
| 9. | Police ranks | 25. | <u>MISCELLANEOUS</u>
Particulars for identification of persons in custody |
| 10. | Commissioned officers to hold warrant | 26. | Judge or Commissioner may determine title to property |
| 11. | Existing appointments deemed to be made under this Act | 27. | Unclaimed property |
| 12. | <u>GENERAL</u> | 28. | Limitation of actions |
| 13. | Members not to engage in politics | 29. | Proceedings not to be quashed for want of form |
| 14. | Oath to be taken | 30. | Regulations |
| 15. | Execution of processes | 31. | Annual Report |
| 16. | Protection of members for acts pursuant to process | 32. | Consequential amendment |
| | Member may appear in High Court by another member | 33. | Repeal and Savings |
| | Evidence of right to hold office | | |
| | Injuries in execution of duties | | |

 1967, No. 12

An Act to establish and regulate the Department of Police

(1 November 1967)

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 and commencement - (1) This Act may be cited as the Police Act, 1967.
(2) This Act shall come into force on the 1st day of January 1968.

2. Interpretation - In this Act, unless the context otherwise requires -

"Commissioned officer" means the Superintendent, any Chief Inspector, Inspector, or Sub Inspector;

"Department" means the Department of Police under this Act;

"Minister" means the Minister of Police;

"Non-commissioned officer" means any Senior Sergeant, or Sergeant;

"Police" means the officers and employees of the Department holding rank as set out in section 7 of this Act.

ADMINISTRATION

3. Department of Police - There is hereby constituted a Department of Police.

4. Minister of Police - There shall be a Minister of Police appointed under the provisions of the Constitution who shall be the Minister in charge of the Department.

5. Officers of Department - (1) There shall be the following officers and employees of the Department who shall be appointed under the provisions of the Public Service Act 1965:

- (a) A Superintendent of Police who shall be the administrative head of the Department and have the general control of the Police;
- (b) Such other ranks, clerks, and employees as may be deemed necessary for the purposes of this Act.

(2) The Superintendent of Police may from time to time authorise any commissioned officer to exercise any of the powers, authorities, duties, and functions of the Superintendent of Police either generally or in any particular case.

(3) The fact that any commissioned officer exercises any such power, authority, duty or function shall, in the absence of proof to the contrary, be sufficient evidence of his authority to do so.

6. Principal functions of Department - The principal functions of the Department shall be:

- (a) To administer this Act, and to carry out and perform any functions assigned to the Department or any member thereof by any other public Act;
- (b) To prevent the commission of offences;
- (c) To protect human life and property;
- (d) To preserve law and order; and
- (e) To detect and apprehend offenders against the law.

7. Police ranks - The Police shall consist of the following ranks:

Superintendent
Chief Inspectors
Inspectors
Sub-Inspectors
Senior Sergeants
Sergeants
Senior Constables
Constables
Cadets.

8. Commissioned officers to hold warrant - Every commissioned officer shall hold a warrant of appointment signed by the Minister.

9. Existing appointments deemed to be made under this Act - All persons who immediately before the commencement of this Act are officers or employees of the Department of the Cook Islands Public Service known as the Police Department and have been so appointed under the Public Service Act 1965 shall be deemed to have been appointed to the Department under this Act.

GENERAL

10. Members not to engage in politics - No member of the Police shall, while he remains a member, take part in any election of a member of the Legislative Assembly, Island Council, District Council, or Village Committee, whether as a candidate or in any other manner, otherwise than by voting:

Provided that nothing in this section shall apply to the discharge by any member of the Police of his duty at or concerning any such election.

11. Oath to be taken - Every member of the Police shall take the following oath before a Commissioner of the High Court or a commissioned officer of Police:

"I,, do swear that I will well and truly serve Her (or His) Majesty (specify the name of the reigning Sovereign, as thus: Queen Elizabeth the Second) in the Police, without favour or affection, malice or ill-will, until I am legally discharged; that I will see and cause Her (or His) Majesty's peace to be kept and preserved; that I will prevent to the best of my power all offences against the peace; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law. So help me God".

