



## ANALYSIS

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1984, No. 19

An Act to constitute the Ministry of Health and to establish its purpose, functions and powers.

(27 December 1984)

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 Ministry of Health Act 1984.

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

"Cook Islands Health Committee" means the Committee established by section 5;

"Division of Island Health" means all persons, property or equipment on an island which is under the administrative control of the Ministry of Health;

"Island Health Committee" means a Committee established by section 11;

"Minister" means the Minister of Health;

"Ministry" means the Ministry of Health constituted under this Act;

"Rarotonga Health Committee" means the Committee established by section 10;

"Director General" means the Director General of the Ministry appointed under the provisions of this Act.

3. Ministry of Health - There is hereby constituted a Department of State to be known as the Ministry of Health which under the control of the Minister, shall be charged with the administration of the enactments specified in Part I of the Schedule to this Act and with such other functions as may be lawfully conferred on it.

4. Principal functions of the Ministry - The principal functions of the Ministry shall be-

- (a) To take cognizance of and to foster the preservation health and life among the people of the Cook Islands, recognizing that the physical and social environment is an important determinant of health and of its preservation;
- (b) To install and reinforce the responsibility of the individual in the preservation of his own health and well-being and that of his fellows;
- (c) To encourage and facilitate the involvement of the people in the administration of their health services;
- (d) To assist the people to protect themselves from infectious agents, injurious substances and practices likely to have a damaging effect on health;
- (e) To assure that each individual has access to appropriate preventive, therapeutic, and rehabilitative services and care;
- (f) To use, and to encourage others in the intelligent and profitable collection and use of records relevant to the health of the people.

5. Cook Islands Health Committee - (1) There shall be a Cook Islands Health Committee which shall be responsible to the Minister and shall have the function of making recommendations on health policy and any matters referred to it by the Minister.

(2) The Committee shall consist of nine members as follows:

- (a) One person appointed by the Minister to be Chairman;
- (b) Three representatives of Island Health Committees appointed by the Minister from persons nominated by each Island Health Committee, not more than one of whom shall be from one Committee, provided however that, on islands lacking a Committee designated under this Act, the Island Council constituted under the Outer Islands Local Government Act 1976 may offer such nominations from among their number.
- (c) Three representatives of the Rarotonga Health Committee appointed by the Minister from five persons nominated by the Committee, not more than one of whom shall be from a given constituency.
- (d) Two members of the public, other than health professionals, appointed by the Minister to represent the public at large.

(3) Except for the person appointed as Chairman, three of the members initially appointed shall be appointed for terms of three years, three shall be appointed for terms of two years and two shall be appointed for terms of one year, as determined by the Minister. The Minister may appoint members to fill vacancies for the remainder of unexpired terms, Each appointment made after the expiration of the initial term shall be for a term of three years.

(4) Appointees to the Committee shall not be deemed to be public servants appointed under the Public Service Act 1975.

(5) If the Minister so directs, there may be paid out of sums appropriated therefore by Parliament, to the members of the Committee, an honorarium and to members appointed pursuant to paragraphs (b) and (d) of subsection (2) allowances and travelling expenses.

6. Meetings of the Cook Islands Health Committee - (1) Meetings of the Committee shall be held at least every four months and at such additional times as called for by the Chairman or not fewer than five members.

(2) Five members of the Committee shall constitute a quorum.

(3) At least once each year and with advance public notice the Committee shall hold a public meeting at which the views of the people on the health services may be heard.

(4) A record of the proceedings of the Committee shall be maintained and made available for public inspection.

(5) The Committee shall regulate its own procedure in such manner as the Committee sees fit.

(6) The Minister shall make his appointments to the Committee and the Secretary shall schedule its first meeting to take place within one year of the date of commencement of this Act.

7. Director General of Health - (1) There shall from time to time be appointed under the Public Service Act 1975 a Director General of Health who shall be a medical practitioner registered or provisionally registered under the Medical and Dental Practices Act 1976.

(2) The Director General shall be the administrative head of the Ministry, and as directed by the Minister shall report to, advise and consult with the Cook Islands Health Committee and shall act as its Secretary.

8. Officers and other employees to act under direction of Director General - (1) There may from time to time be appointed such other officers and employees under the provisions of the Public Service Act 1975.

