



ANALYSIS

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| 1. Title | 2. New Articles substituted |
| Short Title | |
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1973, No. 1

An Act to amend the Constitution

(30 March 1973)

BE IT ENACTED by the Legislative Assembly 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. 6) Act 1973 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 (hereinafter referred to as "the Constitution").

2. New Articles Substituted - The Constitution is hereby amended by repealing Articles 73, 74, 74A, 74B and 74C and substituting the following Articles:-

"73. Public Service Commissioner - (1) There shall be a Public Service Commissioner appointed by the High Commissioner acting on the advice of the Premier.

(2) No person shall be appointed to be or shall remain the Public Service Commissioner -

- (a) if he is not or ceases to be a citizen of New Zealand; or
- (b) if he is or becomes a member of the Legislative Assembly.

(3) The Public Service Commissioner shall not hold concurrently any other office in the Cook Islands Public Service.

(4) The actions of the Public Service Commissioner shall not be invalidated in consequence of the subsequent discovery of some defect with regard to his appointment.

(5) The Public Service Commissioner shall be paid such remuneration by way of salary and allowances as may from time to time be appropriated by the Legislative Assembly.

74. Term of Office of the Public Service Commissioner -

(1) The Public Service Commissioner shall be appointed for a term of not more than four years but shall be eligible for re-appointment.

(2) The Public Service Commissioner may at any time resign his office by writing under his hand addressed to the Premier.

74A Removal from office of Public Service Commissioner -

(1) The Public Service Commissioner may be suspended or removed from office in accordance with the following provisions of this Article and not otherwise.

(2) The High Commissioner, acting on the advice of the Premier, may suspend the Public Service Commissioner from office for misbehaviour or incompetence, but the Public Service Commissioner shall not be removed from office except as provided in this Article.

(3) The High Commissioner shall cause to be laid before the Legislative Assembly a full statement of the grounds of any suspension within seven days after the date of that suspension if the Legislative Assembly is then in session, or if the Legislative Assembly is not in session then within seven days after the date of the commencement of the next ensuing session.

(4) Unless the Legislative Assembly, within twenty-one days from the date on which the statement in respect of the suspension of the Public Service Commissioner under this Article has been laid before it, declares by resolution that he ought to be removed from office, the Public Service Commissioner shall be deemed to be restored to office as from the date of his suspension; and if the Legislative Assembly within the said time does so declare, the Public Service Commissioner shall be removed by the High Commissioner from the date of his suspension.

74B. Functions of the Public Service Commissioner - (1) Subject to the provisions of subclauses (2), (3) and (4) of this Article, the Public Service Commissioner shall be responsible for the appointment, promotion, transfer, termination of appointment, dismissal, and disciplinary control of the Cook Islands Public Service, and shall have such other functions as may be prescribed by law.

(2) An Act shall define graded positions in the Cook Islands Public Service and subject to the provisions of subclauses (3) and (4) of this Article any promotion or appointment to such graded positions shall be made by the Public Service Commissioner and two heads of departments of the Cook Islands Public Service whose appointments shall be as prescribed by an Act.

(3) An Act may designate as a special post any post of head of department in the Cook Islands Public Service, and not more than one senior post in the Cook Islands Public Service in each of the islands of the Cook Islands other than Rarotonga; and the promotion or appointment to or in any post as designated shall be made with the concurrence of Cabinet.

(4) An Act may provide for the appointment of persons from outside the Cook Islands to positions in the Cook Islands Public Service and the conditions on which such appointments are to be made; and the appointment of any such person shall be made with the concurrence of Cabinet.

(5) A decision of Cabinet under subclause (3) or subclause (4) of this Article shall be deemed to be a decision to which Article 25 hereof (which relates to the reconsideration of Cabinet decisions by the Executive Council) applies.

(6) In the performance of their functions under this Article -

- (a) The Public Service Commissioner when acting alone; and
- (b) The Public Service Commissioner and the heads of departments when acting together,

shall have regard to the general policy of Cabinet relating to the Cook Islands Public Service and shall give effect to any decision of Cabinet defining that policy conveyed to him or them as the case may be in writing by the Premier.

74C. Procedure of Public Service Commissioner - (1)
Subject to the provisions of this Constitution and of any law, the Public Service Commissioner may -

- (a) Exercise his functions in such manner as he sees fit; and
- (b) Delegate any of his functions to any person or persons.

(2) When acting with the heads of departments for the purposes of making promotions or appointments to or in graded positions pursuant to subclause (2) of Article 74B of the Constitution the Public Service Commissioner and the heads of departments shall regulate their own procedure and exercise their functions in such manner as they think fit."

This Act is administered in the Public Service Commission.