

New Zealand



ANALYSIS

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1946, No. 30

AN ACT to amend the Cook Islands Act, 1915. Title.

[12th October, 1946

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

1. This Act may be cited as the Cook Islands Amendment Act, 1946, and shall be read together with and deemed part of the Cook Islands Act, 1915 (hereinafter referred to as the principal Act).

Short Title.

See Reprint of Statutes, Vol. II, p. 658

PART I

THE LEGISLATIVE GOVERNMENT OF THE COOK ISLANDS

2. (1) The Resident Commissioner of Rarotonga, acting with the advice and consent of the Legislative Council of the Cook Islands, may make laws (to be known as Ordinances of the Cook Islands), for the peace, order, and good government of the Cook Islands

Resident Commissioner of Rarotonga may make Ordinances.

(other than Niue), not being repugnant to the principal Act or to regulations under that Act, or to any other Act of the Parliament of New Zealand in force in the Cook Islands (other than Niue), or to any rules or regulations made under the authority of any such Act and there in force.

(2) No Ordinance shall be deemed to be repugnant to the principal Act merely because it is repugnant to the law of England as established in the Cook Islands by section six hundred and fifteen of that Act, or because it deals with a matter already dealt with by this or any other Act.

(3) The power conferred by this section to make laws for the peace, order, and good government of the Cook Islands (other than Niue), shall, save as otherwise provided in this Act, extend to the imposition of tolls, rates, dues, fees, fines, taxes, and other charges.

3. There is hereby established in and for the Cook Islands (other than Niue), a Legislative Council to be called the Legislative Council of the Cook Islands.

4. (1) The Legislative Council shall consist of—

(a) Ten unofficial members, being members of Island Councils (other than that of Niue), to be elected by Island Councils in such manner as may from time to time be prescribed by regulations under this Act:

(b) Official members, comprising the Resident Commissioner of Rarotonga and ten other persons being the holders for the time being of such other offices in the Cook Islands Public Service as the Governor-General from time to time appoints as entitling the holders thereof to be members of the Legislative Council.

(2) Unofficial members of the Legislative Council may receive from the Cook Islands Treasury such remuneration and allowances (if any) as may be prescribed by regulations.

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

(4) Every person who executes the office of an official member of the Council 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

Legislative
Council of
the Cook
Islands.

Constitution
of Legislative
Council.

as a member of the Legislative Council in the place of and with the same powers and functions as are normally exercisable by that official member.

5. With respect to the unofficial members of the Legislative Council, the Governor-General may from time to time, by Order in Council, make regulations prescribing—

Regulations as to unofficial members.

- (a) The mode of election of members:
- (b) The tenure of office of members:
- (c) The forfeiture of office of members:
- (d) Any other matters deemed necessary for the regulation of the unofficial membership of the Council.

6. The Legislative Council shall meet at such places and at such times (not being less than once annually) as the Resident Commissioner of Rarotonga determines.

Meetings of Legislative Council.

7. (1) The Resident Commissioner of Rarotonga shall be entitled to preside over every meeting of the Council, but shall not be entitled to vote except in the case of an equal division of votes, when he shall have a casting vote.

Resident Commissioner of Rarotonga to preside at meetings of Council.

(2) If the Resident Commissioner is not present at any meeting, the members of the Council there present may elect one of their number to preside over that meeting, who shall be entitled to vote in the same manner as any other member, and in the case of an equal division of votes shall have a second or casting vote.

8. At all meetings of the Council eleven members shall form a quorum.

Quorum.

9. The Legislative Council may make rules regulating the procedure at the meetings thereof.

Rules of procedure.

10. There shall be an officer of the Cook Islands Public Service, to be called the Clerk of the Legislative Council, who shall keep the records of the Council and perform with respect to the Council such secretarial and other functions as may be required.

Clerk of Legislative Council.

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

Assent of Resident Commissioner.

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

Commencement
of Ordinances
so assented to.

12. Every Ordinance of the Cook Islands so assented to by the Resident Commissioner shall come into operation either on the day on which it is so assented to, or at any later date specified in that behalf in the Ordinance.

