



ANALYSIS

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1991, No. 4

An Act to amend the Public Service Act 1975
and to provide for term positions and the appointment
of term position employees

(29 April 1991)

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 Public Service Amendment Act 1991 and shall be read together with and deemed part of the Public Service Act 1975 (hereinafter referred to as "the principal Act").

2. Interpretation - Section 2 of the principal Act is amended by inserting after the definition "Temporary Employee" and before the definition "Wage Worker" the following definition "'Term position employee" means an employee for the time being employed in a term position."

3. New sections - The principal Act is amended by inserting after section 11 the following new sections -

"11A. Term positions - (1) The Commissioner may from time to time in the interests of promoting efficiency and economy within the Public Service designate any graded position, other than an exempted position, as a term position.

(2) Every person employed in a position designated as a term position pursuant to subsection (1) shall, upon such designation or upon being appointed pursuant to section 11D become a term position employee of the Public Service.

11B. Term position vacancies - (1) Every term position, if it has not already become vacant by virtue of a term position employee's death, resignation, transfer, promotion, demotion or dismissal from that position, shall become vacant, -

(a) In the case where the Commissioner shall designate a position to be a term position pursuant to section 11A(1) and, if there shall be a person appointed to that position immediately prior to such designation taking effect, upon the expiry of 1 year from the date of such designation;

(b) In every other case upon the expiry of the period for which the term position employee shall be appointed pursuant to section 11D.

(2) Notwithstanding that a term position shall become vacant in accordance with subsection (1), it shall remain a graded position designated as a term position until such time as the Commissioner may, in his discretion, determine to revoke such designation.

11C. Effect of term position vacancy occurring - (1) Where a term position vacancy shall occur, then subject to the term position employee being re-appointed to that vacant position pursuant to section 11D, -

(a) the term position employee who, immediately prior to the designation of a position as a term position, was employed in that position shall be transferred from the term position in accordance with Section 21 to a position (whether a term position or otherwise) within the Public Service;

(b) the term position employee who was appointed to a term position from a position within the Public Service shall be appointed to that former position or such other position that shall correspond as close as possible to that former position;

(c) the term position employee who was not a member of the Public Service immediately before his appointment to a term position shall no longer be a member of the Public Service.

(2) Except for the grounds set out in section 40(3)(c), no appeal shall lie to the Board of Appeal upon the grounds that a term position employee shall have been transferred pursuant to sub-section (1)(a).

11D. Appointment to term position - (1) Every appointment to a term position shall be made by the Commissioner and two departmental heads appointed in accordance with Section 10 and pursuant to Article 74B(3) of the Constitution.

(2) Every appointment to a term position shall be for a period not exceeding 3 years from the date that the appointment shall take effect.

(3) Subject to subsection (1) every appointment to a term position may be made notwithstanding the provisions of sections 10(2) and 15 of this Act.

(4) No appeal shall lie to the Board of Appeal in respect of any appointment made pursuant to this section.

(5) The provisions of section 14 shall apply to every term position employee when first appointed to any term position but not otherwise.

This Act is administered by the Public Service Commission