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1984, No. 9

An Act to establish the Ministry of Foreign Affairs

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same, as follows:

PART I

INTRODUCTION

1. Short Title - This Act may be cited as the Ministry of Foreign Affairs Act 1984.

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

"Minister" for the purposes of this Act means a Minister appointed under the provisions of the constitution as the Minister in charge of the Ministry;

"Ministry" means the Ministry of Foreign Affairs constituted under this Act;

"Secretary" means the Secretary of Foreign Affairs appointed under this Act;

"Representative" means diplomatic, consular, trade or other representative of the Government of the Cook Islands in any other country:

PART II

MINISTRY OF FOREIGN AFFAIRS

3. Ministry of Foreign Affairs - There shall be a Ministry of State to be known as the Ministry of Foreign Affairs which under the control of the Minister shall be charged with the administration of this Act and with such other functions as may be lawfully conferred on it.

4. Functions of the Ministry of Foreign Affairs - Subject to section 5 of the Cook Islands Constitution Act 1964 an enactment of the Parliament of New Zealand in force in the Cook Islands the functions of the Ministry shall be:

- (a) Subject to the directions (if any) of the Cabinet, all such functions as are necessary or desirable for the conduct of the foreign relations of the Cook Islands; and
- (b) to be responsible for all matters of protocol.

5. Minister of Foreign Affairs - The Ministry shall be under the control of the Minister, who may from time to time for the purpose of the performance, exercise, or carrying out of the functions, powers, or duties of the Ministry, give such directions as the Minister thinks fit to the Secretary.

6. Delegation of powers by Minister - (1) The Minister may from time to time, by writing under the Minister's hand, either generally or particularly, and either unconditionally or subject to any condition the Minister thinks fit, delegate to the Secretary all or any of the Minister's powers under this Part or Part III of this Act, or under any other enactment, other than the power of delegation conferred on the Minister by this subsection:

(2) Subject to -

- (a) The conditions (if any) subject to which any power was delegated under subsection (1) of this section; and
 - (b) Any general or special directions given by the Minister, -
- the Secretary may exercise that power in the same manner and with the same effect as if it has been conferred on the Secretary directly by this section and not be delegation.

(3) Every delegation under subsection (1) of this section be revocable at will, and until revoked shall continue in force according to its tenor, and

(a) If the Minister by whom it was made ceases to hold office, it shall continue to have effect as if made by the Minister for the time being;

(b) Subject to paragraph (c) of this subsection, if the Secretary to whom it was made ceases to hold office, it shall continue to have effect as if made to the Secretary for the time being;

(c) If there is no Secretary for the time being, or if the Secretary is absent from duty, it shall continue to have effect as if made to the person for the time being directed under the Public Service Act 1975 to act in place of the Secretary.

(4) In the absence of proof to the contrary, where the Secretary, or any person directed under the (Public Service Act 1975) to act in place of the Secretary purports to act pursuant to a delegation under subsection (1) of this section the action concerned shall be presumed to be in accordance with that delegation.

(5) No delegation under subsection (1) of this section shall affect or prevent the exercise of any power by the Minister.

7. Secretary of Foreign Affairs - There shall from time to time be appointed as a member of the Public Service a Secretary of Foreign Affairs who shall be the administrative head of the Ministry of Foreign Affairs.

8. Delegation of powers by Secretary - (1) Subject to subsection

(2) of this section, the Secretary may from time to time, by writing under the Secretary's hand, either generally or particularly, and either unconditionally or subject to any conditions the Secretary thinks fit, delegate to such officer or officers or employee or employees of the Ministry as the Secretary thinks fit all or any of the powers exercisable by the Secretary under this Act or any other enactment, including any power delegated to the Secretary under this Act.

(2) The Secretary shall not-

(a) Delegate the power of delegation conferred on the Secretary by subsection (1) of this section; or

(b) Without the written consent of the Minister delegate any power delegated to the Secretary by the Minister; or

(c) Without the written consent of the Public Service Commissioner, delegate any power delegated to the Secretary under the Public Service Act 1975

(3) Subject to-

(a) The conditions (if any) subject to which any power was delegated under subsection (1) of this section; and

(b) Any general or special directions given by the Secretary, every person to whom any powers are delegated under subsection (1) of this section may exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly and not by delegation.

