



ANALYSIS

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1988, No. 9

An Act to provide for a system of Local Government on the
Island of Rarotonga (26 June 1988)

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

Price .80c

1. Short Title and commencement - (1) This Act may be cited as the Rarotonga Local Government Act 1988.

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

2. Application - This Act shall apply to the Island of Rarotonga.

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

"Aronga Mana" includes those persons invested with a title in accordance with the native custom and usage of that part of Rarotonga from which that title is derived and which title is recognised by such native custom and usage as entitling the holder to be a member of the Aronga Mana of Rarotonga, in the Koutu-Nui of the Cook Islands;

"Financial year" means the period of 12 months ending with the 31st day of March in each calendar year;

"Minister" means the Prime Minister or such other Minister as the Prime Minister may from time to time charge with the responsibility for this Act pursuant to Article 16 of the Constitution.

PART I RAROTONGA ISLAND COUNCIL

4. Rarotonga Island Council - (1) The constitution, membership, functions and powers of the Rarotonga Island Council shall be as prescribed by this Act.

(2) The Rarotonga Island Council shall be a body corporate and shall have perpetual succession and a common seal and shall be capable of doing and suffering all things that a body corporate may lawfully do and suffer.

5. Membership of Rarotonga Island Council - (1) The Rarotonga Island Council shall consist of the following members,-

(a) 9 members, each of whom shall be the Chairman for the time being of a District Council appointed pursuant to section 18; and

(b) 6 members of the Aronga Mana, who shall subject to subsection (2), be appointed from the 9 members of the Aronga Mana elected to the District Councils.

(2) The 9 members of the Aronga Mana elected to the District Councils shall from amongst themselves nominate 6 of their number to be members of the Rarotonga Island Council and in so doing shall ensure that,-

(a) 2 members shall be nominated from the District Councils of Te Au O Tonga;

(b) 2 members shall be nominated from the District Councils of Takitumu;

(c) 2 members shall be nominated from the District Councils of Puaikura.

(3) Every member of the Rarotonga Island Council shall take office on the day upon which his warrant declaring his appointment is signed by the Queen's Representative.

(4) The office of a member, unless previously vacated pursuant to regulations subscribed, shall become vacant at the end of the day immediately preceding the day on which the members appointed at the next ensuing election take office.

6. Mayor and Deputy Mayors - (1) There shall be a Mayor and 2 Deputy Mayors of the Rarotonga Island Council, each of whom shall be appointed by and from those members referred to in section 5(1)(a).

(2) In making the appointments referred to in subsection (1) the members shall ensure that,-

- (a) 1 appointee is from a District Council of Te Au O Tonga;
- (b) 1 appointee is from a District Council of Takitumu;
- (c) 1 appointee is from a District Council of Puaikura.

7. Functions - The functions of the Rarotonga Island Council shall be,-

- (a) To assist the Government in the good rule and government of the Island.
- (b) To co-operate with District Councils in the exercise of their functions and co-ordinate their endeavours;
- (c) To receive consider and undertake any recommendation from a District Council;
- (d) To administer and enforce the provisions of any Act or Regulation for which the Rarotonga Island Council may be responsible.
- (e) Such other functions as may be prescribed by enactment.

8. Powers - The Rarotonga Island Council shall have such powers as may from time to time be prescribed.

9. Meetings - (1) The first meeting of the Rarotonga Island Council shall be held within 3 months of the election of members of the District Councils at a place and time to be determined by the Minister at which meeting the appointments referred to in section 6 shall be made.

(2) Subsequent meetings shall be held at such times and places as the Rarotonga Island Council appoints and in any event at intervals of not less than 3 months.

(3) The Mayor shall preside at every meeting of the Rarotonga Island Council and in the absence of the Mayor a Deputy Mayor shall preside.

(4) At every meeting of the Rarotonga Island Council, 9 members shall constitute a quorum and every question shall be decided by a majority of votes of the members present.

(5) Subject to the provisions of this Act and any regulations made thereunder, the Rarotonga Island Council may regulate its own procedure.

(6) A member of Parliament for a constituency on Rarotonga shall be entitled to address the Rarotonga Island Council at a meeting of the Council in respect of a matter before the Council and affecting that Members constituency.

10. Appointment of Officers - (1) There shall be a Clerk of the Rarotonga Island Council who shall keep the records of the Council and have such other functions as the Council may direct.

(2) The Clerk shall be appointed by the Rarotonga Island Council on such terms and conditions as shall from time to time apply to members of the Public Service including remuneration, leave and superannuation.

(3) Subject to the approval of the Minister, the Rarotonga Island Council may appoint such other officers as may be necessary, and every such appointment shall have regard to and be on such terms and conditions as shall from time to time apply to members of the Public Service.

