



ANALYSIS

Title	
1. Short Title and commencement	23. Temporary salaried employees
2. Interpretation	24. Wage workers
3. Application	25. Expatriate employees
<u>PART I</u>	26. Employment pursuant to written contract
<u>OFFICE OF THE PUBLIC SERVICE COMMISSIONER</u>	<u>PART III</u>
4. Public Service Commissioner	<u>CODE OF CONDUCT</u>
5. Functions of the Commissioner	27. Private employment and elections
6. Annual report	28. Fees for official services
7. Delegation of powers of Commissioner	29. Employees obligations
8. Investigations and inquiries	<u>PART IV</u>
9. Employees of the Commissioner	<u>COLLECTIVE BARGAINING PERMITTED</u>
<u>PART II</u>	30. Collective Bargaining Permitted
<u>THE PUBLIC SERVICE</u>	<u>PART V</u>
10. Appointments to Public Service	<u>APPEALS</u>
11. Appointments of heads of department	31. Appeal Board
12. Appointments to exempted positions	32. A member not to act on an appeal affecting himself or his department
13. Delegation by head of department	33. Deputies to be members
14. Principal responsibilities	34. Remuneration of Board members
15. Head of department to appoint and be responsible for employees	35. Rights of appeal
16. Functions, responsibilities, duties and powers	36. Notice of appeal
17. Duty to act as a good employer	37. Jurisdiction of Board
18. Evidence of appointments	38. Services for Board
19. Redundancy	<u>PART VI</u>
20. Failure to comply with a direction to transfer	<u>MISCELLANEOUS</u>
21. Notice of termination of employment	<u>PROVISIONS RELATING TO THE PUBLIC SERVICE</u>
22. Promotion and salary increments	39. Staff of Queen's Representative
	40. Medical examinations
	41. Bonds and loans
	42. Regulations
	43. Notices of employees

PART VII
STATE SERVICES

44. State Services defined
45. Employing authority defined
46. Employing authority to have regard to the classification and salaries of employees

PART VIII
MISCELLANEOUS

47. Transitional
48. Repeals
Schedule

1995-96, No. 9

An Act to consolidate the law relating to the Public Service and to ensure that its members are impartially selected, fairly remunerated and administratively competent and to make provision for State Services and for the Human Resource Development of members of the Public Service

(31st May 1996)

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 and commencement - (1) This Act may be cited as the Public Service Act 1995-96.

(2) This Act shall come into force on a date to be appointed by the Queen's Representative, by Order in Executive Council.

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

"Appropriate Minister" in relation to a department means:

- (a) the Minister responsible for the department; or
- (b) where 2 or more Ministers are responsible for different functions of a department, the Minister responsible for the relevant function of the department.

"Board" means the Public Service Board of Appeal established by section 31 of this Act.

"Commissioner" means the Public Service Commissioner appointed pursuant to Article 73 of the Constitution;

"Department" means any Government Department and includes any Crown appointed office, agency or instrument prescribed by regulation in accordance with section 42(d) of this Act;

"Employee", in relation to the Public Service, means a person employed therein, whether on the permanent staff or temporarily or as a casual employee whether by way of written contract or otherwise;

"Employer" in relation to the Public Service means every head of department or Chief Executive Officer of a Crown appointed office and includes any person to whom any or all of the responsibilities set out in section 15 are delegated;

"Head of department" means a person appointed pursuant to section 11;

"Minister" means the Minister responsible for the Public Service;

"Prescribed" means prescribed by regulations made under this Act;

"Public Service" shall comprise those employees in the service of the Government of the Cook Islands and who are employed within those departments, agencies or other instruments as shall be prescribed under section 42(d).

3. Application - Unless the context shall otherwise require, this Act shall apply to the Public Service.

PART I **OFFICE OF THE PUBLIC SERVICE COMMISSIONER**

4. Public Service Commissioner - (1) There is hereby established the Office of the Public Service Commissioner.

(2) There shall from time to time be a Public Service Commissioner appointed by the Queen's Representative upon the advice of the Prime Minister who shall be responsible to the Minister for the administration of this Act.

