



ANALYSIS

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1980-81, No. 25

An Act to amend the Entry Residence and Departure Act 1971-72.

(22 May 1981)

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 Entry Residence and Departure Amendment Act 1980-81 and shall be read together with and deemed part of the Entry Residence and Departure Act 1971-72 (hereinafter referred to as "the principal Act").

2. Illegal Residents - The principal Act is hereby amended by repealing section 29 and substituting the following:

"29. Removal by Minister - (1) Notwithstanding anything contained in section 42 of this Act, the Minister may make an order in the form or to the effect of the Form No. 8 in the schedule to this Act directing that any person who is not lawfully resident in the Cook Islands shall, before the expiry of 14 days or such longer period as the Minister may specify from the date of service of the Order on such person, depart from and remain out of the Cook Islands either indefinitely or for a period to be specified in the Order.

(2) Any person who having been served with an order made under this section does not comply with the terms of the Order may be arrested without warrant by any constable and shall thereupon be detained in a prison and shall at any available opportunity be taken from such prison and placed by any constable on board any ship or aircraft which is leaving the Cook Islands and on which accommodation for that person is available.

(3) If that person is not previously placed on any such ship or aircraft he shall at the expiration

of 8 days after the date of his arrest be brought before the High Court which may direct that he be detained in custody for a further period not exceeding 8 days pending his being placed on any ship or aircraft on which accommodation for him is available.

(4) If any person who has been directed to be detained in custody pursuant to subsection (3) of this section is not previously placed on any ship or aircraft he shall at the expiration of a further period of 8 days be again brought before the High Court which may direct that he be detained for a period not exceeding 8 days pending his being placed on any ship or aircraft and so on from time to time for further successive periods of 8 days each.

(5) Notwithstanding anything in subsection (3) or (4) of this section the High Court, if it thinks fit, may, unless he is undergoing a sentence of detention in respect of some other offence, release him from custody subject to conditions that he reside where directed by the Police, that he report to the Police at such intervals as the Court directs, and that he depart from the Cook Islands when directed to do so by the Principal Immigration Officer.

(6) Every person commits an offence, who, having been released from custody under the provisions of this section, fails to comply with any conditions of his bail, and shall be liable to imprisonment for a term not exceeding 3 months. The Court by which that person is convicted for an offence under this subsection shall, instead of or in addition to any penalty that it imposes for the offence, direct him to be held in custody subject to the provisions of subsection (2) of this section and the provisions of subsection (3) of this section shall not apply to him.

(7) Any person who is in custody in a prison at the time he is served with an Order made under this section or if he is serving a term of imprisonment imposed pursuant to subsection (6) of this section, may be placed on a ship or aircraft notwithstanding that the sentence imposed upon him has not expired.

(8) The provisions of the Crimes Act 1969 relating to the release of a person on bail as far as they are applicable and with any necessary modifications shall apply to the release from custody of any person pursuant to subsection (5) of this section."

3. Departure Permits - The principal Act is amended by (1) omitting the words "Departure permit" and their definition from Section (2).

(2) Repealing Part VIII.

4. Forms - The Schedule to the principal Act is amended by omitting Form No. 8 and substituting the form contained in the Schedule to this Act.

SCHEDULE

FORM NO. 8

REMOVAL ORDER

PURSUANT to section 29 of the Entry, Residence and
 Departure Act 1980-81, I, _____,
 Minister of Immigration, hereby order that _____
 _____,
 being an illegal resident, on the expiration of fourteen
 days from the date of the service of this order on the said

 depart from and remain out of the Cook Islands indefinitely.

DATED at _____ this _____ day of _____ 1981.

Minister of Immigration

This Order may be varied or revoked by the Minister of
Immigration at any time.

This Act is administered by the Minister of Immigration.