

**ANALYSIS**

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1999, No. 4

An Act to amend the Constitution

(12 March 1999)

**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 Constitution Amendment (No.23) Act 1999 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand, as amended by Acts of Parliament of the Cook Islands (herein referred to as “the Constitution”).

2. Cabinet – Article 13 of the Constitution is amended by –
- (a) repealing subclauses (1) and (3) and substituting the following clauses –

“(1) There shall be a Cabinet of Ministers, comprising the Prime Minister of the Cook Islands (who shall preside over Cabinet) and not more than 6 other ministers, which shall have the general direction and control of the executive government of the Cook Islands and shall be collectively responsible to Parliament”.

- “(3) Five Ministers, other than the Prime Minister, shall be appointed by the Queen’s Representative on the advice of the Prime Minister. No person shall be appointed under this subclause unless –
- (a) that person is a member of Parliament; or
  - (b) if the appointment is to be made after a dissolution of Parliament and before the holding of a general election of Parliament following that dissolution, that person was a member of Parliament immediately before that dissolution; or
  - (c) if the appointment is to be made after the holding of a general election of Parliament and before the commencement of the first session of Parliament following that election, that person was elected as a member of Parliament at that election”.

- (b) inserting after subclause (3) the following subclause –

“(3A) One Minister other than the Prime Minister, may in the discretion of the Prime Minister, be appointed by the Queen’s Representative on the advice of the Prime Minister from persons other than those referred to in paragraphs (a), (b) and (c) of subclause (3) and who shall -

- (a) be qualified for election as a member of Parliament on and for the duration of his appointment; and
- (b) be entitled to attend and address meetings of Parliament and any committee thereof as if he were a member but shall not be entitled to vote on any question before Parliament”.

3. Duration of office of members of Cabinet – Article 14 of the Constitution is amended by repealing subclause (4) and substituting the following subclause –

- “(4) The office of any other Minister shall become vacant –
- (a) if the appointment of the Prime Minister has been terminated under the provisions of subclauses (1) or (3) of this Article; or
  - (b) if the appointment of the Minister to that office is revoked by the Queen’s Representative acting on the advice of the Prime Minister by instrument under the seal of the Cook Islands; or

- (c) if the Minister, being a member of Parliament, ceases to be a member of Parliament for any reason other than the dissolution of Parliament; or
- (d) if the Minister, not being a Member of Parliament, ceases to be qualified for election as a member of Parliament; or
- (e) if the Minister resigns his office by writing under his hand delivered to the Queen's Representative."

4. Transitional – Notwithstanding the amendment of Article 13 by this Act, the persons holding office as Prime Minister of the Cook Islands and Ministers of Cabinet immediately before the commencement of this Act shall, without further appointment, continue to hold office as Prime Minister and Ministers (as the case may be) subject to Article 14 (as amended by this Act) until either:

- (a) in the case of the Prime Minister and Ministers, the end of the day immediately preceding the day of the appointment of a Prime Minister pursuant to Article 13(2); or
- (b) in the case of a Minister, other than the Prime Minister, the end of the day immediately preceding the exercise by the Queen's Representative of the discretion under Article 14(1) not to terminate the appointment of the Prime Minister,

which ever shall happen first following the next general election of the members of Parliament after the commencement of this Act.