



PARLIAMENT OF THE COOK ISLANDS

Public Accounts Committee

16 June 2017

Honourable Speaker
Office of the Speaker of Parliament
Parliament of the Cook Islands
Nikao, Rarotonga
COOK ISLANDS

Honourable Speaker

RE: PARLIAMENT PAPER NO. 108: PAC REPORT 5-2017

Pursuant to the Terms of Reference of the Public Accounts Committee, I have the honour to present the Committees Report on the Evidence Session with the Secretary of the Ministry of Foreign Affairs and Immigration and the Principal Immigration Officer regarding an:

Inquiry into the Immigration Fees Schedule 2008 - re: Fees for Residence/Work Permits for foreign workers.

I have the honour, Madam Speaker, to be your obedient servant,

A handwritten signature in black ink, appearing to read 'Mona Ioane'.

Hon. Mona Ioane
Chairman
Public Accounts Committee

 [Cook Islands Public Accounts Committee@parliament.cookislands](mailto:plpg@parliament.cookislands)

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PARLIAMENT OF THE COOK ISLANDS
Paper No. 108



Public Accounts Committee

Report on Evidence Session: Thursday 25 May 2017

*Inquiry into the Immigration Fees Schedule 2008 - re:
Fees for Residence/Work Permits for foreign workers.*

PAC Report No. 5-2017
25 May 2017

Public Accounts Committee Members

Chairman	Hon Mona Ioane, MP Member for Vaipae-Tautu Deputy Speaker of Parliament
Deputy Chairman	Mr James Beer, MP Member for Murienua
Members	Mr Tekii Lazaro, MP Member for Pukapuka-Nassau
	Mrs Ngamau Munokoa, MP Member for Nikao-Panama
	Mr Tai Tura, MP Member for Mauke
	Mr Tangata Vavia, MP Member for Mitiaro

Committee Staff

Committee Clerk	Mr Tangata Vainerere Executive Director Pacific Legislatures for Population and Governance
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Parliament Leadership

Speaker	Mrs Niki Rattle
Clerk	Mr John Tangi
Deputy Clerk	Mrs Helen Maunga

Public Accounts Committee

Report on Evidence Session

Thursday 25 May 2017

*Inquiry into the Immigration Fees Schedule 2008 - re:
Fees for Residence/Work Permits for foreign workers.*

PAC Report No. 5-2017

Presented by

Hon Mona Ioane, MP

Laid on the Table of Parliament on 19 June 2017

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SUMMARY OF RECOMMENDATIONS

The following is a list of all the recommendations made by the Public Accounts Committee in respect of the Evidence Session conducted by the Committee on Thursday 25 May 2017 with the Secretary of the Ministry of Foreign Affairs and Immigration Ms Tapaeru Herrmann and Principal Immigration Officer Ms Kairangi Samuela. This summary of recommendations is not intended to stand alone and should be read in conjunction with the PAC NOTES AND RECOMMENDATIONS section of this report which contains the rationales for these recommendations.

Recommendation 1

The Committee recommends that MFAI take the necessary steps as soon as possible to conduct a thorough review of the current fee schedule with a view to updating it to match prevailing conditions in the Cook Islands and report back to Parliament on progress in the next MFAI Annual Report.

Recommendation 2

The Committee recommends that the proposed review give firm consideration to a lower permit fee structure for foreign workers who will be employed by local families as care-givers.

Recommendation 3

The Committee recommends that MFAI review the current practice of periodic payments of permit fees and initiate appropriate new policies to improve the efficiency of the collection of fees.

Recommendation 4

The Committee recommends that the MFAI take immediate steps to initiate a review and updating of the Entry, Residence and Departure Act 1972 and the review to incorporate a more cost effective and efficient system for addressing compliance issues.

CHAIRMAN'S FOREWORD

This is the 5th report of the Public Accounts Committee (PAC) of the Parliament of the Cook Islands. The report was tabled in the 48th session of Parliament during the Parliament Sitting on 19 June 2017 as Paper No. 108 (PAC Report 5-2017, 25 May 2017).

This report outlines the outcomes of the evidence session conducted by the Committee on Thursday 25 May 2017 relating to the Immigration fees. Immigration Services are currently charging foreign workers brought into the Cook Islands for economic and social development purposes including those responsible for care-giving duties, child caring purposes, and related tasks.