5. Functions of the Commissioner - (1) Subject to the provisions of this Act, the Commissioner shall in respect of the Departments of the Public Service be responsible for -

- (a) reviewing the machinery of Government;
- (b) investigating any dispute between an employer and an employee and making a recommendation as to how the dispute should be settled;
- (c) ensuring the completion and compliance with heads of departments employment contracts, and performance agreements;
- (d) advising classification or levels of salary in accordance with section 46 of this Act.

(2) In carrying out his functions the Commissioner shall have regard to the policies of Government as communicated to the Commissioner from time to time by the Minister in writing.

6. Annual report - (1) The Commissioner shall as soon as practicable after the end of each financial year furnish a report to the Minister relating to the operations of the Commissioner for that year.

(2) A copy of the report shall be laid before Parliament within 14 days after the date on which it is furnished to the Minister if Parliament is then in Session and if not, shall be laid before Parliament within 14 days of the date of the commencement of the next ensuing Session.

7. Delegation of powers of Commissioner - (1) The Commissioner may from time to time, either generally or particularly, delegate any of his powers to any other person or persons.

(2) In any case where the Commissioner has pursuant to subsection (1) delegated any of his powers to any person, that person may, with the prior approval of the Commissioner delegate such of those powers as the Commissioner approves to any other person or to the holder for the time being of any specified office in the Public Service.

(3) Subject to any general or special directions given by the Commissioner, the person to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by delegation.

(4) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(5) Any delegation under this section may be made to a specified person or to persons of a specified class, or to the holder or holders for the time being of a specified office or of specified classes of offices.

(6) Every such delegation shall be revocable in writing at will and no delegation shall prevent the exercise of any power or function by the Commissioner.

(7) Any such delegation shall, until it is revoked, continue in force according to its tenor, notwithstanding any change of Commissioner.

8. Investigations and inquiries - (1) Where an employee has a complaint or dispute with an employer, the employee shall refer that complaint or dispute to the employer who shall attempt to resolve the complaint or dispute.

(2) Where an employer and employee cannot resolve a complaint or dispute, then that complaint or dispute shall be referred to the Commissioner who shall investigate and make a recommendation to the employer as to how the complaint or dispute should be determined.

(3) In the event of an employee or an employer not being satisfied with the recommendation made by the Commissioner or in the event of an employer refusing to follow the recommendation of the Commissioner, then either the employee or the employer as the case may be shall have the right of appeal to the Board.

(4) Payment of any fees or expenses incurred in connection with any such investigation or inquiry shall be paid in accordance with regulations made under this Act and appropriated by Parliament for such purpose.

9. Employees of the Commissioner - There shall from time to time be appointed by the Commissioner's Chief Executive Officer in consultation with the Commissioner pursuant to the provisions of this Act such employees as may be necessary to enable the Commissioner to carry out his functions and duties and those employees shall have all such powers, duties and functions as may be lawfully conferred upon them by law.

PART II **THE PUBLIC SERVICE**

10. Appointments to Public Service - All promotions and all appointments to the Public Service shall be made in accordance with this Act.

11. Appointments of heads of department - (1) Any promotion or appointment to the position of head of a department, regardless of their title or designation, of the Cook Islands Public Service, other than those specified in subsection (2) of section 12, shall be made by the Commissioner in accordance with a decision of Cabinet and pursuant to a contract of employment having such terms and conditions as shall have been approved by Cabinet.

(2) No appeal shall lie to the Board or any Court against an appointment or promotion to the position of head of a department.

12. Appointments to exempted positions - (1) The positions specified in subsection (2) are hereby designated as exempted positions.

(2) The exempted positions shall be -

- (a) the Secretary to the Cabinet;
- (b) the Government Representative for each of the islands of the Cook Islands other than Rarotonga;
- (c) every head of department of the Public Service.

(3) Notwithstanding any provision of this Act to the contrary relating to the appointment or removal of employees, appointments to exempted positions and the terms and conditions of that appointment and removal of any person from an exempted position shall be made by the Public Service Commissioner in accordance with a decision of Cabinet.