(4) A delegation under this section may be made to-

(a) A specified officer or employee of the Ministry;

(b) The holder for the time being of a specified office in the Ministry;

(c) Officers, or employees of the Ministry of any specified class or classes;

- (d) The holders for the time being of any specified offices, or class or classes of office, in the Ministry.
- (5) Every delegation under subsection (1) of this section shall continue in force according to its tenor, and if the Secretary by whom it was made ceases to hold office, it shall continue to have effect as if made-
- (a) By the Secretary for the time being; or
- (b) If there is no Secretary for the time being, by the person for the time being acting under section 7 (3) of this Act.
- (6) In the absence of proof to the contrary, where any person purports to act pursuant to a delegation under subsection (1) of this section, the action concerned shall be deemed to be presumed to be in accordance with that delegation.
- (7) No delegation under subsection (1) of this section shall affect or prevent the exercise of any power by the Secretary.
- (8) This section shall apply to all members of the overseas service as if each were an officer of the Ministry holding a specified office in the Ministry.
9. Other officers and employees - (1) There may from time to time be appointed as members of the Public Service such other officers and employees of the Ministry of Foreign Affairs as may be necessary.
- (2) All officers and employees shall act under the direction of the Secretary of Foreign Affairs in the exercise and performance of the duties and functions conferred or imposed on them by this or any other enactment.

PART III

REPRESENTATIVES OVERSEAS

10. Appointment of Representatives of the Cook Islands in other countries - (1) The Queen's Representative, acting on the advice of Cabinet, may from time to time appoint any person to be a representative of the Government of the Cook Islands in any other country.
- (2) Any person may be appointed as a representative of the Cook Islands for any term not exceeding four years, and may from time to time be re-appointed, or may at any time be removed or suspended from office by the Queen's Representative acting on the advice of Cabinet, for disability, insolvency, neglect of duty or misconduct, or may at any time resign his office by writing addressed to the Minister.
- (3) No person shall be deemed to be employed in the service of Her Majesty for the purpose of the Public Service Act 1975 by reason only of his appointment pursuant to sub-section (1) of this Section.
11. Duties and Functions of the Representatives - The duties and functions of any Cook Islands representative appointed pursuant to section 7 of this Act shall be to:
- (a) represent the Government of the Cook Island in the country to which he is appointed;
- (b) carry out such instructions as he receives from the Minister in relation to the interests of the Cook Islands in that country; and
- (c) exercise such powers and perform such other duties as are conferred upon or assigned to him by the Minister;

12. Salary and Allowances - The salary and the allowances of all representatives appointed pursuant to Section 7 of this Act, shall be determined by Cabinet from time to time, and shall be charged to the Cook Islands Government Account.

13. Staff of Representatives of the Cook Islands in other countries - (1) Subject to the provisions of this section a representative of the Cook Islands in any country appointed pursuant to section 7 of this Act may appoint such officers and employees as may be necessary for the efficient carrying out of his duties and functions under this Act.

(2) All appointments and the terms of such appointments made pursuant to sub-section (1) of this section shall be made with the approval of Cabinet.

(3) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the Public Service Act 1975 by reason only of his appointment under this section.

14. Appropriation by Parliament - Subject to the provisions of the Public Moneys Act 1969 and to Section 9 of this Act, there shall be appropriated by Parliament from time to time and paid to each representative such sums of money as may be required for the purpose of carrying out his duties and functions under this Act.

15. Transitional Provision - The persons holding the offices of Cook Islands representatives in New Zealand, Australia, Hawaii and French Polynesia, howsoever designated and the persons on their staff shall on the coming into force of this Act be deemed to have been appointed pursuant to this Act and the provisions of this Act shall apply to them accordingly.

PART IV

GENERAL

16. Regulations - (1) The Queen's Representative by Order in Executive Council, may from time to time make all such regulations as are deemed necessary or expedient for the purpose of giving full effect to this Act and for the due administration thereof.

(2) All regulations made under this section shall be laid before Parliament by the Minister within twenty-eight days of the date of the making thereof if the Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the date of commencement of the next ensuing session.

17. Annual Report - (1) The Secretary shall as soon as practicable after the end of each financial year furnish to the Minister a report on the operation of the Ministry.

(2) A copy of each report shall be laid before Parliament within twenty-eight days after it has been furnished to the Minister if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session

18. Repeals and Amendments - (1) The Ministry of Planning and External Affairs' Act 1977 is amended by:

- (a) repealing PART IV; and
- (b) deleting the words "and External Affairs" and "the External Affairs Division" wherever they appear in the Act.

(2) The Overseas Representative Act 1978 is hereby repealed.

This Act is administered in the Ministry of Foreign Affairs.