In attendance was Ms Tapaeru Herrmann, Secretary of the Ministry of Foreign Affairs and Immigration as the key witness. She was accompanied by Ms Kairangi Samuela, Principal Immigration Officer.

Background

The evidence session focused mainly on how the current fee structure for residential and work permits was arrived at, during which the Principal Immigration Officer explained that the current immigration fees were effected in 1997 with monthly fees of \$20 per month for Non Cook Islanders married to Cook Islanders and \$40.00 a month for others.

The difference in the two regulations for the fees of 1997 and 2008 are that the 1997 fee Regulation charged by the month i.e. \$20.00 per month for Non-Cook Islanders married to Cook Islanders or Permanent Residents and \$40.00 per month for others and the 2008 Fee Regulation gave the annual figure of \$240 and \$480.00 respectively.

In effect, immigration fees (to use the terminology of the regulations, entry and residence fees) from an annual perspective, which is the usual initial tenure for work permits for individuals beyond the Cook Islands have been the same for the last 20 years (since 1997).

The fees have not changed whereas operationally things have changed within Immigration. The level of services Immigration provides have changed. The number of migrant workers that come into the Cook Islands have also increased so there's an increase in the work load of Immigration over the last ten years. The costs of providing the services is also higher than what it used to be.

The evidence session also dealt with the issues of the outdated Entry, Residence and Departure Act 1972, revenue collection, fee collecting challenges, and permit compliance issues.

About the PAC

The PAC was established by Parliament through Motion No. 3 as notified by Order Paper 17 on 14 December 2015:

"To be the financial oversight of Parliament and to report on the Budget and Public Accounts, and also to examine reports of the Auditor General and any such report and to undertake any financial matters deemed necessary and to report all findings to Parliament."

Please refer to the PAC NOTES AND RECOMMENDATIONS section of this report for a summary of the proceedings of the evidence session.

Hansard reports on PAC Evidence Sessions are available on request to the Committee Clerk.

A handwritten signature in black ink, appearing to read 'Mona Ioane', with a long horizontal stroke extending to the right.

MR MONA IOANE, MP
CHAIRMAN

PAC NOTES AND RECOMMENDATIONS

Functions of the Immigration Service

1. In her opening statement to the Committee, the Secretary briefed the Committee on what the Immigration Service of the Cook Islands Government does, its two key functions and how the fees as currently charged by Immigration for various permits came to bear.
2. The Immigration Service has two key functions. The first function is the management of people into and out of the Cook Islands and that has a strong security connotation around it.
3. The second function is to facilitate the inward movement of non-Cook Islanders into our country for the purpose of supporting our economic and social development as a country. So basically movement of people in, monitoring the border and then facilitating movement of foreigners into our country to support business as well as social government policy objectives.
4. The Secretary stated that from the perspective of the fees, what most government's do in setting the fees for Immigration Services, is to make sure that the Immigration Service pays for itself. It is never intended to be a profit making venture. It is meant to be able to cover the cost of operating an Immigration Service.

The Immigration Fee Structure 1997-2008

5. Responding to the question of how the current fee structure was arrived at, the Principal Immigration Officer explained that the current immigration fees were effected in 1997 with monthly fees of \$20 per month for Non Cook Islanders married to Cook Islanders and \$40.00 a month for others.
6. The difference in the two regulations for the fees of 1997 and 2008 are that the 1997 fee Regulation charged by the month i.e. \$20.00 per month for Non-Cook Islanders married to Cook Islanders or Permanent Residents and \$40.00 per month for others and the 2008 Fee Regulation gave the annual figure of \$240 and \$480.00 respectively.
7. In effect, immigration fees (to use the terminology of the regulations, entry and residence fees) from an annual perspective, which is the usual initial tenure for work permits for individuals beyond the Cook Islands have been the same for the last 20 years (since 1997).
8. The fees have not changed whereas operationally things have changed within Immigration. The level of services Immigration provides have changed. The number of migrant workers that come into the Cook Islands have also increased so there's an increase in the work load of Immigration over the last ten years. The costs of providing the services is also higher than what it used to be.

Recommendation 1

The Committee recommends that MFAI take the necessary steps as soon as possible to conduct a thorough review of the current fee schedule with a view to updating it to match prevailing conditions in the Cook Islands and report back to Parliament on progress in the next MFAI Annual Report.