(4) No appeal shall lie to the Board or any Court against an appointment to an exempted position.

13. Delegation by head of department - The head of department may from time to time in writing either generally or particularly, delegate to any employee of the Public Service as he thinks fit all or any of the powers exercisable by the head of department under this Act, including the powers delegated to the head of department under this section including this present power of delegation.

14. Principal responsibilities - The head of a department shall be responsible to the appropriate Minister for -

- (a) the carrying out of the functions and duties of the department including the implementation of Government policies;
- (b) the tendering of advice to the appropriate Minister and other Ministers of the Crown;
- (c) complying with the obligations under the Finance and Economic Management Act 1996;
- (d) complying with the obligations pursuant to his employment contract and performance agreement;
- (e) the efficient effective and economic management of the activities of the department.

15. Head of department to appoint and be responsible for employees - Notwithstanding anything in section 14, in matters relating to decisions affecting employees of a department (whether matters relating to the appointment, remuneration, promotion, demotion, transfer, disciplining or the cessation of the employment of any employee or other matters) the head of that department shall act independently having regard to his obligation under section 17 of this Act.

16. Functions, responsibilities, duties and powers - (1) The functions, responsibilities, duties and powers imposed on or given to a head of department by this Act are in addition to those imposed on or given to that head of department by or under any other Act.

(2) The head of a department shall have the powers necessary to carry out the functions, responsibilities and duties imposed on that head of department by or under this Act, as well as the powers necessary to carry out the functions, responsibilities and duties imposed on that head of department by or under any other Act.

17. Duty to act as a good employer - (1) In exercising the functions, responsibilities, and duties as head of department or in the case of a Crown appointed office, the Chief Executive Officer in employment matters, the head of department or the Chief Executive Officer as the case may be, shall be a good employer.

(2) For the purposes of this section, a "good employer" is one who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment including provisions requiring:

- (a) good and safe working conditions;
- (b) the impartial selection of suitably qualified persons for appointment;
- (c) opportunities for the enhancement of the abilities of individual employees.

18. Evidence of appointments - (1) Any appointment to any office or position in the Public Service shall be made, confirmed or approved in writing by an instrument or minute by the Commissioner or the employer (as the case may be) or by any person to whom either may have delegated power in that behalf and, notwithstanding anything to the contrary in any enactment, it shall not be necessary for the Commissioner, or employer or any person to whom the power of appointment made have been delegated to execute any formal warrant or other instrument in special form.

(2) A certificate signed by the Commissioner or employer that any person named in the certificate was appointed to any office or position in the Public Service from and including a day stated therein shall be sufficient evidence that the person so named was duly appointed to and continued to hold the office or position unless the contrary is proved.

19. Redundancy - If at any time an employer finds that a greater number of person are employed in that department than is considered necessary for the efficient working thereof, such persons as are redundant may, (if practicable) be transferred to any other department by the Commissioner with the consent of the employer of that department to which the transfer is to be made and if any person so found to be redundant cannot be usefully employed in any other department, the employer may terminate his employment.

20. Failure to comply with a direction to transfer - Any employee who fails to comply with a direction of an employer requiring him to transfer from one position or locality to another may forthwith be dismissed or demoted with a consequent reduction in remuneration unless, in the opinion of the employer, the employee justifies the non-compliance by adducing some valid and sufficient reason thereof, but subject to the employer's obligations pursuant to section 17 of this Act.

21. Notice of termination of employment - (1) Subject to the express provisions of any written contract of employment, every employee who is not a temporary salaried employee or wage worker, shall be deemed to be a four weekly employee and notwithstanding any other provision in this Act, that employment may be terminated at any time after four weeks notice in writing has been given -

(a) by the employer to the employee; or

(b) by the employee to the employer.

(2) An employer may forthwith terminate the employment of any employee who gives less than four weeks notice under this section.

(3) This section shall not derogate in any manner from any other provisions of this Act conferring a power to dismiss employees.

22. Promotion and salary increments - Subject to the provisions of this Act, an employer may award to an employee a promotion or salary increment and any such promotion or salary increment shall be based upon merit, efficiency and conduct.

