



ANALYSIS

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1989, No. 5

An Act to Establish a Higher Salaries Commission

(1 May 1989)

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 Higher Salaries Commission Act 1989.

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

"Commission" means the Higher Salaries Commission established by section 4 of this Act:

"Minister" means the Minister of Finance.

3. Act to bind the Crown - This Act shall bind the Crown.

4. Establishment of Higher Salaries Commission - There is hereby established a Commission to be called the Higher Salaries Commission.

5. Membership of Commission - (1) The Commission shall consist of 3 members, to be appointed by the Queen's Representative by Order in Executive Council.

(2) One member of the Commission shall be so appointed as the Chairman of the Commission.

(3) The Commission may from time to time appoint one of the other members of the Commission to be the Deputy Chairman of the Commission.

(4) No member of the Commission shall be deemed by virtue of his appointment as a member of the Commission to be employed in the service of Her Majesty for the purposes of the Public Service Act 1975.

6. Term of office - (1) Except as otherwise provided in this Act, every member of the Commission shall be appointed for a term of 3 years, but may from time to time be reappointed.

(2) Unless he sooner vacates his office under section 7, every member of the Commission shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

7. Extraordinary vacancies - (1) Any member of the Commission may at any time be removed from office by the Queen's Representative for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Queen's Representative.

(2) Any member of the Commission may at any time resign his office by giving written notice to that effect to the Minister.

(3) If any member of the Commission dies, or resigns, or is removed from office, the vacancy thereby created shall be deemed to be an extraordinary vacancy.

(4) An extraordinary vacancy shall be filled by the appointment of a member by the Queen's Representative by Order in Executive Council.

(5) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed.

(6) The powers of the Commission shall not be affected by one vacancy in its membership.

8. Meetings - (1) Meetings of the Commission shall be held at such times and places as the Commission or its Chairman may from time to time appoint.

(2) At any meeting of the Commission, 2 members shall form a quorum.

(3) The Chairman shall preside at every meeting of the Commission at which he is present.

(4) In the absence of the Chairman from any meeting, the Deputy Chairman shall preside at that meeting.

(5) A decision of a majority of the members present at any meeting shall be the decision of the Commission, and in the event of an equality of votes, the member presiding shall have a casting vote as well as a deliberative vote.

(6) Subject to the provisions of this Act, the Commission may regulate its procedure in such manner as it thinks fit.

(7) No decision or determination of the Commission, and no proceeding before the Commission, shall be held bad for want of form, or be void or in any way vitiated by reason of any informality or error of form.

9. Members and officers to maintain secrecy - (1) Every member of the Commission and every person engaged or employed in connection with the work of the Commission shall maintain and aid in maintaining the secrecy of all matters which come to his knowledge when carrying out his functions or duties under this Act, and shall not communicate any such matters to any person except in the discharge of his functions and duties under this Act.

(2) Every person commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$1,000 or to both who wilfully acts in contravention of subsection (1).

10. Services for Commission - The Minister shall furnish such secretarial recording and clerical services as may from time to time be necessary to enable the Commission to discharge its functions

11. Functions of Commission - (1) The functions of the Commission shall be to consider and make recommendations to the Minister on the salaries and allowances required to be fixed pursuant to the enactments set out in the first column of the Schedule, in respect of the positions set out in the second column of the Schedule.

(2) Except as provided in this Act or any other Act, where the salary or allowance payable to any person is fixed pursuant to a recommendation under this Act, no amount in excess of the salary or allowance so fixed for the time being shall be paid to any person on account of that salary or allowance.

12. Amendment of Schedule - The Queen's Representative may from time to time, by Order in Executive Council add to or omit from the Schedule the Short Title of any enactment or the name of any position.

13. Release of recommendations - The Commission shall deliver to the Minister copies of all recommendations made by it under any of the provisions of section 11(1).

14. Publication of recommendations fixing Parliamentary pay and allowances - The Commission shall, in respect of every recommendation made by it in respect of the salaries and allowances of members of Parliament, make it known by giving a copy of it to each of the following persons, namely-

- (i) The Prime Minister;
- (ii) The Speaker of Parliament;
- (iii) The Leader of the Opposition.