Transmission
to Minister
of Ordinances
so assented to.

13. When the Resident Commissioner assents to an Ordinance of the Cook Islands he shall forthwith transmit a printed copy thereof to the Minister of Island Territories.

Disallowance
of Ordinances.

14. (1) At any time within one year after the assent of the Resident Commissioner has been so given to an Ordinance of the Cook Islands the Governor-General may, by notice published in the *New Zealand 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 *New Zealand Gazette* or at such later date as is specified in that behalf in the notice.

Language of
Ordinances.

15. Every Ordinance of the Cook Islands may be passed either in the English language alone, or both in the English language and in the Native language of Rarotonga; but if, in the latter case, there is any conflict between the English and the Native version of the Ordinance, the English version shall prevail.

Partial
validity of
Ordinances.

16. If any Ordinance of the Cook Islands is in part repugnant to any Act or regulation or is otherwise in part *ultra vires*, that 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*.

Scope of
Ordinances.

17. (1) It shall not be lawful or competent by any Ordinance of the Cook Islands—

(a) To affect the prerogative of the Crown or the title of His Majesty to any land:

(b) To impose duties of Customs or export duties on goods imported into or exported from the Cook Islands:

- (c) To establish any body corporate:
- (d) To establish any form of municipal or local government possessed of rating, taxing, or legislative authority:
- (e) To establish any form of paper currency:
- (f) To provide as the penalty for an offence a term of imprisonment exceeding one year, or a pecuniary fine or penalty exceeding one hundred pounds in the case of an individual, or five hundred pounds in the case of a company or other body corporate:

Provided that nothing herein shall be so construed as to render invalid the provision of any Ordinance prescribing, in respect of a continuing offence, a pecuniary fine or penalty not exceeding twenty pounds for every day or part of a day during which the offence may continue, notwithstanding that the fines or penalties may amount in the aggregate to more than one hundred pounds in the case of an individual, or five hundred pounds in the case of a company or other body corporate, as the case may be:

- (g) To appropriate or authorize the expenditure of any portion of the public revenues of the Cook Islands:

Provided that the Legislative Council shall be entitled once annually, at a time to be appointed by the Resident Commissioner of Rarotonga, to discuss the proposed expenditure in respect of the Cook Islands (other than Niue) for the ensuing year, and the Resident Commissioner shall transmit to the Minister of Island Territories a copy of every resolution (if any) passed by the Council in relation to that expenditure.

(2) No Ordinance of the Cook Islands shall apply to or have any effect in the Island of Niue.

18. Any Island Ordinance made under section seventy of the principal Act which is in any respect repugnant to the provisions of any Ordinance of the Cook Islands extending to the island to which that

Island Ordinances to be void for repugnancy.

Island Ordinance relates (whether made before or after the Island Ordinance) shall be read subject to the provisions of the Ordinance of the Cook Islands, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

PART II

THE NATIVE APPELLATE COURT

Native Appellate Court established.

19. There is hereby established in and for the Cook Islands a Court of record called the Native Appellate Court of the Cook Islands.

Constitution of Native Appellate Court.

20. (1) The Judges of the Native Land Court of the Cook Islands for the time being, and such Judges (if any) of the Native Land Court of New Zealand as the Governor-General may from time to time appoint, shall be the Judges of the Native Appellate Court.

(2) Any two or more of the Judges (other than any Judge who determined the matter in dispute in the Native Land Court) shall have power to act as the Native Appellate Court:

Provided that two Judges at least shall concur in every decision of that Court.

(3) The Native Appellate Court may sit in two or more divisions at the same time, and each division shall have all the powers and jurisdiction of the Native Appellate Court.

(4) The Chief Judge of the Native Land Court of the Cook Islands, if present, or in his absence the senior Judge of that Court present, shall preside in the Native Appellate Court.

Proceedings may be continued before different Judges.

21. Proceedings in the Native Appellate Court may be continued before Judges other than those before whom the proceedings were commenced.

Decision of majority to be decision of Court.

22. (1) The decision of the Native Appellate Court shall be in accordance with the opinion of the majority of the Judges present.