23. Temporary salaried employees - (1) An employer may engage such temporary salaried employees as may from time to time be required and may dismiss any person so engaged with not less than 1 week's notice, or, in the case of misconduct or inability, without notice. No action shall lie in any Court or to the Board in respect of the dismissal of any temporary salaried employee except in the case of a breach of section 17 of this Act during the course of the employment.

(2) Temporary salaried employees shall be paid such remuneration and be subject to such conditions of employment as may be determined by the employer.

24. Wage workers - (1) Where any work required to be done by any department does not warrant the employment of permanent staff by reason of its temporary, fluctuating, or special nature, an employer may authorise the engagement of wage workers by the department.

(2) Wage workers may with not less than 1 week's notice be discharged by the employer, or in the case of misconduct or inability without notice.

(3) The wage rates and conditions of employment of wage workers shall be as determined by the employer.

(4) In the employment of wage workers the employer must comply with the obligations imposed by section 17 of this Act, and the appeal provisions provided in this Act shall be available to any such wage worker.

25. Expatriate employees - (1) An employer may, with the concurrence of Cabinet, employ persons from outside the Cook Islands to a position within his department.

(2) All persons appointed pursuant to this section shall be employed for such period and upon terms and conditions as shall be approved by Cabinet in a written contract.

26. Employment pursuant to written contract - (1) Where any work required to be done by any department is of a special nature requiring specialised skills or expertise, or the circumstances of the person who is to undertake the work are such that it would be inappropriate for that person to be employed within the Public Service, an employer may employ that person pursuant to a contract of service.

(2) No provision of this Act shall apply to any person employed pursuant to subsection (1).

PART III CODE OF CONDUCT

27. Private employment and elections - (1) Except with the express written permission of the employer, which may at any time be withdrawn, no employee shall accept or continue to hold or discharge the duties of any other paid office outside the Public Service, or engage (whether as principal or agent) or be employed in any other paid occupation outside the Public Service, which in the opinion of the employer is incompatible with the due performance and proper discharge of his duties as an employee to the Public Service, provided that an employee shall have a right of appeal to the Board in respect of a decision by the employer pursuant to this section.

(2) A public servant who intends becoming a candidate for election to Parliament shall resign from the Public Service before accepting nomination as a candidate for election to Parliament.

28. Fees for official services - (1) Unless otherwise provided in this Act or any other enactment no fee, reward, or remuneration of any kind whatsoever, beyond an employees remuneration and approved allowances, shall be received by any employee for the employees own use or benefit for the performance of any service on behalf of the Government.

(2) Where an employee who is required to perform any service for which a charge would lawfully be payable, then that charge shall be levied and the amount paid shall be paid into the Public Account or into the account of the department concerned.

29. Employees obligations - Every employee shall comply with -

- (a) generally accepted behaviour in the conduct of his employment;
- (b) any reasonable direction given by an employer.

PART IV **COLLECTIVE BARGAINING PERMITTED**

30. Collective Bargaining Permitted - (1) On behalf of its members an employees' representative may negotiate with any employer for scales of remuneration and terms and conditions of employment to be fixed for employees.

(2) Notwithstanding any provisions of this Act to the contrary, a scale of remuneration or a term and condition of employment so fixed for any category of employees shall be the minimum amount payable, and the minimum terms and conditions applicable to an employee within that category.

PART V **APPEALS**

31. Appeal Board - (1) There shall be a Cook Islands Public Service Board of Appeal which shall consist of -

- (a) the Chief Justice of the High Court;
- (b) one person, being an employee or former employee of the Cook Islands Public Service, to be appointed by, and hold office at the pleasure of the Queen's Representative, acting on the advice of the Prime Minister;
- (c) one person, being an employee or former employee of the Cook Islands Public Service, to be elected by the employees of that service or nominated by an organisation of those employees, and to hold office for a period 3 years.

(2) The Chief Justice shall be Chairman of the Board.

(3) In the absence of the Chief Justice from any sitting of the Board, any other Judge of the High Court nominated by him either generally or in any particular case, may attend the sitting in his stead, and while so attending shall be Chairman of the Board.