Recommendation 2

The Committee recommends that the proposed review give consideration to a lower fee structure for foreign workers who will be employed by local families as care-givers.

Revenue collected on behalf of the Crown (ROBOC)

9. Immigration fees are collected as Revenue on Behalf of the Crown (ROBOC). What that means is in processing entry and residence permits as well as applications for Cook Islands Status and permanent residence, MFAI collects the fees but those funds do not come to MFAI to be used towards its operating budget, but rather are directed to MFEM who collect all ROBOCs which are then reallocated through the annual budget appropriation process.
10. For the year end June 2016, MFAI collected \$715,230 in entry/residence permits (across the array of fees identified in the regulations) although it should be noted a percentage of this, approximately \$100,000 is recovery of permit fees owing for prior years.

Problems with periodic payment of fees

11. During their presentations, the Committee noted the bemoaning of the two Foreign Affairs officials about the undesirability of periodic payments due to difficulties in recovery once the permit has been issued and the Committee sympathized with the officials in their predicament.

Recommendation 3

The Committee recommends that MFAI review the current practice of periodic payments of permit fees and initiate appropriate new policies to improve the efficiency of the collection of fees.

The Entry, Residence and Departure Act 1972

12. The Committee heard from the Immigration officials that they in the Ministry have just caught up with technological advances in border security requirements but the legislation currently in force is from 1972 and is therefore outdated.
13. Dialogues with airlines on exchange of information, and the actual use of technology is not captured in the 1972 Act.

Recommendation 4

The Committee recommends that the MFAI take immediate steps to initiate a review and updating of the Entry, Residence and Departure Act 1972 and the review to incorporate a more cost effective and efficient system for addressing compliance issues.

Permit compliance challenges

14. The Committee noted that one of the issues which has really become a drain on the resources of the service is compliance. It's compliance of the permits issued by Immigration so this is compliance by local employers and foreigners who are working in the Cook Islands with the conditions with which they were allowed entry and residence.
15. Immigration is are getting more and more complicated cases. As the local economy becomes more complex we can expect these things to start becoming a little bit more difficult.
16. One of the things which has been really positive in the last twelve months is government has strengthened the Labour Division of the Ministry of Internal Affairs because a lot of the complex cases really are employment disputes. These are not Immigration matters but in the past they have tended to land on the Immigration doorstep because of the notion that if the issue relates to a foreigner, the Immigration Service is expected to deal with it. But Immigration doesn't have a mandate for addressing employment disputes.
17. Another issue which is draining on Immigration resources which is really not an Immigration mandate is proof of Cook Islands heritage and this is basically people who are claiming to be Cook Islanders and what it's done in the past is it's required Immigration Officers to on the basis of reviewing genealogies make a decision on whether someone is a Cook Islander or not. That is not an Immigration function. Therefore, Immigration works with the Ministry of Justice in order to capitalise on their capability for land matters.
18. These are some of the complexities that have come to bear in the last ten years since the last fee schedule was set and there is in existence a piece of legislation that's 40 plus years old, which was written in the time when the Cook Islands did not have more than a 150,000 visitors coming through the border each year. So the current legislation is predominantly a broader border protection one. It does not really provide for Immigration's facilitative role as an agency to support economic social development.



MR MONA IOANE, MP
CHAIRMAN

CHAIRMAN'S ACKNOWLEDGEMENT

1. Secretary of the Ministry of Foreign Affairs and Immigration, Ms Tapaeru Herrman, and the Principal Immigration Officer, Ms Kairangi Samuela, for their cooperation in taking the time to appear before the Committee and for supplying the various documents to the Committee.
2. Committee members, Mr James Beer MP (Deputy Chairman), Mr Tekii Lazaro MP, Mrs Ngamau Munokoa MP, Mr Tai Tura MP and Mr Tangata Vavia MP for the collaborative and non-partisan way in which they have worked together.
3. Parliament Executive Team of Speaker Mrs Niki Rattle, Clerk Mr John Tangi and Deputy Clerk Mrs Helen Maunga for their solid support of the Committees work.
4. Head of Hansard Mr Isaac Solomona, Corporate Services Head Mrs Ina Pierre, Hansard Staff and the rest of the Parliamentary Services Staff for all the technical and administrative support provided to the Committee.
5. Committee Clerk, Mr Tangata Vainerere, for his guidance, technical support and production of the Committee's report to Parliament.
6. Media agencies who were represented at the hearing, including Cook Islands News, Cook Islands Television and Te Kave Korero Programme as well as members of the general public who were present at the hearing.
7. UNDP Pacific Office for its ongoing funding support to the Committee.
8. Consultant Rob Oakeshott for empowering the Committee and the Secretariat with his immense technical knowledge and vast Committee experience.

