



ANALYSIS

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 1993, No. 3

An Act to amend the Electoral Act 1966

(4 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 and commencement - (1) This Act may be cited as the Electoral Amendment Act 1993 and shall be read together with and deemed part of the Electoral Act 1966 (hereinafter referred to as "the principal Act").

(2) Except as provided in sections 4 and 5, this Act shall come into force on the date it is assented to by the Queen's Representative.

2. Interpretation - (1) Section 2 of the principal Act is amended, by inserting the following definitions -

"Crown servant" means a person who is an officer or member of, or is employed by or within a government corporation or government department, but does not include a person who is a member of the Cabinet of Ministers, a member of the Cook Islands Monetary Board, a member of the Cook Islands Government Property Corporation, the Speaker or Deputy Speaker of Parliament, or an employee of an Island Council.

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"Government corporation" includes any body corporate statutory or otherwise -

- (a) in which 50 per cent or more of the shares or capital is owned or controlled by the Executive Government of the Cook Islands; or
- (b) which has as its principal function the performance of a public duty; or
- (c) in which all or the majority of members of the governing body are appointed by the Crown; or
- (d) which relies principally upon the Crown for its financial resources; or
- (e) which is responsible in the performance of its functions to Cabinet or a Minister;"

"Government department" includes a department, ministry or instrument of the Executive Government of the Cook Islands and any branch or division thereof whether established by Act of Parliament or otherwise."

(2) Section 2 of the principal Act is further amended by adding after subsection (3), the following subsection -

"(4) Notwithstanding the definitions of "crown servant", "government corporation" and "government department" in subsection (1), the Queen's Representative may by Order in Executive Council determine any person or category of person not to be a crown servant for the purposes of this Act."

3. Public servants may become candidates or be elected - (1) The principal Act is amended by repealing section 6A and substituting the following section -

"6A. Crown servants not to become candidates - (1) No person who is a crown servant shall be capable of being nominated as a candidate for election as a member of Parliament.

(2) A person who is a crown servant and who desires to be a candidate for election as a member of Parliament shall, before consenting to be nominated resign as a crown servant and shall as from the date of resignation cease to be a crown servant."

4. Members disqualified from being crown servants - (1) The principal Act is amended, by repealing section 6B and substituting the following new section -

"6B. Members disqualified from being crown servants - No person shall, so long as he is a member of Parliament, be capable of being employed, engaged or appointed as a crown servant. Any person so appointed engaged or employed commits an offence and shall be liable on conviction to a fine not exceeding one hundred dollars for every day on which he remains a crown servant."

(2) Section 6B, as inserted by this section, shall come into force and have application to every person who shall be -

- (a) deemed to be elected as a member of Parliament pursuant to section 33 of the principal Act, after the coming into force of this Act; or

- (b) declared to be a successful candidate and to have been elected as a member of Parliament at a by-election pursuant to section 27 of the principal Act, after the coming into force of this Act; or
- (c) declared to be a successful candidate and to have been elected as a member of Parliament pursuant to section 59 of the principal Act, after the next ensuing general election.

5. Tenure of office - (1) Section 7 of the principal Act is amended, by deleting from paragraph (1) of subsection (1), the words "public servant" and substituting the words "crown servant".

(2) Section 7(1)(l), as amended by this section, shall come into force and have application to every person who shall be -

- (a) deemed to be elected as a member of Parliament pursuant to section 33 of the principal Act, after the coming into force of this Act; or
- (b) declared to be a successful candidate and to have been elected as a member of Parliament at a by-election pursuant to section 27 of the principal Act, after the coming into force of this Act; or
- (c) declared to be a successful candidate and to have been elected as a member of Parliament pursuant to section 59 of the principal Act, after the next ensuing general election.

6. Offence for crown servant to sit - Section 7A of the principal Act is amended, by deleting the words "public servant" and substituting the words "crown servant".

7. Voting papers - Section 40 of the principal Act is amended, by adding after subsection (5), the following new subsection -

"(6) A voting paper and a postal voting paper may in addition to any other information contained thereon include in the space opposite a candidate's name the political affiliation (if any) of that candidate."

8. Special votes in advance - Subsection (3) of section 52A of the principal Act is amended, by inserting after the words "or Murienua" and before the words "Constituency to cast votes in advance", the words "or Akaoa".

9. Treating - The principal Act is amended, by repealing section 70, and substituting the following new section -

"70. Treating - Every person commits the offence of treating who, being a candidate at any election, by himself or any other person on his behalf, corruptly gives or provides any meat, drink, entertainment, or other provision to or for any person for the purpose of procuring his own election or on account of his having been elected or for any other purpose calculated to influence the vote of that person:

Provided that it shall not be an offence against this section for a candidate to provide at any time, hospitality according to local custom or practice."

10. Election Petitions - Section 74 of the principal Act is amended by -
- (a) deleting from subsection (1) the words "declaration of the result of the election", and substituting the words "declaration of the result of the poll by the Chief Electoral Officer".
 - (b) deleting subsection (2) and substituting the following new subsection -
"(2) Every such petition shall be accompanied by a filing fee of \$1,000".
11. Security for costs - Section 74A of the principal Act is amended by deleting from subsection (3) the words "\$2,000" and substituting the words "\$5,000".
12. Employees to have time off to vote - The principal Act is amended by inserting after section 85 the following new section 85A -
"85A. Employees to have time off to vote - (1) Subject to the provisions of this section every employer shall on polling day for any election allow every worker in his employment who is an elector of the constituency where the election is being held to leave his work not later than 3 o'clock in the afternoon for the purpose of voting and it shall not be lawful for any employer to make any deduction from any remuneration payable to any such worker in respect of any time after 3 o'clock in the afternoon on that day.
(2) Every person who commits an offence against this section shall be liable on conviction to a fine not exceeding \$500.00.
(3) This section shall bind the Crown."
13. Consequential amendments - The Police Act 1981 is amended by repealing section 16.

This Act is administered by the Chief Electoral Officer