



## ANALYSIS

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1980, No.1

An Act relating to the legal status of the representative of the Government of New Zealand in the Cook Islands and of designated members of his staff and their families

(29 April 1980)

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 and commencement - This Act may be cited as the New Zealand Representative Act 1980 and shall come into force on the First day of April 1980.
2. Interpretation - (1) In this Act, unless the context otherwise requires -

"Diplomatic courier of the Government of New Zealand" means a person (Not being ordinarily resident in the Cook Islands) to whom the Government of New Zealand has for the time being provided an official document indicating -

- (a) His status as a diplomatic courier of the Government of New Zealand; and
- (b) The number of packages constituting each bag carried by him and used for the official correspondence of the Government of New Zealand.

"Diplomatic staff of the office of the New Zealand Representative" means the New Zealand Representative, and those members of the staff of his office who for the time being hold any of the positions specified in the Schedule to this Act.

"New Zealand Representative" means the person who is for the time being recognised by the Government of the Cook Islands as the representative of the Government of New Zealand in the Cook Islands.

"The 1968 Act" means the Diplomatic Privileges and Immunities Act 1968 of New Zealand.

(2) In this Act a reference to a person ordinarily resident in the Cook Islands shall include a reference to -

- (a) any person belonging to that part of the Polynesian race indigenous to the Cook Islands; and
- (b) any person for the time being living in the Cook Islands otherwise than for the sole purpose of:
  - (i) performing his duties as a member of the Office of the New Zealand Representative; and
  - (ii) being a member of family forming part of the household of a person referred to in subparagraph (i) of this paragraph.

(3) For the purposes of this Act, every reference in the First Schedule to the 1968 Act -

- (a) To the sending state shall be construed as a reference to New Zealand;
- (b) To the receiving state or to the country shall be construed as a reference to the Cook Islands;
- (c) To a national of the receiving state shall be construed as a reference to a person who is originally resident in the Cook Islands;
- (d) To the Ministry of Foreign Affairs shall be construed as a reference to the Ministry of Planning and External Affairs of the Government of the Cook Islands;
- (e) To the head of mission shall be construed as a reference to the New Zealand Representative;
- (f) To the mission shall be construed as a reference to the office of the New Zealand Representative.

3. The Government of New Zealand to be accorded privileges and immunities - The Government of New Zealand shall be accorded the same privileges and immunities as are accorded to a sending state by the 1968 Act.

4. Office of the New Zealand Representative - (1) The Office of the New Zealand Representative shall be accorded the same privileges and immunities as are accorded to a diplomatic mission by the 1968 Act.

- (2) (a) The premises, furnishings, means of transport and other property of the Office of the New Zealand Representative; and
- (b) The archives and documents of the office of the New Zealand Representative; and
- (c) The official correspondence of the New Zealand Representative; and
- (d) Articles for the official use of the Office of the New Zealand Representative -

shall be accorded the same privileges and immunities as the case requires as are accorded to those of a diplomatic mission by the 1968 Act.

(3) Without limiting the generality of section 4 and sub-sections (1) and (2) of this section -

- (a) The 1968 Act shall apply to every bag used for the official correspondence of the Government of New Zealand as if it were a diplomatic bag referred to in that Act; and
- (b) Every diplomatic courier of the Government of New Zealand shall be accorded the same personal inviolability, protection, and immunity as are accorded to diplomatic couriers under the 1968 Act.

5. Diplomatic Staff - (1) Every member of the diplomatic staff of the office of the New Zealand Representative shall be accorded the same privileges and immunities as are accorded to a diplomatic agent by the 1968 Act.

(2) The private residence of every member of the diplomatic staff of the Office of the New Zealand Representative shall be accorded the same privileges and immunities as are accorded to that of a diplomatic agent under the 1968 Act.

(3) The papers, correspondence, property and articles for the personal use of each member of the diplomatic staff of the Office of the New Zealand Representative shall be accorded the same privileges and immunities as the case requires as are accorded to those of a diplomatic agent under the 1968 Act.

6. Members of families of diplomatic staff - Every person, being a member of the family and forming part of the household of a member of the diplomatic staff of the Office of the New Zealand Representative and not in any case being ordinarily resident in the Cook Islands, shall be accorded the same privileges and immunities as are accorded to members of the diplomatic staff of that Office by subsections (1) to (3) of section 5 of this Act.

7. Other staff members and their families - (1) Every person who is -

- (a) A member of the administrative or technical staff of the Office of the New Zealand Representative; or

- (b) A member of the family, forming part of the household of a member of the administrative or technical staff of the Office of the New Zealand Representative; or
- (c) A member of the service staff of the Office of the New Zealand Representative -

not in any case being ordinarily resident in the Cook Islands shall be accorded the same privileges and immunities as the case requires as would be accorded to that person under the 1968 Act if that office were a diplomatic mission.

(2) Every person, being a member of the administrative, technical, or service staff of the Office of the New Zealand Representative who is ordinarily resident in the Cook Islands, shall be accorded immunity from jurisdiction and inviolability in respect of official acts performed in the exercise of his functions.

8. Premier may determine fiscal privileges - Without prejudice to the provisions of section 3 to 7 inclusive of this Act, the Premier with the concurrence of the Minister of Finance where the Premier is not also the Minister of Finance, may from time to time determine, either generally or in any case of class of case, the fiscal privileges which shall be accorded to the Office of the New Zealand Representative or persons connected with that Office notwithstanding that the determination may extend treatment more favourable than that required by the provisions of this Act, and may in like manner determine the terms and conditions on which those privileges may be enjoyed.

9. Proof of status - If in any proceedings any question arises as to whether or not any person is or was at any time or in respect of any period accorded any privilege, or immunity, under or by virtue of this Act, a certificate issued by the Secretary of Planning and External Affairs stating any fact relevant to that question shall be conclusive evidence of that fact.

10. Privileges and immunities to be conferred on same terms and conditions as 1968 Act - Subject to the provisions of this Act, privileges and immunities conferred by or by virtue of this Act shall be conferred on the same terms and conditions as to commencement and cessation, and as to waiver, as are provided in the 1968 Act.

11. Transitional provisions - (1) This section shall apply to every person on whom any privilege or immunity is conferred by any or sections 3, 6 and 7(1) of this Act.

(2) Notwithstanding that -

- (a) Any person to whom this section applies has entered the Cook Islands to take up his post before the commencement of this Act; or
- (b) The appointment of any person to whom this section applies has been notified to the Ministry of Planning and External Affairs before the commencement of this Act -

the privileges or immunities conferred on that person by this Act shall be deemed to have commenced on the date on which that person so entered the Cook Islands or, as the case requires, on the date on which his appointment was so notified, and in each case to have had effect continuously until cessation or waiver (if any) under this Act.

12. Consequential amendments - Section 3 of the Entry, Residence and Departure Act 1971-72 as substituted by the Entry, Residence and Departure Amendment Act 1972 is hereby amended by inserting after paragraph (b) in subsection 1 of that section the following paragraph -

"(ba) Any person entitled to privileges and immunities under the new Zealand Representative Act 1979-80.

The said section 3 is further amended by inserting in paragraph (c) of subsection 1 of that section after the words "paragraph (a) or (b)" the words "or (ba)".

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SCHEDULE

Section 2(1)

DIPLOMATIC STAFF OF THE OFFICE OF  
THE NEW ZEALAND REPRESENTATIVE

Deputy New Zealand Representative  
Minister  
Counsellor  
First Secretary  
Second Secretary  
Third Secretary  
Attache

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This Act is administered by the Ministry of Planning and External Affairs