(4) In the absence of the Chief Justice or other Judge nominated pursuant to subsection (3), the person for the time being holding office as Ombudsman may attend the sitting in his stead, and while so acting, shall be Chairman of the Board.

(5) Subject to the provisions of any Act, the Board shall determine its own procedure.

32. A member not to act on an appeal affecting himself or his department - No member of the Board shall sit on the Board on any appeal affecting an employee employed in the department or office in which the member is employed, or on any appeal affecting himself or his immediate family.

33. Deputies to be members - (1) In the event of the unavoidable absence or disqualification under section 32 of a member (other than the chairman) of the Board, the Queen's Representative acting on the advice of the Prime Minister (in the case of a member appointed pursuant to section 31(b) or in respect of the member nominated pursuant to section 31(c) may appoint a person being an employee or former employee of the Public Service to act in the place of the member who is absent or disqualified.

(2) No appointment of a deputy member under this section shall in any proceedings be called in to question on the grounds that the occasion for the appointment had not arisen or had ceased.

34. Remuneration of Board members - (1) A member of the Board of Appeal including a deputy member who is in receipt of a salary from Government shall not be granted remuneration in addition to his salary while he acts as a member of the Board of Appeal except where the Board sits outside of normal work hours.

(2) Any other member of the Board of Appeal may be paid out of the public account, such remuneration, expenses and allowances as may be determined by the Queen's Representative by Order in Executive Council.

35. Rights of appeal - (1) Subject to the provisions of this Act, every employee shall have a right of appeal to the Board where any dispute arises in relation to -

- (a) any decision action or conduct by an employer that is contrary to that of a good employer as defined by section 17;
- (b) any decision of the employer to transfer the employee from one locality to another within the Cook Islands;

Provided that an appeal under this paragraph shall lie only on grounds of undue personal hardship and provided also that the fact an appeal is pending under this paragraph shall not relieve the employee of his obligation to comply with the decision of the employer pending a decision on the appeal, unless the chairman of the board, on an application made to him in that behalf and on being satisfied that a prima facie case of undue hardship is established, directs that the employee shall not be so transferred pending the decision of the board.

- (c) any other decision in respect of which a right of appeal is expressly conferred by this Act or any other enactment.

(2) For the purposes of paragraph (b) of subsection (1) a transfer shall not mean a temporary posting not exceeding 3 months to another locality when a travelling allowance is payable for the whole of the absence from the usual place of employment.

(3) The appeal shall be by way of rehearing provided however that the Commissioner shall submit to the Board a written report of his investigation and recommendation and may at the discretion of the Board be called before the Board at the appeal hearing to answer any query or clarify any matter contained in the report.

(4) A copy of the Commissioner's report shall be available to the employer and employee not less than 7 days prior to the commencement of any appeal hearing.

36. Notice of appeal - Every appeal shall be commenced by notice specifying with particularity the grounds for appeal and shall be forwarded to the Board and a copy to the respondent to be received by him within 21 days after the date on which the recommendation of the Commissioner has been notified to either the employee or employer concerned, or within such extended time as the Board may in any case allow after good and sufficient reason has been shown by the appellant. An appellant shall be deemed to have complied with the provisions of this section if the appellant establishes to the satisfaction of the Board that the notice of appeal was dispatched to the Board in time for it to have been received at the office of the Board in the normal course of postal delivery on or before the last day fixed for the receipt of the notice. Provided that an employee stationed on an island of the Cook Islands other than Rarotonga shall be deemed to have complied with the requirements of this section if the notice of appeal is handed to the senior person on that island for the department in which the appellant is employed and the Government Representative for the island at which the appellant is stationed on or before the last day fixed for the receipt of the notice.

37. Jurisdiction of Board - (1) The Board shall have jurisdiction to hear and determine every appeal forwarded under section 35 and for this purpose to summons witnesses, and to examine the witnesses on oath or otherwise. On any appeal the Board may receive such evidence as it thinks fit, and receive any statement, document, information, or matter which in the opinion of the Board may assist it to deal with the matters before it, whether or not the same would be admissible in a Court of law.

