



ANALYSIS

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2007, No. 23

An Act to amend the Electoral Act 2004

(15 August 2007)

BE IT ENACTED by the Parliament of the Cook Islands in session assembled in accordance with the provisions of Article 41(1) of the Constitution of the Cook Islands and by the authority of the same as follows:

1. Short Title – This Act may be cited as the Electoral Amendment Act 2007 and shall be read together with and deemed part of the Electoral Act 2004 (“the principal Act”).

2. New Part – the principal Act is amended by inserting the following new Part -

“PART 9A
PARTY INTEGRITY

“105A. Definitions - For the purposes of this Part, unless the context otherwise requires, -

“issue of confidence” means –

- (a) an expression of no confidence in Cabinet under Article 14(3)(b) of the Constitution;
- (b) an issue which the Prime Minister has declared to be an issue of confidence under Article 14(3)(b) of the Constitution;
- (c) the provision of supply by way of appropriation;

“parliamentary leader”, in relation to a political party, means –

- (a) the member recognised for the time being as the parliamentary leader of the political party by the majority of parliamentary members of that political party; or
- (b) the member for the time being acting as the parliamentary leader of that political party;

“political party for which the member of Parliament was elected” means the political party appearing as required by section 45(7), against the name of the member in the nomination paper nominating the member as a candidate at his or her election;

“Speaker” includes the Deputy Speaker, or if the Speaker and the Deputy Speaker are absent from the Cook Islands or if the member who is the subject of a notice under section 105B(b) is the Speaker or Deputy Speaker, the Clerk of Parliament.

105B. Consequence of member ceasing to support political party - The seat of a member, other than a member elected as independent, shall become vacant if –

- (a) upon a vote in Parliament on an issue of confidence, the member fails to support the majority of the parliamentary members of the political party for which the member was elected; and
- (b) the parliamentary leader of that political party delivers to the Speaker a written notice that complies with section 105C.

105C. Notice from parliamentary leader of party - A written notice under section 105B(b) must –

- (a) be signed by the parliamentary leader of the political party for which the member who is the subject of the notice was elected and by not less than two-thirds of the parliamentary members (inclusive of the leader) of that political party; and

- (b) be addressed to the Speaker; and
- (c) be accompanied by a statement that complies with section 105D.

105D. Form of statement to be made by parliamentary leader - The statement referred to in section 105C(c) must be in writing and signed by the parliamentary leader concerned and by not less than two-thirds of the parliamentary members of that political party, and must -

- (a) state that the member concerned has failed upon a vote in Parliament on an issue of confidence, to support the majority view of the parliamentary members of the political party for which the member was elected and that the parliamentary leader has delivered to the member concerned, written notice -
 - (i) informing the member that the parliamentary leader considers that section 105B(a) applies to the member and the reasons for that opinion; and
 - (ii) advising the member that he or she has 7 working days from the date of receiving the notice to respond to the matters raised in the notice by notice in writing addressed to the parliamentary leader; and
- (b) state that, after consideration of the conduct of the member and his or her response (if any) by the parliamentary members of the political party for which the member was elected, the parliamentary leader of that party confirms that not less than two-thirds of the parliamentary members (inclusive of the leader) of the party have agreed that notice should be given by the parliamentary leader under section 105B(b).

3. Consequential amendment - Section 9 of the principal Act is amended by adding -

“(o) the seat of a member has been vacated pursuant to Part 9A.”

This Act is administered by the Ministry of Justice