(2) If the Judges present are equally divided in opinion, the order appealed from or under review shall be deemed to be confirmed.

23. (1) The Governor-General may from time to time, by Order in Council, make such rules of Court as are consistent with this Act for the purpose of regulating the practice and procedure of the Native Appellate Court, and the terms and conditions on which appeals to that Court may be brought, prosecuted, or withdrawn, and prescribing the fees payable in respect of the proceedings of that Court.

Governor-General may make rules.

(2) Any such rules may require an appellant to give security for the costs of the appeal, and may provide for the dismissal of an appeal by the Native Land Court or by a Judge thereof by reason of the failure of the appellant to conform to any such requirement or to prosecute his appeal in accordance with the said rules; and no appeal to the Native Appellate Court shall lie from any such dismissal of an appeal.

24. The times and places of sittings of the Native Appellate Court shall be determined in accordance with rules of Court.

Sittings of Native Appellate Court.

25. (1) Except as in the principal Act expressly provided to the contrary, the Native Appellate Court shall have jurisdiction to hear and determine appeals from any final order of the Native Land Court, whether made under the principal Act or under any other authority in that behalf.

Appeals from Native Land Court.

(2) Any such appeal may be brought as of right at the suit of any party to the proceedings in which the order is made, or at the suit of any person bound by the order or interested therein.

(3) Every such appeal shall be commenced by notice of appeal given in the prescribed manner within two months after the date of the minute of the order appealed from (whether before or after the commencement of this Act).

(4) For the purposes of this section any application to the Native Land Court for leave to appeal under section one hundred and fifty-eight of the principal Act (as applied by section one hundred and seventy-two of that Act) which is pending at the commencement of this Act shall be deemed to be a sufficient notice of appeal under this Act.

Appeals from provisional determinations as to title to land.

26. (1) By leave of the Native Land Court an appeal shall lie to the Native Appellate Court from any provisional or preliminary determination of the Native Land Court made in the course of any proceedings for the ascertainment of the title to customary land or for partition.

(2) Any such appeal may be brought at the suit of any person who is interested in the determination appealed from or who would be bound by a freehold order or partition order made in pursuance thereof.

(3) When leave to appeal is so given, the Native Land Court may either stay further proceedings in the matter or continue the same, but no final order shall be made until the appeal has been finally disposed of or dismissed.

(4) When any such appeal has been determined by the Native Appellate Court, no further appeal shall lie as of right at the suit of any person from any final order thereafter made in those proceedings by the Native Land Court, so far as that order conforms to the determination of the Native Appellate Court.

Successive appeals in respect of same matter.

27. Successive appeals to the Native Appellate Court may be brought in respect of the same order at the suit of different persons, but no matter determined on appeal shall be again brought in question in any other appeal.

Powers of Native Appellate Court on appeal.

28. On any appeal the Native Appellate Court may, in its discretion, do any one or more of the following things:—

- (a) Affirm the order appealed from:
- (b) Annul that order, with or without the substitution of any other order therefor:
- (c) Vary that order:
- (d) Direct the Native Land Court to make such other or additional order as the Native Appellate Court thinks fit:
- (e) Direct a new trial or rehearing by the Native Land Court:
- (f) Make any order which the Native Land Court might have made in the proceedings:
- (g) Dismiss any appeal.

29. If the appellant in any case does not prosecute his appeal with due diligence, the respondent or any other person bound by or interested in the order appealed from may apply either to the Native Land Court or to the Native Appellate Court for an order dismissing the appeal for non-prosecution; and if such order is made by either Court the costs of the appeal and the security entered into (if any) by the appellant shall be dealt with in such manner as that Court may direct.

Dismissal of appeal for non-prosecution.

30. (1) When an order of the Native Land Court is varied by the Native Appellate Court it shall, as so varied, be deemed to remain and be an order of the Native Land Court, and the variation thereof shall take and be deemed to have taken effect from the same date as if the order had been originally made by the Native Land Court in that form.

Variation deemed part of original order.