12. Execution of processes - (1) Every non-commissioned officer, senior constable, constable and cadet shall obey and execute all the lawful summonses, warrants, orders, and directions of any Judge or Commissioner of the High Court issued through any Registrar of that Court.

(2) Any warrant, order, or other process of the High Court or of any Judge or Commissioner thereof directed to any non-commissioned officer, senior constable, constable or cadet may be executed and enforced by any other member of the Police or his assistants; and every member and his assistants shall have the same rights, powers, and authorities for and in the execution of any such process, as if the same had been originally directed to him or them expressly by name.

(3) Where a process has been issued for the arrest of any person and has not been executed, any member of the Police in uniform or any other member on production of his identification or warrant card or other evidence that he is a member of the Police may, without having the process in his possession, arrest the person in respect of whom the process is issued.

13. Protection of members for acts pursuant to process - (1) Where any process has been issued out of the High Court, or by any Judge or Commissioner thereof, no member of the Police doing anything in obedience to any such process shall be responsible for any irregularity in the issuing of the process, or for any want of jurisdiction in the issuing of the same.
- (2) On the production of any such process and on proof that it was issued out of the High Court, or, as the case may be, that the signature thereto is in the handwriting of the person whose name appears subscribed thereto, and that person is reputed to be and acts as a Judge or Commissioner of the High Court and that the acts complained of were done in obedience to the process, the Court trying any action against any member of the Police in respect of any act done in obedience to the process shall find a verdict for that member, and the member shall recover his costs of suit.
14. Member may appear in High Court by another member - In any proceedings in the High Court any member of the Police who is to appear in the execution of his duty other than as a witness, may appear by any other member of the Police.
15. Evidence of right to hold office - If any question arises as to the right of any member of the Police to hold or execute his office, common reputation shall be evidence of that right, and it shall not be necessary to have or produce any written appointment or other document or matter whatsoever in proof of that right.
16. Injuries in execution of duty - Any injuries suffered by a member of the Police -
- While on duty or while on a direct journey from his home to report for duty or to his home after duty; or
 - While not on duty in the performance of some act which is within the scope of his ordinary duties; or
 - In consequence of some act performed in the execution of his duty, -
- shall be deemed to have arisen out of and in the course of his employment.
17. Powers to cease on termination of office - (1) When a member of the Police ceases to hold and exercise his office, all powers and authorities vested in him as a member of the Police shall immediately cease.
- (2) For the purposes of this section, a member of the Police shall be deemed to have ceased to hold and exercise his office during any period when he is on leave if, at the expiration of that leave, he will not return to duty in the Police.

OFFENCES

18. Gaining admission to Police by false representations - Every person who by any false, unauthorised, or forged certificates or any false representations, obtains admission or readmission into the Police commits an offence and shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred dollars, or to both.
19. Member failing to return property - (1) If any person who has ceased to hold and exercise his office as a member of the Police does not forthwith deliver over everything whatsoever which may have been supplied to him for the execution of his office, or which may be in his custody by virtue thereof, to the member of the Police in charge of the station to which he was last attached, he commits an offence and shall be liable to a fine not exceeding two hundred dollars.
- (2) Any Judge or Commissioner of the High Court may issue his warrant to any member of the Police to search for and seize to the use of Her Majesty, every such thing whatsoever which has not been so delivered over.
- (3) For the purposes of this section, a member shall be deemed to have ceased to hold and exercise his office during any period when he is on leave if, at the expiration of that leave, he will not return to duty in the Police.
20. Personation of member - (1) Every person who, not being a member of the Police, by words, conduct, or demeanour pretends that he is a member, or puts on or assumes the dress, name, designation, or description of a member of the Police, commits an offence and shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding two hundred dollars, or to both.
- (2) Any member of the Police may arrest without warrant any person who he has reasonable cause to believe is committing or has committed an offence against this section.
21. Unlawful possession of police property - Every person who, not being a member of the Police, has in his possession any thing whatsoever supplied or to be supplied to a member of the Police, and is not able to account satisfactorily for his possession thereof commits an offence and shall be liable to a fine not exceeding one hundred dollars.
22. Failing to give assistance - Any member of the Police when in the lawful execution of his duty may call upon any male person, not being under the age of eighteen years, to aid or assist him to apprehend or secure any person or to convey any person in his charge to a police station or other place, when reasonable necessity exists for calling for that assistance; and every such person who fails to aid or assist any member of the Police when so called upon commits an offence and shall be liable to a fine not exceeding forty dollars.
23. Unlawful dealings with prisoners - (1) Every person who holds or attempts to hold any communication with any prisoner in the custody or charge of any member of the Police, or who delivers or in any manner attempts to deliver or causes to be delivered to any such prisoner any article or thing whatsoever without the permission of that member of the Police or some responsible member of the Police in charge of that member, commits an offence and shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding four hundred dollars, or to both.