(2) In deciding any appeal the Board may allow or disallow the appeal.

(3) If the Board allows the appeal it may provide for one or more of the following remedies:

- (a) the reimbursement to the employee of a sum equal to the whole or any part of the wages, salary or other money lost by the employee due to any breach by the employer of the obligations to be a good employer;
- (b) reinstatement of the employee to the employee's former position or the placement of the employee in a position no less advantageous to the employee;
- (c) the payment to the employee of compensation including compensation for:
 - (i) humiliation loss of dignity and injury to the feelings of the employee;
 - (ii) loss of any benefit whether or not of a monetary kind which the employee might reasonably have been expected to obtain if the employer had not breached the obligation to be a good employer.

- (d) any other order the Board deems just;

Provided however that no sum of compensation (other than in the case where an employee is reinstated having been suspended without pay and only to the extent that the compensation is for the loss of salary or wages he would have otherwise received), shall exceed 3 month's salary of that employee.

- (4) In every appeal the onus of proof shall rest upon the appellant:

- (5) The proceedings of the Board shall not be open to the public.

- (6) Any person authorised by the Board may attend the hearing.

- (7) At the hearing of any appeal the employee or employer may be represented by counsel or other advocate.

- (8) At the hearing of any appeal the appellant and the respondent shall be entitled to be present.

- (9) Appeals affecting more than one appellant shall not be heard together, unless the Board otherwise directs.

- (10) Proceedings before the Board shall not be held bad for want of form.

- (11) No appeal shall lie from any decision of the Board except on the ground of lack of jurisdiction, but otherwise no proceedings or decision of the Board shall be liable to be challenged, reviewed, quashed, or called into question in any Court.

- (12) The Board shall within the scope of its jurisdiction be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1966 and, subject to the provisions of this Act, all the provisions of that Act except sections 13 and 14 (which relate to costs) shall apply accordingly.

- (13) An appellant, if his appeal is allowed, shall be entitled to a refund out of money appropriated by Parliament for the purpose, of actual and reasonable personal travelling and accommodation expenses incurred within the Cook Islands in attending the hearing; but if the appeal is not allowed, the appellant shall not be entitled to a refund of any such expenses.

- (14) If in the opinion of the Board any appeal under this section is frivolous or vexatious, or one that should not have been made, the appellant shall not be entitled to a refund of expenses and the Board may order him to pay the cost of the appeal in whole or in part, and the sum so ordered to be paid shall be recoverable by deduction from the salary of the appellant, or as a civil debt recoverable by action through the High Court.

38. Services for Board - The Registrar of the High Court shall furnish such secretarial, recording, and clerical services as may be deemed necessary to enable the Board to discharge its functions.

PART VI
MISCELLANEOUS PROVISIONS RELATING
TO THE PUBLIC SERVICE

39. Staff of Queen's Representative - (1) Except as provided in subsection (2) the appointment, terms of service, disciplinary control, termination of appointment, and dismissal of staff of the Queen's Representative shall be matters for the Queen's Representative, acting in his discretion.

(2) The Queen's Representative, if he so desires, may appoint to his staff such employees of the Cook Islands Public Service as he may select, acting in his discretion but after consultation with the Prime Minister, from a list submitted by the Commissioner, and the provisions of this Act shall not apply in relation to a person so appointed in respect of his service to the Queen's Representative.

40. Medical examinations - An employer may require any applicant for appointment to the Public Service or any employee to submit himself to medical examination by a registered medical practitioner at the employee's own expense.

41. Bonds and loans - (1) Any employee or prospective employee to whom money is advanced, or on whose behalf expenditure is incurred in connection with transportation, education, training, or sustenance, or for any other special purpose, may be required as a condition for that advance or expenditure to sign a bond or loan agreement requiring him to pay to the Crown the sum therein specified if he makes default in the performance of any condition of the bond or loan agreement.

Provided that the said amount shall be reduced during the currency of the bond or loan by an amount equivalent to the proportion that the service rendered by the employee in accordance with a condition of the bond or loan agreement bears to the full period of service required for the discharge of the bond or loan.

