



ANALYSIS

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1999, No. 19

An Act to amend the Electoral Act 1998 by making special provision for the holding of a By-election in the Constituency of the Island of Pukapuka and the Island of Nassau

(22 December 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 and Commencement - (1) This Act may be cited as the Electoral Amendment (No. 2) Act 1999 and shall be read together with and deemed part of the Electoral Act 1998 ("the principal Act").

(2) This Act shall come into force on the date it is assented to by the Queen's Representative by Order in Executive Council.

2. Interpretation - (1) In this Act, unless the context otherwise requires -

"By-election" means the by-election required to be held in the Constituency as a consequence of the decision of the High Court of the Cook Islands given on 3 December 1999;

"Constituency" means the constituency of the Island of Pukapuka and the Island of Nassau referred to in Article 27(2)(h) of the Constitution of the Cook Islands;

"By-election Constituency Roll" means the special roll for the Constituency established pursuant to section 4(1) of this Act.

(2) Except as provided in sub-section (1) of this section and unless the context otherwise requires, all expressions defined in section 2 of the principal Act shall if used in this Act bear the same meaning.

3. Timetable for By-election - (1) Notwithstanding anything to the contrary in the principal Act, -

- (a) the day appointed as the last day when nominations of candidates for the By-election shall be lodged with the Returning Officer in charge of the Constituency; and
- (b) the day on which and the time at which the By-election Constituency Roll shall close; and
- (c) the day on which and the time at which objections by electors pursuant to section 19 and objections by the Registrar of the constituency pursuant to section 24 of the principal Act shall close; and
- (d) the day appointed for the By-election,

shall be a date and time appointed by the Chief Electoral Officer with the approval of Cabinet.

(2) The Chief Electoral Officer shall forthwith give public notice of each of the foregoing matters set out in subsection (1) of this section and shall also in that notice appoint a place or places in the Constituency where the nominations of the candidates shall be lodged with the Returning Officer in charge of the Constituency.

4. Obligation to Enrol Afresh as an Elector - (1) Notwithstanding anything to the contrary in the principal Act, every person who is qualified to be registered as an elector in the Constituency shall make application afresh for registration as an elector on a special roll for the Constituency to be known as the Pukapuka/Nassau By-election Constituency Roll.

(2) Every application for registration as an elector pursuant to subsection (1) of this section shall be made on Form 1 being the form so numbered in the First Schedule to the principal Act, and in no other manner.

(3) This section shall have effect notwithstanding any existing registration of the elector on the electoral roll for the Constituency compiled and maintained pursuant to section 26(a) of the principal Act, which roll shall be suspended and of no effect for the purposes of the By-election.

(4) The Chief Registrar of Electors shall within seven days after the closing of the By-election Constituency Roll compile and cause to be printed a copy of the Pukapuka/Nassau By-election Constituency Roll.

(5) The By-election Constituency Roll referred to in subsection (4) of this section shall be deemed to be the main roll for the Constituency in respect of the By-election and there shall be no supplementary roll.

(6) Subject to this Act and in particular to subsections (1) to (5) of this section, Part III of the principal Act shall apply with the necessary modifications to applications for registration and to consequent registration as an elector on the By-election Constituency Roll pursuant to subsection (1) of this section.

5. Qualifications to Apply for Registration as an Elector - (1) Notwithstanding anything to the contrary in the principal Act, the qualifications of any person to –

- (a) apply for registration and be enrolled pursuant to section 4 of this Act; and
- (b) cast a vote as an elector in the By-election,

shall be the possession by the applicant or elector (as the case may be) of the qualifications stated in section 13 of the principal Act as at the date of his or her application for registration pursuant to section 4(1) of this Act.

6. Public Notice of Changes Effected by this Act - (1) The Chief Registrar of Electors shall, within the Constituency and elsewhere as he or she sees fit, give public notice of the following matters -

- (a) the various dates for the taking of steps in relation to the By-election listed in section 3(1) of this Act;
- (b) the matters dealt with in subsections (1) to (3) of section 4 of this Act.

(2) The notice given pursuant to sub-section (1) of this section shall prominently feature and stress the following -

- (a) that there is an obligation on every person qualified to be registered as an elector for the Constituency to make application afresh for registration on the By-election Constituency Roll;
- (b) that the elector's existing enrolment (if any) as an elector on any previous electoral roll for the Constituency will not be sufficient to entitle him or her to cast a vote in the By-election;
- (c) that unless duly registered as an elector on the By-election Constituency Roll, the elector will not be entitled to cast a vote in the By-election.

(3) Failure by the Chief Registrar of Electors to comply with any obligation imposed on him or her by this section shall not in any circumstances operate as a ground upon which to challenge the holding of the By-election or its outcome, whether by way of election petition or otherwise.

7. Certain Sections of Principal Act Not to Apply - For the avoidance of doubt, subsection (2) of section 14, subsection (5)(b) and (c) of section 16, subsection (1) of section 27 and subsection (2) of section 108 of the principal Act shall not apply in respect of the By-election or in respect of the procedures established by this Act.

This Act shall be administered by the Ministry of Justice