



ANALYSIS

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1993, No. 4

An Act to amend the Outer Islands Local Government Act 1987

(15 October 1993)

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 - This Act may be cited as the Outer Islands Local Government Amendment Act 1993 and shall be read together with and deemed part of the Outer Islands Local Government Act 1987 (hereinafter referred to as "the principal Act").

2. Interpretation - Section 2 of the principal Act is amended by -

- (a) deleting the definition of "Minister" and substituting the following new definition -
"Minister" means the Prime Minister;
- (b) deleting the definition of "Secretary" and substituting the following new definition -
"Secretary" means the Secretary to the Prime Minister's Department;".

3. Membership of Island Council - (1) Section 5 of the principal Act is amended by adding to subsection (1), the following paragraph -

- "(e) The mayor of the island to be elected in accordance with this Act."

(2) Section 5 of the principal Act is further amended by inserting in subsection (2) after the words "paragraph (d)", the words "and paragraph (e)".

4. Mayor and Deputy-Mayor of the Island Council - (1) Section 6 of the principal Act is repealed and the following new section substituted -

"6. Mayor and Deputy Mayor of the Island Council - (1) The person elected as mayor pursuant to section 9A shall be chairman of the Island Council and shall preside at every meeting of the Council at which he is present and shall have a deliberative vote, and in the case of an equality of votes, shall also have a casting vote.

(2) Each Island Council shall by a majority vote of all members entitled to vote (including vacancies) elect a Deputy Mayor from amongst its members referred to in section 5(1)(d).

(3) Where there is a vacancy in the office of mayor, or the mayor is absent from a meeting, the Deputy Mayor shall exercise and perform all the powers and duties of the mayor until such time as the vacancy is filled or the return of the mayor as the case may be."

5. Election of elected members - Section 9 of the principal Act is amended by repealing subsection (3) and substituting the following new subsection -

"(3) Subject to section 10(4) a person eligible for election shall be entitled to vote at an election held in the constituency within which that person is resident."

6. Election of Mayor - The principal Act is amended by inserting after section 9, the following new section -

"9A Election of Mayor - (1) On the date that elections are held pursuant to section 9 there shall in addition to those elections, be held in accordance with section 10A, an election to elect by secret ballot the mayor of the island.

(2) Every person eligible to be an elector at an election of members referred to in section 5(1)(d) and who is not a candidate for any constituency or a member of the Council referred to in section 5, shall be entitled to be nominated for election as mayor.

(3) Every person eligible to be an elector at an election of members referred to in section 5(1)(d) may vote at an election for mayor but shall exercise one vote only for the mayoral election."

7. Conduct of mayoral elections - The principal Act is amended by inserting after section 10 the following new section -

"10A Conduct of mayoral elections - (1) For a by-election and every election held pursuant to section 9A, the Government Representative on the island shall -

- (a) call for nominations of persons qualified for election pursuant to section 9A(2);
- (b) compile a roll of qualified electors for the island;
- (c) post in a public place in each village the names of the nominees;
- (d) make such arrangements as the Secretary may approve for votes to be cast in advance by voters who will be absent from the island on the date of the election;
- (e) on the day of the election provide for each constituency, ballot boxes and ballot papers;
- (f) count under the supervision of a member of the police, the votes cast;
- (g) hand all ballot papers to the police for safekeeping;
- (h) publicise the results and advise the Secretary in accordance with section 12.

(2) Every polling clerk appointed pursuant to section 10(1)(g) shall provide such assistance and have the same functions and duties in relation to a mayoral election as is provided in that section.

(3) Every voter shall select the mayoral candidate for whom he wishes to vote on a ballot paper which shall then be folded and placed in the ballot box provided for the purpose."

8. Disputed elections - Section 11 of the principal Act is amended by deleting the words "sections 8 or 9" and substituting the words "sections 8, 9 or 9A".

9. Public notification of filling of Island Council vacancies - Section 12 of the principal Act is amended by deleting from subsection (1) the words "sections 8 or 9" and substituting the words "sections 8, 9 or 9A".

10. Disqualification of membership of Island Council - (1) Section 13 of the principal Act is amended by deleting from subsection (1) the words "section 9" and substituting the words "sections 9 or 9A".

(2) Section 13 of the principal Act is further amended by deleting from subsection (3) -

- (a) the words "sections 8 or 9" in paragraph (a) and substituting the words "sections 8, 9 or 9A";
- (b) the words "sections 8 or 9" in paragraph (b) and substituting the words "sections 8, 9 or 9A".

11. Tenure of office - Section 14 of the principal Act is amended by deleting the words "paragraphs (b) and (d)" and substituting the words "paragraphs (b), (d) and (e)".

12. Island Council Funds - Section 27 of the principal Act is amended by repealing subsection (2), and substituting the following new subsection -

"(2) All monies forming part of the Island Council Funds shall be deposited at the office of the Government Representative who shall hold them in a separate account within the Cook Islands Government Account, to be known as the "[name of island]... Island Council Account."

13. Accounting for Island Council Funds - Section 28 of the principal Act is amended by repealing subsection (1), and substituting the following new subsection -

"(1) All monies forming part of the Island Council Account, and any buildings, machinery and other equipment and stores belonging to the Island Council shall be deemed to be public money and stores as the case may be within the meaning of the Public Money and Stores Act 1987 and shall be subject to audit accordingly."

14. Savings - Every person who holds office as mayor of an Island Council on the date of coming into force of this Act shall, unless that person sooner dies, or resigns, or ceases by operation of law to hold office, continue to hold office until the date of the next ensuing election of Island Councillors held pursuant to section 9 of the principal Act after the coming into force of this Act, in respect of that Island Council.

This Act and the principal Act shall be administered in the Prime Minister's Department