(2) Any member of the Police may arrest without warrant any person who he has reasonable cause to believe is committing or has committed an offence against this section.

24. Bribing members of the Police - Every person who, not being a member of the Police, -

- (a) Gives or offers or promises to give any member of the Police any bribe, pecuniary or otherwise, or makes any agreement with any member of the Police to induce him in any way to forego his duty; or
- (b) Requests or incites or induces any member of the Police, or the members of the Police generally, or any section thereof, to act in any manner contrary to duty; or
- (c) Connives at any act whereby any regulation or instruction in relation to the Police may be evaded, -

commits an offence and shall be liable to imprisonment for a term not exceeding two years.

MISCELLANEOUS

25. Particulars for identification of person in custody - (1) Where any person is in lawful custody at a police station on a charge of having committed any offence, a member of the Police may, subject to any direction of his superiors, take or cause to be taken all such particulars as may be deemed necessary for the identification of that person, including his photograph, fingerprints, and footprints, and may use or cause to be used such reasonable force as may be necessary to secure those particulars.

(2) Any person who, after being cautioned, fails to comply with any demand or direction of a member of the Police acting in the exercise of his powers under this section commits an offence and shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding forty dollars, or to both.

(3) If the person in respect of whom particulars have been taken under this section is acquitted, the particulars shall be forthwith destroyed.

26. Judge or Commissioner may determine title to property - (1) Where a member of the Police is in possession of any property of any kind other than property distrained under the warrant of a Judge or Commissioner of the High Court and it is doubtful whether a person claiming the property, or which of any two or more persons so claiming is entitled to the possession thereof, a Judge of the High Court, or a Commissioner of the High Court in the case of the value of the property not exceeding twenty dollars, on the application of any member of the Police, or of a claimant to the property, may make an order for the delivery of the property to any person appearing to the Judge or the Commissioner, as the case may be to be the owner thereof, or entitled to the possession thereof, or, if the owner or person entitled to possession cannot be ascertained, may make such order with respect to possession of the property as he thinks fit.

(2) Any application under this section shall be made by originating application to the High Court.

(3) If after the making of any such order an action is commenced against any member of the Police or the Crown for the recovery of the property or the value thereof, the order and the delivery of the property in pursuance thereof may be given and shall be received in evidence in bar of the action:

Provided that no such order or delivery shall affect the right of any persons entitled by law to possession of the property to recover the same.

27. Unclaimed property - (1) Any goods and chattels which have come into the possession of any member of the Police and which are unclaimed after being held for not less than three months, shall, by the direction of the Superintendent, be sold by public auction, public notice of the sale having been previously given in the island in which the sale is to be held:

Provided that perishable goods may be sold at any time and in such manner as the officer in charge of the district may direct, or if valueless may be destroyed.

(2) The proceeds of every such sale, after deducting the costs thereof, and any money which has come into the possession of a member of the Police in the execution of his duty and is unclaimed, shall be paid to and form part of the Cook Islands Government Account.