(2) When an order of the Native Land Court is varied by the Native Appellate Court, the order as so varied shall be drawn up as an order of the Native Land Court, and shall be sealed with the seal of that Court and signed by the presiding Judge or by the Chief Judge, and shall bear the same date as if no such appeal and variation had taken place; and the order as so drawn up shall supersede and take the place of the order as originally made, whether that order has been already drawn up, sealed, and signed, or not.

31. (1) If on appeal the Native Appellate Court makes (otherwise than by way of variation as aforesaid) any order which the Native Land Court might have made in the proceedings, a minute of the order shall be entered in the records of the Native Appellate Court, and the order shall take effect as an order of the Native Appellate Court as from the commencement of the day of the making thereof.

Orders of Native Appellate Court.

(2) As soon as practicable after the making thereof the order shall be drawn up in writing under the seal of the Native Appellate Court and the hand of the presiding Judge or of the Chief Judge, and shall be dated as of the date of the minute thereof.

(3) Subject to this section, all the provisions of section forty-eight of this Act with respect to orders drawn up, sealed, and signed in the Native Land Court

shall extend and apply to orders so drawn up, sealed, and signed in the Native Appellate Court.

(4) Sections three hundred and ninety-six, three hundred and ninety-seven, and three hundred and ninety-nine of the principal Act (relating to the operation and validity of orders) shall extend and apply to orders of the Native Appellate Court in the same manner as to orders of the Native Land Court.

Rehearings
where orders
made before
commencement
of this Act.

32. (1) Upon the application in writing of any person, made not later than twelve months after the commencement of this Act, alleging that he is prejudicially affected by any order of the Cook Islands Land Titles Court or of the Native Land Court made at any time before the commencement of this Act, the Native Appellate Court may grant or direct a rehearing of the matter, either wholly or as to any part thereof, before either the Native Appellate Court or the Native Land Court.

(2) On any such rehearing the Court may affirm, vary, or annul any former determination of the Cook Islands Land Titles Court or of the Native Land Court, and may exercise any jurisdiction which either of those Courts might have exercised on the original hearing.

(3) Any order made by the Native Land Court on any such rehearing shall be subject to appeal in the same manner as any final order of that Court.

(4) The Native Appellate Court may require any applicant for a rehearing to deposit such sum of money within such time as it shall think fit as security for costs, and, unless such deposit is so made, may summarily dismiss the application. The Native Appellate Court shall have power to allow costs to any person opposing the application for rehearing.

(5) Any order made on a rehearing shall take effect (subject to appeal, in the case of the Native Land Court) as from the making thereof, but no such order shall take away or affect any right or interest acquired for value and in good faith under any instrument of alienation executed before the making of the order on rehearing, but any such instrument may be perfected and confirmed as if no such order had been made. The consideration for such alienation shall, as from the

date of any order made on rehearing, be deemed to belong to the person or persons entitled under that order to the share or interest affected, and all unpaid or accruing purchase-money, rent, royalties, or other proceeds of such alienation, as well as any compensation payable, shall be recoverable accordingly. Any *bona fide* payment made pursuant to or in reliance upon the original order of the Native Land Court shall not be deemed to be invalid because that order is varied or annulled on rehearing.

(6) Where under this section the Native Appellate Court has granted or directed a rehearing of any matter, that Court or the Native Land Court (whichever is to rehear the matter), may, for the purpose of protecting the property in dispute, grant an order prohibiting dealings with the share or interest affected by the rehearing pending the result of the rehearing, and any dealings in contravention of any such order shall be deemed to be void:

Provided that nothing in this subsection shall prevent the confirmation or registration of an alienation effected by an instrument executed before the granting of the order.

(7) No rehearing shall be granted or directed under this section in respect of any matter which has been determined on appeal from the Native Land Court by the Supreme Court of New Zealand or by any Court of Appeal in the Cook Islands.

(8) A rehearing under this section may be granted or directed on such terms as to costs and otherwise as the Native Appellate Court thinks fit, and the granting or refusal thereof shall be in the absolute discretion of that Court.

33. The Registrars, Deputy Registrars, and other officers of the Native Land Court shall, without further appointment, act in the like capacity in the Native Appellate Court.

Officers of
Native Land
Court to be
officers of
Native Appellate
Court.

