



ANALYSIS

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1981-82, No. 20

An Act to amend the Constitution

(6 April 1982)

BE IT ENACTED by the Parliament 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 Constitution Amendment (No.10) Act 1981-82 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Act 1964 of the Parliament of New Zealand, as amended by Acts of the Legislative Assembly (hereinafter referred to as the Constitution).

(2) Section 10 of this Act shall be deemed to have come into force on the 30th day of March 1973 (being the date of the commencement of the Constitution Amendment (No.6) Act 1973).

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the date on which it is assented to by the High Commissioner.

The Queen's Representative

2. The Queen's Representative - The Constitution is hereby amended by repealing Article J and the heading preceding it, and substituting the following heading and Article:

"The Queen's Representative

3. The Queen's Representative in the Cook Islands - (1) There shall.

be a representative of Her Majesty the Queen in the Cook Islands, to be known as the Queen's Representative.

"(2) The Queen Representative shall be appointed by Her Majesty the Queen, and shall hold office for a period of three years, and may from time to time be reappointed."

3. Deputy of the Queen's Representative - The Constitution is hereby amended by repealing Article 7, and substituting the following Article:

"7. (1) Whenever the office of Queen's Representative is vacant or the holder of that office is absent from the Cook Islands or is for any reason unable to perform any functions conferred on him by law, those functions shall be performed by the Chief Justice of the Cook Islands, or, if the Chief Justice is also for any reason unable to act, those functions shall be performed by the Judge of the High Court authorised by Article 50 hereof to exercise the functions of the Chief Justice.

" (2) Nothing in this Article shall preclude the Queen's Representative from performing at any time when he is absent from the Cook Islands any of the functions conferred on him by law.

" (3) No act done by the Chief Justice of the Cook Islands, or by the Judge of the High Court exercising the functions of the Chief Justice, in the performance of any function of the Queen's Representative shall be questioned or invalidated on the ground that the occasion therefor had not arisen or had ceased."

4. Consequential amendments - (1) The provisions of the Constitution specified in the Schedule to this Act are hereby amended by omitting the words "High Commissioner" or "High Commissioner of the Cook Islands" wherever they occur, and substituting in each case the words "Queen's Representative".

(2) Article 1 of the Constitution is hereby amended -
(a) By repealing the definition of the term "High Commissioner" in subclause (1);

(b) By adding to subclause (1) (as amended by section 2(7) of the Constitution Amendment (No.9) Act 1980-81) the following definition:

" 'Queen's Representative' means the representative of Her Majesty the Queen in the Cook Islands appointed under Article 3 hereof."

(3) Every reference to the High Commissioner in any other law in force in the Cook Islands at the commencement of this Act or in any other instrument or document of any kind whatsoever in force at the commencement of this Act shall, after the commencement of this Act, be read as a reference to the Queen's Representative.

5. Repeal - The Schedule to the Constitution Amendment (No.7) Act 1975 is hereby amended by repealing so much thereof as relates to Article 7 of the Constitution.

Miscellaneous Amendments

6. Qualification of electors - Article 28 of the Constitution (as substituted by section 5 of the Constitution Amendment (No.9) Act 1980-81) is hereby amended by omitting from subclause (4) the words "period of", and substituting the words "period for".

7. Power to make laws - Article 39 of the Constitution (as

substituted by the said section 5) is hereby amended by adding the following subclause:

"(5) For the avoidance of doubt, it is hereby declared that the power conferred on the Legislative Assembly of the Cook Islands by Article 39 of this Constitution (as originally enacted) to make laws for the peace, order, and good government of the Cook Islands always conferred on that Assembly power to make laws, notwithstanding anything in Article 46 of this Constitution (as originally enacted), declaring that any specified Act of the Parliament of New Zealand or any regulations, rules, or order under any Act of that Parliament should extend to the Cook Islands as part of the law of the Cook Islands."

8. Justices of the Peace - Article 62 of the Constitution (as substituted by the said section 5) is hereby amended by omitting from subclause (5) the words "subclause (2)", and substituting the words "subclause (3)".

9. Construction of law - Article 65 of the Constitution (as enacted by section 8 of the Constitution Amendment (No.9) Act 1980-81) is hereby amended by inserting in subclause (2), after the words "the attainment", the words "of the object".

10. Board of Appeal - (1) Article 76 of the Constitution is hereby amended by omitting from paragraph (c) of subclause (3) (as amended by section 6 of the Constitution Amendment (No.2) Act 1968-69) the words "Public Service Commission", and substituting the words "Public Service Commissioner (whether acting alone or together with two heads of departments)".

(2) Section 6 of the Constitution Amendment (No.2) Act 1968-69 is hereby repealed.

(3) All determinations of the Public Service Board of Appeal made after the commencement of this section that would have been valid if this section had been in force when the determinations were made are hereby validated and deemed to be and always to have been validly made, and sections 40, 41, and 42 of the Public Service Act 1975 and section 10 of the Public Service Amendment Act (No.3) 1980-81 are hereby declared to be and always to have been validly enacted.

SCHEDULE

PROVISIONS OF CONSTITUTION WHERE REFERENCES
TO QUEEN'S REPRESENTATIVE SUBSTITUTED FOR
REFERENCES TO HIGH COMMISSIONER

Article 4

Subclauses (1) and (2) of Article 5

Article 6

Subclauses (3), (4), and (5) of Article 8

Article 10

Subclause (3) of Article 11A

Subclauses (2) and (3) of Article 12

Subclauses (2) and (3) of Article 13

Subclauses (1) to (8) of Article 14

Article 15

Subclauses (3) and (4) of Article 18

Subclauses (1) (a) and (2) of Article 19

Subclauses (1) (a) and (2) of Article 22

Article 24

Subclauses (2) to (5) of Article 25

Subclauses (2) and (3) of Article 26

Subclause (1) of Article 29 (as enacted by section 5
of the Constitution Amendment (No.9) Act 1980-81)

Subclause (3) of Article 31 (as enacted by the said section
5).

Subclauses (1), (2), (3), (5), and (6) of Article 37
(as enacted by the said section 5)

Subclause (2) of Article 38 (as enacted by the said
section 5)

Article 43 (as enacted by the said section 5)

Subclauses (1) to (8) of Article 44 (as enacted by
the said section 5)

Subclause (4) of Article 49 (as enacted by section 7
of the Constitution Amendment (No.9) Act 1980-81)

Subclauses (1) and (2) of Article 51 (as enacted by
the said section 7)

Article 52 (as enacted by the said section 7)

Subclause (4) of Article 53 (as enacted by the said
section 7)

Subclauses (1), (2), (6), and (7) of Article 54 (as
enacted by the said section 7)

Subclause (2) of Article 56 (as enacted by the said
section 7)

Subclauses (1) and (4) of Article 62 (as enacted by
the said section 7)

Subclause (1) of Article 63 (as enacted by the said section 7)

Subclause (1) of Article 73 (as substituted by section 2 of the Constitution Amendment (No. 6) Act 1973)

Subclauses (2), (3), and (4) of Article 74A (as substituted by the said section 2)

Subclause (2) of Article 74B (as substituted by section 10(2) of the Constitution Amendment (No. 9) Act 1980-81)

Subclauses (1) and (2) of Article 75

Subclause (1) (b) of Article 76

Article 76B (as enacted by section 13 of the Constitution Amendment (No. 9) Act 1980-81)