(2) All officers and employees of the Ministry shall act under the direction of the Director General in the performance of their duties.

9. Division of Island Health - (1) Within the Ministry on each island there shall be a Division of Island Health headed by an officer or employee of the Ministry who shall be designated by the Director General.

(2) In the case of Rarotonga the Division of Island Health shall be headed by the Director General.

10. Rarotonga Health Committee - (1) There shall be a Rarotonga Health Committee which shall be responsible for the administration of such matters as may be delegated to it by the Cook Islands Health Committee. The Rarotonga Health Committee shall consist of nine members appointed by the Minister as follows:

- (a) One member who shall be appointed from among the nominees of each of nine constituencies of Rarotonga but excluding the island of Palmerston in respect of the constituency of Avatiu-Ruatonga.
- (b) Failing a nomination in respect of a constituency the Minister shall select from that constituency a person who in his opinion is suitable for membership on the Committee.

(2) Of the members initially appointed under this section three shall be appointed for terms of three years, three shall be appointed for terms of two years and three shall be appointed for terms of one year, as determined by the Minister. The Minister may appoint members to fill vacancies for the remainder of unexpired terms. Each appointment made after the expiration of the initial term shall be for a term of three years.

(3) The Minister shall designate one of the members appointed to the Committee for a term of three years to be its initial chairman for one year. Thereafter the Committee shall elect its chairman.

(4) Appointees to the Committee shall not be deemed to be public servants under the Public Service Act 1975.

(5) The Committee shall regulate its own procedure in such manner as the Committee sees fit and shall keep such records of its proceedings as it deems necessary. The Committee shall establish the frequency upon which it shall meet, and the quorum, which shall be not less than four members. The Committee may appoint one of its members to be its Secretary.

11. Island Health Committee - (1) The Cook Islands Health Committee may on the recommendation of the Director, designate an Island Council constituted under the Outer Islands Local Government Act 1976 as an Island Health Committee.

(2) The provisions of the Outer Islands Local Government Act 1976 shall govern an Island Health Committee in terms of its procedure, quorum and records as if an Island Health Committee were an Island Council under that Act.

12. Delegation of powers by the Cook Islands Health Committee to an Island Health Committee - The Cook Islands Health Committee may delegate any or all of the powers or functions conferred upon it by this Act to an Island Health Committee.

13. Director General may organize Ministry - Notwithstanding the provision of any Act to the contrary but subject to the provisions of the Constitution, the Director General may, so as to further the purposes of this Act, by writing under his hand and after consulting with the Cook Islands Health Committee, create, abolish or modify any office, division or other organisational arrangement within the Ministry.

14. Delegation of powers of Minister - The Minister may either generally or particularly delegate to the Director General all or any of the powers exercisable by him as Minister under any enactment, including any powers delegated to him under any enactment. Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister. A delegation made by a Minister who thereafter ceases to hold the portfolio shall remain in effect until revoked by a subsequent Minister.

15. Delegation of powers by Director General - (1) Except for those powers delegated to the Director General pursuant to the provisions of the Public Service Act 1975, the Director General may either generally or particularly delegate to such officer or officers or employee or employees of the Ministry as he thinks fit, all or any of the powers exercisable by him.

(2) Any delegation pursuant to this section shall not extend to or include this present power of delegation.

(3) Every such delegation shall be revocable at will. A delegation made by a Secretary who thereafter ceases to hold that office shall remain in effect until revoked.

16. Investigation - (1) The Director General may order an investigation to be made in respect of any matter connected with or affecting the protection of the health of the public.

(2) For the purpose of any such investigation the Director General may, by order in writing, require any person, partnership, company or other organization carrying on any business relating to or affecting the subject matter of the investigation, to produce for the inspection by the Director General or his designee, any records or to set down in writing any facts relating to the subject matter of the investigation which are within the knowledge of the person, partnership, company or other organization and to allow copies or extracts from any such materials to be made by the person inspecting them.

(3) Any person or organization failing to comply with any order of the Director General under this section or deceiving or obstructing the Director General or his designee in the conduct of any such investigation, commits an offence, and shall be liable on conviction to a fine not exceeding two thousand dollars.

(4) All information obtained by the Director General or his designee by means of any such investigation shall be treated as confidential except for the purposes of this Act.