15. Criteria for Commission - (1) In recommending any salary or allowance under section 11(1) the Commission shall have regard in particular to the need to achieve and maintain fair relativity with the private sector in the levels of rates of salaries.

(2) In recommending the salaries of any persons or group of persons pursuant to section 11(1), the Commission shall, in having regard to external comparability, take into account conditions of service (including tenure and superannuation rights, allowances, benefits and other emoluments (whether in money or not)) enjoyed by or received by the persons whose salaries are under review and those enjoyed by or received by the persons or members of the group of persons whose salaries and conditions of employment are, in the opinion of the Commission, comparable with those of the persons or members of the group of persons whose salaries are under review.

(3) In recommending the salary and allowances of the positions of Leader of the House, Leader and Deputy Leader of the Opposition, the Commission shall in addition to the matters set out in subsections (1) and (2), take into account whether the position being considered is held full time or part time.

16. Submissions to Commission - (1) For the purpose of any recommendations made under this Act, any person or any organisation shall be entitled to make written submissions to the Commission.

(2) For the purpose of enabling any person to make written submissions to the Commission, the Commission shall publish in a newspaper circulated daily in Rarotonga not less than 14 days notice of any hearing and the subject-matter of such hearing.

17. Salary of existing holder not to be reduced - Where any position is subject to the recommendation of the Commission under section 11(1), and the recommended salary for that position is lower than that being lawfully received by the holder of that position, that person's salary shall not be reduced as a result of that recommendation except where in the case of a position in the Public Service that position has been re-graded or re-classified, and in any other case, the position has been similarly re-defined.

18. Powers of Commission - (1) For the purpose of carrying out its functions under this Act, the Commission shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1966.

(2) To enable it to carry out its functions, the Commission may require any person to furnish information concerning salaries or other conditions of employment or both for any position, whether or not such position is subject to the jurisdiction of the Commission under this Act.

(3) In addition to the powers expressly conferred on the Commission by this Act or any other enactment, the Commission shall have such other powers as may be reasonably necessary to enable it to carry out its functions.

19. Remuneration - (1) The remuneration and allowances of the members of the Commission shall be fixed by the Queen's Representative by Order in Executive Council.

(2) All remuneration, allowances, and other expenditure payable or incurred under or in the administration of this Act shall be payable out of money to be appropriated by Parliament for that purpose.

20. Members not personally liable - No member of the Commission shall be personally liable for any act done or default made by the Commission in good faith in pursuance or intended pursuance of the powers and authorities of the Commission.

This Act is administered by the Treasury Department.

SCHEDULE

(Section 11)

<u>Enactments</u>	<u>Positions</u>
Civil List Act 1984	Queen's Representative Speaker of Parliament Prime Minister Deputy Prime Minister Chairman of Cabinet Ministers Leader of the House Assistants to Ministers Leader of the Opposition Deputy Leader of the Opposition Members of Parliament
Cook Islands Bank Act 1978	Directors General Manager Deputy General Manager Divisional Heads
Tourist Authority Act 1968	Members of the Tourist Authority General Manager Deputy General Manager
Broadcasting and Newspaper Corporation Act 1970-71	Members of the Broadcasting and Newspaper Corporation General Manager Divisional Heads
Conservation Act 1987	Members of the Conservation Council Director of Conservation
Constitution	Chief Justice Judges of the Court of Appeal Judges of the High Court Justices of the Peace Chief Administration Officers The Secretary to the Cabinet The Secretary to the Prime Minister's Department
Crown Law Office Act 1980	Solicitor General Crown Counsel
Legislative Service Act 1968/69	Clerk of Parliament Clerk-Assistant of Parliament

Ombudsman Act 1984	Ombudsman
Police Act 1980	Commissioner of Police Deputy Commissioner Superintendent
Public Service Act 1975	Public Service Commissioner Deputy Public Service Commissioner Heads of Department Divisional Heads of Department
Waterfront Industry Act 1973/74	Members of the Waterfront Commission General Manager of the Waterfront Commission Harbour Master