28. Limitation of actions - (1) For the protection of persons acting in the execution of this Act, all actions against any person for anything done in pursuance of this Act shall be commenced within two years after the act has been committed, and not otherwise; and notice in writing of every such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action.

(2) The plaintiff in any such action shall not recover if tender of sufficient amends is made before the action is brought, or if a sufficient sum of money is paid into Court by or on behalf of the defendant after the action is brought, together with the costs incurred up to that time.

(3) If the verdict is given for the defendant, or the plaintiff is nonsuited or discontinues the action, or if judgment is given against the plaintiff, the defendant shall recover his full costs as between solicitor and client; and, though a verdict is given for the plaintiff in any such action, he shall not have costs against the defendant unless the Court before which the trial is held certifies its approval of the action and of the verdict obtained thereon.

29. Proceedings not to be quashed for want of form - No charge, conviction, order, inquiry, recommendation, appeal, determination, decision, or other act or proceeding under this Act shall be quashed or set aside or be deemed void or insufficient for want of form only.

30. Regulations - (1) The High Commissioner may from time to time, by Order in Executive Council, make all such regulations as may in his opinion be deemed necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

(2) Regulations made under this section may prescribe for offences against the regulations punishable by a term of imprisonment not exceeding three months or a fine not exceeding one hundred dollars or both.

(3) All regulations made under this section shall be laid before the Legislative Assembly within twenty-eight days after the making thereof if the Legislative Assembly is then in session, and, if not, shall be laid before the Legislative Assembly within twenty-eight days after the commencement of the next ensuing session.

31. Annual Report - (1) The Superintendent shall as soon as practicable after the thirty-first day of March in each year furnish to the Minister a report on the operation of the Police Department for the year ending on that date.

(2) A copy of the report shall be laid before the Legislative Assembly within twenty-eight days after it has been furnished to the Minister if the Legislative Assembly is then in session, and, if not, shall be laid before the Legislative Assembly within twenty-eight days after the commencement of the next ensuing session.

32. Consequential amendment - All references to Chief Officer of Police or Chief of Police in any Act, regulation, Ordinance, Order, By-law or other enactment, or in any agreement, deed, instrument, application, licence, notice or other document whatsoever shall be read hereafter as a reference to the Superintendent of Police.

33. Repeals and savings - (1) Section 30 of the Cook Islands Amendment Act 1957 is hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924 as amended and applied to the Cook Islands it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under any provision so repealed or under any corresponding former provision and every such document, or thing so far as it is subsisting or in force at the time of the repeal 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.



ANALYSIS

Title	
1. Short Title	5. General election: Public Notice
2. Interpretation	6. Arrangements for voting
3. Tenure of office	7. Voting papers
4. Compulsory registration of electors	8. Schedule

1967, No. 13

An Act to amend the Electoral Act 1956

(10 October 1967)

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 1967, and shall be read together with and deemed part of the Electoral Act 1966 (in this Act referred to as the principal Act).

2. Interpretation - Section 2 of the principal Act is hereby amended by omitting the word "regulation" from the definition of the term "Resident" and substituting the word "section".

3. Tenure of office - Section 7 of the principal Act is hereby amended by adding, as subsection (5), the following subsection:-

" (5) When it appears to the Speaker that the seat of any member has become vacant pursuant to subsection (1) of this section, the Speaker shall declare in writing that the seat has become vacant and the cause thereof, and shall forthwith cause that declaration to be published in the Gazette."

4. Compulsory registration of electors - Section 10 of the principal Act is hereby amended by repealing subsection (1) and substituting the following subsection:-

" (1) Every person who, when any public notice is given by the Chief Electoral Officer pursuant to section 28 of this Act, is qualified to be registered as an elector or who, within forty days of that public notice, becomes so qualified, shall make application as prescribed in this Part of this Act for registration as an elector within forty days of the said public notice".