34. (1) The Native Appellate Court shall have in the custody of each Registrar a seal of that Court for sealing documents which require to be sealed.

Seal.

(2) The seal of the Native Appellate Court shall be in such form or forms as the Minister from time to time directs.

Witnesses and costs in Native Appellate Court.

35. (1) Sections three hundred and eighty-three, three hundred and eighty-four, three hundred and eighty-five, and three hundred and eighty-six of the principal Act (relating to witnesses and costs) shall extend and apply to the Native Appellate Court in the same manner as to the Native Land Court.

(2) The Native Appellate Court shall in respect of any proceedings in that Court have the same powers of amendment as are conferred upon the Native Land Court by section three hundred and eighty-eight of the principal Act.

(3) The Native Appellate Court or the Chief Judge shall have the same powers of amending the orders, warrants, records, and other documents of that Court as are conferred upon the Native Land Court by section three hundred and eighty-nine of the principal Act.

Right of audience and contempt.

36. (1) Section three hundred and eighty-seven of the principal Act (relating to the right of audience) shall extend and apply to the Native Appellate Court in the same manner as to the Native Land Court.

(2) Sections four hundred to four hundred and eight of the principal Act (relating to contempt of Court) shall extend and apply to the Native Appellate Court in the same manner as to the Native Land Court.

Enforcement of orders and charges.

37. (1) The Native Appellate Court shall have the same powers with respect to the enforcement of orders of that Court as are conferred upon the Native Land Court by section three hundred and ninety-two of the principal Act.

(2) Section three hundred and ninety-three of the principal Act (relating to the enforcement of charges) shall extend and apply to the Native Appellate Court in the same manner as to the Native Land Court.

Native Appellate Court may order surveys.

38. The Native Appellate Court shall have the same powers with respect to the authorization of surveys as are conferred upon the Native Land Court by section four hundred and eleven of the principal Act, and section four hundred and twelve of that Act (relating to the power of entry for survey purposes) shall extend and apply to the Native Appellate Court in the same manner as to the Native Land Court.

39. (1) If any question of fact or of Native custom or usage relating to the interests of Natives in any land or in any personal property arises in the Supreme Court of New Zealand, it shall be competent for that Court to cause a case to be stated and to refer it to the Native Appellate Court.

Supreme Court may state case for Native Appellate Court.

(2) The Native Appellate Court shall forthwith proceed to determine the case so referred to it, and shall transmit a certificate of its opinion thereon to the Supreme Court.

(3) The Supreme Court may refer back any question so determined to the Native Appellate Court for further consideration.

(4) The opinion of the Native Appellate Court on any case so stated by the Supreme Court may, if the Supreme Court thinks fit, be accepted as an authoritative determination of the question so referred.

40. (1) Section one hundred and seventy-two of the principal Act is hereby repealed.

Repeal and saving.

(2) All applications, motions, appeals, hearings, and generally all acts of authority that originated under the section hereby repealed, and are subsisting or in force on the commencement of this Act, shall enure for the purposes of this Act as if they had originated under this Act, and accordingly shall, where necessary, be deemed to have so originated.

(3) All matters and proceedings that are pending or in progress under the section hereby repealed on the commencement of this Act may be continued and completed under this Act.

PART III

MISCELLANEOUS AMENDMENTS

41. Section two of the principal Act is hereby amended by inserting, after the definition of the term "Native", the following definition:—

Section 2 of principal Act amended.

“ ‘Native Appellate Court’ means the Native Appellate Court of the Cook Islands: ”

42. (1) Section eighteen of the principal Act is hereby amended by inserting, after the words "Native Land Court", the words "or of the Native Appellate Court".

Resident Commissioner may not temporarily replace, or suspend, Judges of Native Appellate Court.

(2) Section nineteen of the principal Act is hereby amended by adding to subsection one the words "or of the Native Appellate Court".

High Court not to exercise extraordinary remedies against Native Appellate Court.

Native Appellate Court may state case for Supreme Court.

43. Section one hundred and fifteen of the principal Act is hereby amended by adding to subsection two the words “or the Native Appellate Court”.