APPENDICES

Appendix One: MFAI Exhibit 1 - Submission for Fee Review 2008



GOVERNMENT OF THE COOK ISLANDS
OFFICE OF THE CABINET SERVICES
GOVERNMENT BUILDING
RAROTONGA, COOK ISLANDS

Telephone: 682) 25494
Facsimile: 682) 23792

MEMORANDUM

DATE: 7 March 2008

TO: Secretary, Ministry of Foreign Affairs and Immigration
Chief of Staff, Office of the Prime Minister
Solicitor General, Crown Law Office
Financial Secretary, Ministry of Finance and Economic Management

SUBJECT: IMMIGRATION FEES

At a Cabinet meeting held on Friday, 7 March 2008, Cabinet gave consideration to matters relevant to your Department/Ministry in reference to the above-mentioned subject.

CM (08) 138

Paper dated 5 March 2008

Submitted by the Minister of Foreign Affairs and Immigration, the Hon. Wilkie Rasmussen

Approved the Entry, Residence and Departure Fees (Amendment) Regulations 2008 and for the same to be promulgated by the Executive Council


Grover Lee Harmon
SECRETARY TO CABINET



CABINET

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CM (2008) 138

Copy No: 138

Issued: Friday, 7 March 2008

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SUBJECT: IMMIGRATION FEES

At a Cabinet meeting held on Friday, 7 March 2008, Cabinet gave consideration to matters relevant to your Department/Ministry in reference to the above-mentioned subject.

CM (08) 138

Paper dated 5 March 2008

Submitted by the Minister of Foreign Affairs and Immigration, the Hon. Wilkie Rasmussen

Approved the Entry, Residence and Departure Fees (Amendment) Regulations 2008 and for the same to be promulgated by the Executive Council

Grover Lee Harmon
SECRETARY TO CABINET

distribution Queen's Representative
All Ministers



05 March 2008

OFFICE OF THE PRIME MINISTER	
<i>Cabinet Studies</i> 06 MAR 2008	
RECEIVED	<input checked="" type="checkbox"/>
DISPATCHED	<input type="checkbox"/>

3:20pm

MEMORANDUM FOR:

Cabinet
Rarotonga

IMMIGRATION FEES

Preamble

The purpose of this submission is to seek Cabinet's approval to forward the attached regulations to the Queen's Representative in Executive Council for promulgation.

Background

The purpose of this amendment regulation is to clarify some inconsistencies in the Entry Residence and Departure Regulations as to fees, which were last promulgated in 1997.

The Regulations clarify the fee for an Entry or Residence Permit, inclusion of the right to work. The main alteration is to the fee payable for the issue of a certificate of Permanent Residence. The existing fee for non Cook Islanders married to Cook Islanders or Permanent Residents is \$500.00 and for all others \$1,000.00. This seems excessive, particularly in the case of a family with two or more children, who would be required to find several thousands of dollars.

The Regulation as amended provides for a fee for both categories of \$250.00.

Fiscal Responsibility Comment

It is prudent to know exactly what loss will government incur as a result of the proposed decrease. In addition it would appear that the Cook Islands is becoming more relaxed with its immigration policy therefore making it easier to enter and live in the Cook Islands. I do not support this proposal.

Crown Law Office Comment

The proposal is legally in order.


(Solicitor General)

Ministry of Foreign Affairs Comment

This proposal was initiated by this Ministry - \$1000 per application seem punitive. Supported


(Secretary of Foreign Affairs & Immigration)

Proposal

It is proposed that the amending regulation be promulgated.

Recommendation

It is recommended that the above proposal be approved.



Hon Wilkie Rasmussen

MINISTER OF FOREIGN AFFAIRS AND IMMIGRATION

1997/14



ENTRY, RESIDENCE AND DEPARTURE FEES
(AMENDMENT) REGULATIONS 1997

A.P. Short

Queen's Representative

ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga, this 19th day of August 1997.

