



ANALYSIS

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1967, No. 11

An Act to provide for the appointment of an Advocate-General and to define his functions and powers

(26 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 Advocate-General Act 1967.

2. Appointment of Advocate-General - (1) There shall be appointed by the High Commissioner, acting on the advice of Cabinet, an Advocate-General who shall be a person who has been in practice as a barrister in the Cook Islands or New Zealand, or partly in the one and partly in the other, for a period of, or periods amounting in aggregate to, not less than five years.

(2) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the Public Service Act 1965 by reason of his appointment as Advocate-General.

3. Term of Office - (1) The Advocate-General shall hold office for such term or terms and under such conditions as may be determined by the High Commissioner, acting on the advice of Cabinet.

(2) Unless his office sooner becomes vacant, every person appointed as Advocate-General shall hold office until his successor is appointed.

(3) The Advocate-General may at any time resign his office by writing addressed to the High Commissioner.

(4) The Advocate-General may at any time be removed or suspended from his office by the High Commissioner, acting on the advice of Cabinet, for disability, bankruptcy, neglect of duty, or misconduct in his office.

4. Duties and powers of Advocate-General - (1) The Advocate-General shall advise the Government of the Cook Islands on legal matters referred to him by the High Commissioner, Cabinet, the Premier, or a Minister and shall have power, exercisable in his discretion, to institute, conduct, or discontinue any civil or criminal proceedings.

(2) The powers of the Advocate-General may be exercised by him in person or by any person acting under, and in accordance with, his general or special instructions.

(3) The Advocate-General shall not engage in private practice in the Cook Islands as a barrister or solicitor for any fee or reward.

5. Duty of Registrar of High Court in certain cases - Where any proceeding has been instituted in the High Court charging any person with the commission of a criminal offence punishable by a term of imprisonment exceeding one year it shall be the duty of the Registrar of the High Court to transmit to the Advocate-General at his office in the Cook Islands a copy of the information and particulars of the charge.

6. Right of audience in any Court or Tribunal - The Advocate-General shall have a right of audience in, and shall take precedence over any other person appearing before any Court or Tribunal.

7. Salary and allowances - The salary, allowances, and expenses of the Advocate-General shall be determined by the High Commissioner from time to time, acting on the advice of Cabinet, and shall be charged to the Cook Islands Government Account.

8. Staff of Advocate General - (1) Subject to the provisions of this section, the Advocate-General may appoint such officers and employees as may be necessary for the efficient carrying out of his functions under this Act.

(2) The number of persons that may be appointed under this section whether generally or in respect of any specified duties or class of duties, shall from time to time be determined by Cabinet.

(3) The salaries, allowances and expenses of persons deemed to be employed under this section shall be such as are approved by Cabinet.

(4) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the Public Service Act 1965 by reason of his appointment under this section.

9. Oaths to be taken by Advocate-General - (1) The Advocate-General shall as soon as may be after his acceptance of office, take and subscribe the following oaths:

- (a) An Oath of Allegiance in the following form:-
- I,, swear by Almighty God that I will be faithful and bear true allegiance to Her (or His) Majesty (specify the name of the reigning Sovereign as thus: Queen Elisabeth the Second) Her (or His) heirs, and successors, according to law. So help me God.

(b) An Oath of office in the following form:-

I,, swear that I will well and truly serve Her (or His) Majesty (specify as above), Her (or His) heirs and successors, according to law, in the office of Advocate-General. So help me God.

(2) The oaths prescribed in this section may be taken and subscribed in either the Cook Islands or New Zealand before the High Commissioner or any person appointed by him for that purpose.

10. Office of Advocate-General - The Advocate-General may carry out his duties and functions in such offices in either the Cook Islands or New Zealand as may be approved by the High Commissioner, acting on the advice of Cabinet.

11. 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 full 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 fine not exceeding one hundred dollars.

(3) All regulations made under this section shall be laid before the Legislative Assembly within twenty-eight days after the date of 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 date of the commencement of the next ensuing session.