44. Section one hundred and fifty-six of the principal Act is hereby amended as follows:—

- (a) By inserting in subsection one, after the words “The High Court or”, the words “the Native Appellate Court, or, with the sanction of the Chief Judge,”:
- (b) By inserting in subsection two, after the words “High Court”, the words “Native Appellate Court”:
- (c) By inserting in subsection four, after the words “High Court”, the words “Native Appellate Court”:
- (d) By inserting in subsection six, after the words “High Court”, the words “or of the Native Appellate Court”:
- (e) By inserting in subsection seven, after the words “High Court”, the words “Native Appellate Court”:
- (f) By inserting in subsection eight, after the words “High Court”, the words “Native Appellate Court”.

Judges of New Zealand Native Land Court may be appointed to Cook Islands Native Land Court.

See Reprint of Statutes, Vol. VI, p. 106

45. The Chief Judge of the New Zealand Native Land Court, or any other Judge of that Court holding office under Part I of the Native Land Act, 1931, may from time to time be appointed Chief Judge or Judge of the Native Land Court of the Cook Islands, and in any such case the Judge so appointed may hold both offices concurrently.

Proceedings in Native Land Court before different Judges.

46. Proceedings in the Native Land Court may be continued before a Judge or Judges other than the Judge or Judges before whom the proceedings were commenced.

Term “Magistrate” to include Judge of Native Appellate Court.

47. Section two hundred and seventy-eight of the principal Act is hereby amended by inserting, after the words “Judge of the Native Land Court”, the words “or of the Native Appellate Court”.

48. (1) Every final order of the Native Land Court shall be made orally in open Court, and a minute of the order so made shall thereupon be entered upon the records of the Court.

Final orders of Native Land Court; how made and how dealt with.

(2) Every such order shall take effect as from the commencement of the day of the making thereof.

(3) As soon as practicable after the making thereof the order shall be drawn up in writing under the seal of the Court and the hand of the Judge by whom it was made, or the hand of the Chief Judge or any other Judge.

(4) An order may be so signed by the Chief Judge or any other Judge although the Judge by whom it was made has died or ceased to be a Judge of the Court.

(5) The order as so drawn up, sealed, and signed shall be dated as of the date of the minute thereof.

(6) No order shall be questioned or invalidated on the ground of any variance between the order as so drawn up, sealed, and signed and the minute thereof; and in the case of any such variance the order as drawn up shall prevail over and supersede the minute thereof.

(7) The order as so drawn up, sealed, and signed shall relate back to the day of the date thereof, and shall take and be deemed to have taken effect in all respects according to the tenor thereof as from the commencement of that day; and the validity and operation of all intermediate orders, instruments, proceedings, and transactions shall be determined accordingly.

(8) No freehold order or partition order shall be sealed and signed until and unless there has been drawn or endorsed thereon a plan of the land affected thereby sufficient to identify the land and the boundaries thereof.

(9) At least two copies of every order of the Court affecting title to land shall be prepared and authenticated.

(10) This section is in substitution for section three hundred and ninety-four of the principal Act, and that section is hereby accordingly repealed.

Repeal.

49. Section four hundred and twenty-one of the principal Act is hereby amended by omitting from subsection two the words "the High Court or any other Court", and substituting the words "the Native Appellate Court".

Native Appellate Court may investigate title to customary land.

Native Land Court may make orders as to occupation of Native land.

50. (1) In any case where the Native Land Court is satisfied that it is the wish of the majority of the owners of any Native land that that land or any part thereof should be occupied by any person or persons (being Natives or descendants of Natives), the Court may make an order accordingly granting the right of occupation of the land or part thereof to that person or those persons for such period and upon such terms and conditions as the Court thinks fit.

(2) Any person occupying any land under any such order of the Court shall, subject to the terms of the order, be deemed to be the owner of the land under Native custom.

(3) No order shall be made by the Court under this section without the consent of the person or persons to whom the right of occupation is granted.

Judge of Native Appellate Court may attest signature of Native.

51. Section four hundred and seventy-five of the principal Act is hereby amended by inserting in subsection two, after the words "High Court", the words "or by a Judge of the Native Appellate Court".