(2) The Commissioner or any employer may require that such a bond or loan agreement shall also be signed by a parent or guardian, or by some other person approved by the Commissioner or employer as surety or guarantor; and the parent or guardian or person who so signs shall be jointly and severally liable thereunder.

(3) Every such bond or loan agreement shall be enforceable against the employee or prospective employee and the surety or guarantor who signs it, notwithstanding anything in this Act or any other Act or any rule of law.

42. Regulations - (1) The Queen's Representative may from time to time, by Order in Executive Council, make regulations so as to give effect to all or any of the purposes of this Act, including regulations for all or any of the following:

- (a) relating to the conduct of employees or of any class thereof, the maintenance of integrity; the control of activities which are or may be detrimental to the performance of official duties, the furnishing of official information, and the maintenance of impartiality in the performance of official duties;

- (b) prescribing conditions of retirement;
- (c) prescribing the form of documents to be employed in dealing with staff and employment and appeal matters;
- (d) identifying those departments agencies or other instruments, the employees of which shall be subject to the provisions of this Act;
- (e) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Every regulation made under this section shall come into force on a date to be specified therein in that behalf (whether before or after the date of the Order in Executive Council making the regulation), and if no such date is specified shall come into force on the date on which the regulation was made.

(3) Upon the coming into force of regulations made pursuant to this section every determination, decision matter or thing made or done before the date of their coming into force and affected by those regulations and not inconsistent therewith shall remain in force and be deemed to have been determined, decided or made pursuant to those regulations but where inconsistent shall cease to exist unless otherwise provided by those regulations.

43. Notices to employees - Where any notice has to be given under this Act to any employee, it may be given -

- (a) by delivering it to the employee; or
- (b) by sending it to the employee in a letter addressed and posted to him at his usual place of employment or at his last known place of abode.

PART VII **STATE SERVICES**

44. State Services defined - For the purposes of this Part, State Services shall include all instruments of the Crown in respect of the Government of the Cook Islands, whether departments, corporations, agencies, or other instruments which are not prescribed departments agencies or other instruments pursuant to section 42(d).

45. Employing authority defined - For the purposes of this Part, an employing authority in relation to a State Service shall mean the person or body designated by any enactment as the employing authority in respect of that service and if no such person or body is designated (for lack of enactment or otherwise) shall mean the Minister responsible for that service or such person or persons designated for the purpose by that Minister.

46. Employing authority to have regard to the classification and salaries of employees - (1) For the purposes of establishing uniformity as between the Public Service and State Services and in the interests of relativity every employing authority shall, in the performance of its functions, have regard to the classification and salaries of employees of the Public Service.

(2) The Commissioner shall for the purposes of subsection (1) make available to each employing authority from time to time the applicable classification and salaries of employees of the Public Service together with such assistance as may be requested by an employing authority.

PART VIII **MISCELLANEOUS**

47. Transitional - (1) From the date of commencement of this Act every decision, determination, matter or thing not inconsistent with this Act and made or done pursuant to the enactments repealed or revoked by this Act, shall be deemed to have been made or done under this Act and shall continue to apply to all employees affected.

(2) The Public Service Commissioner, and every employee of the Public Service Commissioner, holding office before the commencement of this Act shall, after the commencement of this Act continue to hold office subject to the provisions of this Act.

(3) Every person employed within the Public Service immediately before the commencement of this Act shall, after the commencement of this Act and if employed within a department prescribed pursuant to section 42(d), continue to be employed subject to the provisions of this Act.

(4) In any case in which immediately before the commencement of this Act an appeal to the Board of Appeal, the High Court of the Cook Islands, or the Court of Appeal of the Cook Islands was pending, that appeal may be continued after the commencement of this Act, and shall otherwise be heard and disposed of under the law in force immediately before the commencement of this Act as if that law had continued in force.

(5) Every regulation, and every instruction published in the Public Service Manual which was in force immediately before the commencement of this Act shall on the coming into force of this Act be revoked.

48. Repeals - The enactments specified in the Schedule are repealed.

This Act is administered in the Office of the Public Service Commissioner