Present:

HIS EXCELLENCY THE QUEEN'S REPRESENTATIVE
IN EXECUTIVE COUNCIL

PURSUANT to sections 49B and 51 of the Entry, Residence and Departure Act 1971-72 the Queen's Representative, acting by and with the advice and consent of the Executive Council hereby makes the following regulations:

ANALYSIS

- | | |
|----------------------------------------------------------------------------------------|-----------------|
| 1. Short Title and commencement | 3. New Schedule |
| 2. Fees payable by non-Cook Islanders married to Cook Islanders or Permanent Residents | Schedule |

REGULATIONS

1. ~~Short Title and commencement~~ - (1) These Regulations may be cited as the Entry, Residence and Departure Fees (Amendment) Regulations 1997, and shall be read together with and deemed part of the Entry, Residence and Departure Fees Regulations 1976 (hereinafter referred to as "the principal Regulations").

(2) Except for Part 2 of the Schedule, these Regulations shall come into force on the date they are assented to by the Queen's Representative.

(3) Part 2 of the Schedule shall come into force on 1 October 1997.

2. ~~Fees payable by non-Cook Islanders married to Cook Islanders or Permanent Residents~~ - The principal Regulations are amended by inserting after regulation 3, the following new regulation -

"3A. ~~Fees payable by non-Cook Islanders married to Cook Islanders or Permanent Residents~~ - Where a person is required to pay any fees pursuant to these Regulations and that person is legally married to a Cook Islander or a Permanent Resident, he or she shall pay fifty percent (50%) of the fees payable as set out in the Schedule to these Regulations."

3. New Schedule - The principal Regulations are hereby amended by revoking the Schedule and substituting the Schedule set out in these Regulations.

P. Puna
Clerk of the Executive Council

These Regulations are administered by the Ministry of Foreign Affairs and Immigration.

SCHEDULEFEESPART 1

<u>Fees to accompany certain applications</u>	<u>Non-Cook Islanders married to Cook Islanders or Permanent Residents</u>	<u>Others</u>
1. Application for Entry Permit	\$10.00	\$20.00
2. Application for Residency Permit	\$10.00	\$20.00
3. Application for variation of the conditions of an Entry or Residency permit	\$10.00	\$20.00
4. Application for Permanent Residence	\$50.00	\$100.00
5. Application for Cook Islands Status	\$10.00	\$20.00
6. Application for Visitor's Permit	\$10.00	\$20.00
<u>Fees for the issue of certain permits</u>		
1. Issue of an Entry or Residency Permit: (per month or part thereof)	\$20.00	\$40.00
2. Variation of the conditions of an Entry or Residency Permit for:		
• Employment	\$125.00	\$250.00
• Others	\$25.00	\$50.00
3. Extension of Visitor's Permit for:		
• More than 31 days and up to 3 months	\$25.00	\$50.00
• More than 3 months and up to 6 months	\$50.00	\$100.00
4. Issue of Certificate of Identity:		
• Paper	\$5.00	\$10.00
• Booklet	\$20.00	\$40.00

Entry, Residence and Departure Fees (Amendment) Regulations 1997 1997/14

<u>Fees for the issue of certain permits (contd ...)</u>	<u>Non-Cook Islanders married to Cook Islanders or Permanent Residents</u>	<u>Others</u>
5. Issue of Exemption Certificate	\$12.50	\$25.00
6. Issue of Duplicate of Entry or Residency Permit	\$12.50	\$25.00

Fees for other services provided

1. Acceptance of bond or guarantee in place of a cash deposit	2.5% of value	5%
2. Endorsement of a passport as to status of being a Cook Islander	\$10.00	\$20.00
3. Endorsement of a passport as to status of Permanent Resident of the Cook Islands	\$12.50	\$25.00
4. Providing information relevant to the date of departure from the Cook Islands	\$12.50	\$25.00
5. Other services rendered	\$12.50	\$25.00

PART 2

<u>Fees for the issue of certain certificates</u>	<u>Non-Cook Islanders married to Cook Islanders or Permanent Residents</u>	<u>Others</u>
1. Issue of Permanent Residency Certificate	\$500.00	\$1,000.00
2. Issue of Duplicate Certificate of Permanent Residency	\$25.00	\$50.00