Term "marriage officer" to include Judge of Native Appellate Court.

52. Section five hundred and ten of the principal Act is hereby amended by adding to paragraph (b) the words "or any Judge of the Native Appellate Court".

Judge of Native Appellate Court may take statutory declarations.

53. Section six hundred and fifty-three of the principal Act is hereby amended by inserting in subsection one, after the words "Native Land Court", the words "or any Judge of the Native Appellate Court".

PART IV

LAND DEVELOPMENT

Application of this Part to land by order of Native Land Court.

54. (1) The Native Land Court may, with the consent of a majority of the owners, by order declare that any land owned by Natives shall be subject to the provisions of this Part of this Act for such period as may be defined in the order, and the period fixed by the order may be extended by the Court from time to time.

(2) The Native Land Court may by order direct that any land shall be no longer subject to the provisions of this Part of this Act, and thereupon the

Resident Commissioner shall cease to have any right of control in respect thereof, but without releasing the land or any of the parties from any antecedent liability incurred to or by the Resident Commissioner, and the Resident Commissioner may, notwithstanding such order of the Court, continue to exercise his powers of creation and enforcement of charges hereunder so long as any such liability remains.

(3) For the purposes of this Part of this Act, the term "Native" shall include any descendant of a Native as defined in section two of the principal Act.

55. (1) Where any land has been declared by the Native Land Court to be subject to the provisions of this Part of this Act, the Resident Commissioner may, subject to any lease, license, or other alienation to which the land is subject, cultivate, use, and manage the whole or any part or parts of the land, and may carry on any agricultural business or any other business or occupation connected with the land and the produce thereof on behalf of and for the benefit of the owners or such Natives as may be interested in the business carried on.

Resident
Commissioner
may cultivate
land on behalf
of owners.

(2) For the purpose of any such business the Resident Commissioner may—

- (a) Purchase or otherwise acquire implements or other personal property as he may think expedient, and may also sell or otherwise dispose of all crops or other personal property acquired, held, grown, or produced by the Resident Commissioner in the course of the business:
- (b) Provide, erect, maintain, and equip stores, factories, sheds, offices, or buildings of any kind:
- (c) Do all other things reasonably necessary for the development and operation of the business, and for the improvement of the land.

(3) Subject to the control of the Public Service Commissioner, the Resident Commissioner may employ all such servants or agents as he may deem necessary, at such remuneration as he shall think fit.

(4) The Resident Commissioner may enter into a contract with any beneficial or other owner for farming or cropping on shares upon any land being administered or dealt with under this Part of this

Act, for such period and upon such conditions as to remuneration or otherwise as the Resident Commissioner thinks fit. Any such contract shall be in the name of the Resident Commissioner, and shall be as effective as if he were the legal owner of the land mentioned therein.

(5) The Resident Commissioner may retain any part of the revenue derived from the operation of any business as a reserve fund for expenditure in the management of the business, and may from time to time, as he thinks fit, either expend the reserve fund accordingly or may apply it or any part of it in any other manner in accordance with this Part of this Act.

(6) The Resident Commissioner may from time to time expend such sum or sums as he considers expedient for the purposes of carrying on any business.

(7) The Resident Commissioner shall be entitled to make a reasonable charge for administration, and all expenses and liabilities (including administration expenses) incurred by the Resident Commissioner in the conduct of any business shall be a charge upon the revenue received by him from the business as well as upon the lands whereon the business is conducted.

(8) The Resident Commissioner may make advances to any Native beneficiary in respect of his share or interest in the profits of the business, either by way of anticipation or otherwise.

(9) All sums of money advanced by the Resident Commissioner, whether on account of the business generally or to a beneficial or other owner, shall constitute a charge upon the land and shall bear interest at such rate as the Resident Commissioner shall from time to time determine. The Native Land Court may make separate orders evidencing any charge in respect of different pieces of land or in respect of different parts of or interests in any piece of land, and for that purpose may apportion, in such manner and in such proportions as it thinks just and equitable, any moneys secured or proposed to be secured by any charge.