17. Annual report - (1) The Director General shall after the end of each financial year furnish to the Cook Islands Health Committee a report on the activities of the Ministry for the preceding year.

(2) Every report shall be laid before Parliament within twenty-eight days after the furnishing thereof to the Cook Islands Health Committee if Parliament is then in session and if not, shall be laid before Parliament within twenty-eight days after the date of the commencement of the next ensuing session.

18. Report on health of the people - The Director General shall, from time to time, but no less frequently than every three years, furnish to the Minister and the Committee and make available to the public a report upon the health of the people, in a manner which will facilitate an understanding of the principal contributors to ill health and the barriers to the maintenance and continued improvement of health among the people of the Cook Islands, with recommendations for action which he deems feasible.

19. Regulations - (1) The Queen's Representative may by Order in Executive Council make such regulations as are deemed necessary for the purpose of giving full effect to this Act and for the due administration thereof, including the prescription of penalties not exceeding two thousand dollars for offences against any such regulation.

(2) Regulations made pursuant to this section and having provisions substantially corresponding to the provisions of any Act or part thereof may repeal such Act or such part.

20. Consequential amendments - The enactments specified in Part II of the Schedule to this Act are hereby amended in the manner set out therein.

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SCHEDULEPART ISection 3 ENACTMENTS ADMINISTERED BY MINISTRY  
OF HEALTH

Dental Act 1970 - 71  
 Manufacture and Sale of Food Ordinance 1948  
 Manufacture and Sale of Food Ordinance Amendment  
 Ordinance 1951  
 Manufacture and Sale of Food Amendment Ordinance 1959  
 Manufacture and Sale of Food Ordinance 1963  
 Medical and Dental Practices Act 1976  
 Medical and Dental Practices Amendment Act 1977  
 Medical and Dental Practices Amendment Act 1981  
 Mosquito Control Ordinance 1947  
 Mosquito Control Amendment Ordinance 1951  
 Mosquito Control Amendment Ordinance 1960  
 Notifiable Disease Ordinance 1953  
 Notifiable Disease Amendment Ordinance 1954  
 Notifiable Disease Amendment Ordinance 1963  
 Quarantine Ordinance 1952  
 Quarantine Amendment Ordinance 1961

PART IISection 20 CONSEQUENTIAL AMENDMENTS

Enactments Amended	Amendment
Cook Islands Amendment Act 1957	By repealing sections 24
Dental Act 1970-71	<p>By deleting the definition of "Ministry" in section 2 (as inserted by section 14 of the Ministry of Social Services Act 1973-74) and substituting the following definition:</p> <p>"means the Ministry of Health"</p> <p>By deleting the words "Health Division of the Ministry of Social Services" (as substituted for the words Department of Health by section 14 of the Ministry of Social Services Act 1973-74) where ever they occur and substituting the words "Ministry of Health"</p>

(2) Regulations made pursuant to this section and having provisions substantially corresponding to the provisions of any Act or part thereof may repeal such Act or such part.

20. Consequential amendments - The enactments specified in Part II of the Schedule to this Act are hereby amended in the manner set out therein.

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Enactments Amended	Amendment
Entry, Residence and Departure Act 1971-72	By omitting in section 9 subsection (1) paragraph (b) the words "Director of Health" and substituting the words: "Director General of Health"
Medical and Dental Practices Act 1976	By deleting in section 2 the definition of "Department of Health" and substituting the following definition: "means the Ministry of Health;"  By deleting in section 2 the term "Secretary of Health" and the definition thereof and substituting the following term and definition: "Director General means the Director General of Health for the Ministry of Health;"
Ministry of Social Services Act 1973-74	By deleting paragraphs (a) and (b) of section 4.  By deleting from paragraph (a) of section 6 the words "A Director of the Health Division of the Ministry;"  By repealing subsection (2) of section 14.  By deleting from the First Schedule the following enactments: "Dental Act 1970-71 Cook Islands Amendment Act 1957: Section 24 Manufacture and Sale of Food. Ordinance 1948 No. 1 Amendment 1951 No. 1 Mosquito Control Ordinance 1947 No. 1 Notifiable Disease Ordinance 1953 No.1
Public Service Act 1975	By omitting from the First Schedule the words "Secretary of Health" and substituting the words Director General of Health.

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This Act is administered by the Ministry of Health