(10) The provisions of section four hundred and seventy-three of the principal Act (prohibiting the assignment of rents or profits) shall apply to all advances or other moneys which are or may become

payable to any Native in respect of his share or interest in the profits of the business. No person other than a Native beneficiary shall be capable of acquiring any beneficial interest except by will or by order of the Native Land Court in any crops or chattels held by the Resident Commissioner or in any revenue derived or to arise therefrom, nor shall the beneficial interest of any Native beneficiary be liable to be taken in execution or attached or become assets in the bankruptcy of a Native beneficiary.

(11) Nothing in section four hundred and seventy of the principal Act (prohibiting alienation by way of security) shall apply to any land that is subject to the provisions of this Part of this Act.

56. All revenues received by a Resident Commissioner from any land subject to this Part of this Act or from any business carried on under this Part shall from time to time be applied as follows:—

Disposal of
revenues
received by
Resident
Commissioner.

- (a) In defraying the cost of the administration of the land or business:
- (b) In paying all rates, taxes, and other assessments and outgoings payable by the Resident Commissioner in respect of the land or business:
- (c) In the discharge, to such extent as may be required or as the Resident Commissioner thinks fit, of any mortgage, charge, encumbrance, or liability to which the land or business is subject:
- (d) In payment of sums (if any) set apart to meet any charge for improvements made upon any land:
- (e) For any other purposes in connection with the administration, improvement, and settlement of the land from which the revenues are derived, or for any other purposes of general utility to the Native owners of that land:
- (f) In paying at the times and in the manner prescribed the residue of the revenues to the Native owners or other persons having any estate or interest in the land or business in accordance with their respective interests.

57. (1) All moneys expended or advanced by a Resident Commissioner under this Part of this Act shall be paid out of the Cook Islands Treasury.

Moneys to be
paid out of
Cook Islands
Treasury.

(2) All moneys received by a Resident Commissioner under this Part shall be paid into the Cook Islands Treasury.

Resident
Commissioner
may delegate
powers.

58. (1) Subject to any regulations under this Part of this Act or under the principal Act, a Resident Commissioner may from time to time delegate any of his powers or functions under this Part to any officer of the Cook Islands Public Service, and any such officer may, subject to the control of the Resident Commissioner, exercise or perform those powers or functions accordingly.

(2) All things done by an officer of the Cook Islands Public Service pursuant to any delegation under this section shall be as valid and effective as if they had been done by the Resident Commissioner, and accordingly shall, where necessary, be deemed to have been so done.

Interference
and obstruction
prohibited.

59. (1) Except with the consent of the Resident Commissioner, no person shall be entitled to exercise any rights of ownership in respect of any land that is subject to this Part of this Act.

(2) Every person shall be liable on summary conviction to a fine of twenty pounds, or to imprisonment for three months, who—

(a) Wilfully trespasses on any such land, and neglects or refuses to leave the land after being warned to do so by any person authorized in that behalf by the Resident Commissioner:

(b) Wilfully obstructs, hinders, or delays any officer, servant, or workman in the performance or intended performance of his duties under this Part of this Act, or otherwise obstructs or interferes with the carrying out of any works under this Part of this Act.

(3) In any proceedings for an offence against this section in respect of any land, the fact that the defendant has an interest in the land shall not be a defence.

(4) No proceedings shall be commenced under this section except with the consent of the Resident Commissioner.

60. The Governor-General may from time to time, by Order in Council, make all such regulations as may be required for the purpose of giving effect to this Part of this Act.

Regulations.

61. (1) All acts of any nature done before the commencement of this Act that by virtue of this Part of this Act would have been valid and lawful if they had been done after the commencement of this Act shall be deemed to have been validly and lawfully done, and, in so far as they are subsisting at the commencement of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the appropriate provisions of this Part of this Act, and accordingly shall, where necessary, be deemed to have so originated.

Validation of acts done in anticipation of this Act.

(2) Without limiting the provisions of the last preceding subsection, all payments made, and all liabilities incurred, before the commencement of this Act by a Resident Commissioner in relation to the development or farming or intended development or farming of any land or in relation to advances for any such purpose are hereby validated and declared to have been lawfully made or lawfully incurred, as the case may be.