PART II DISTRICT COUNCILS

11. District Councils - (1) There shall be 9 District Councils, each Council comprising,-

- (a) 3 elected members who shall each represent a constituency comprising the Tapere of the district as set out in the First Schedule; and
- (b) 1 member of the Aronga Mana, who shall be elected by the Aronga Mana resident in the District; and
- (c) The Member of Parliament for the District who shall be an ex-officio member of the District Council.

(2) The Queen's Representative may by Order in Executive Council amend the First Schedule by deleting from constituencies or adding to constituencies the Tapere comprising a constituency subject to a resolution passed by not less than a two-thirds majority of members of the Rarotonga Island Council, including vacancies, requiring such amendment.

(3) The tapere comprising each constituency and the boundaries of such tapere shall be as delineated on plans S.O.1002A, S.O.1002B, S.O. 1002C, and S.O.1002D, deposited in the Office of the Chief Surveyor at Rarotonga.

12. Elections - (1) The members of District Councils referred to in section 11(1)(a) and (b) shall be elected at such intervals of time and in accordance with the provisions of this Act and regulations prescribed.

(2) The first election shall be held within 90 days of this Act coming into force.

(3) Every subsequent election shall be held within 90 days of the date 3 years from the date of the last preceding election.

13. Qualifications of electors - (1) A person shall be qualified to be an elector at an election of members referred to in section 11(1)(a) if that person,-

- (a) Is domiciled in the Cook Islands;
- (b) Is a resident of the constituency and has continuously been so resident for a period of not less than 3 months prior to his application for registration as an elector;

- (c) Is 18 years of age or over;
- (d) Has not been convicted in the Cook Islands or elsewhere of an offence punishable by death or imprisonment for life or for a term exceeding one year, unless he has undergone the sentence or punishment, and not less than 2 years has elapsed since the completion of that sentence or punishment;
- (e) Is not of unsound mind.

(2) Every person who is qualified as an elector pursuant to subsection (1) shall be entitled to be elected as a member for a constituency of a District provided however that he shall have been continually resident in the District for not less than 12 months prior to his nomination.

14. Electors and election of Aronga Mana - (1) A person shall be qualified to be elected as the member of a District Council referred to in section 11(1)(b) if that person,-

- (a) Is a member of the Aronga Mana;
- (b) Is domiciled in the Cook Islands;
- (c) Is a resident of the district and has been continuously so resident for a period of not less than 3 months prior to his nomination for election;
- (d) Is 18 years of age or older;
- (e) Is not of unsound mind.

(2) Every person who is qualified to be elected pursuant to subsection (1) shall be entitled to be nominated and elected as the member for the district in which he is resident by the Aronga Mana resident in that District, who shall subject to any regulations prescribing the manner in which nominations and elections shall be undertaken, elect a qualified person to be a member of the Aronga Mana of the District Council and in the absence of such regulations, in accordance with such procedure as the Aronga Mana may determine.

15. Electors to have only one vote - No elector shall be entitled to exercise more than 1 vote at any election of members referred to in section 11(1)(a).

16. Term of office - (1) Every member who has been elected pursuant to the provisions of this Act shall take office on the day on which the warrant declaring his election is signed by the Queen's Representative pursuant to regulations prescribed.

(2) The seat of a member, unless previously vacated, shall become vacant at the end of the day immediately preceding the day on which the members elected at the next ensuing election take office.

(3) The seat of an elected member shall become vacant if,-

- (a) On an election petition the High Court declares his election void;
- (b) He dies;
- (c) He resigns from his office in writing addressed and delivered to the chairman of the District Council of which he is a member;

- (d) In the case of a member referred to in section 11(1)(a) he ceases to reside in the District of the Council to which he was elected;
- (e) He is convicted of an offence in the Cook Islands or elsewhere punishable by death or imprisonment for a term exceeding 1 year;
- (f) He becomes of unsound mind and is so certified according to law;
- (g) He fails to attend 5 consecutive meetings of the Council without the leave of the Council;
Provided however leave of the Council shall be deemed to have been granted where the member fails to attend for reasons of ill health, travel beyond Rarotonga or other unavoidable cause.

(4) Where the seat of a member is vacated pursuant to subsection (2) there shall be held in accordance with regulations prescribed a by-election for the constituency or district to which the seat relates.

17. Functions and powers of District Councils - The functions and powers of District Councils shall be,-

- (a) To refer and make recommendations on any matter to the Rarotonga Island Council;
- (b) To provide advice on matters affecting the District for which it represents;
- (c) Such other functions and powers as shall be conferred upon the District Council by enactment.

18. Chairman and Deputy Chairman - (1) Each District Council shall appoint from amongst its elected members a Chairman, and a Deputy Chairman.

(2) Whenever the Chairman is unable to act, the Deputy Chairman may perform all the powers, duties and functions of the Chairman including attending and voting at meetings of the Rarotonga Island Council.

(3) At every meeting of the District Council at which he is present, the Chairman shall preside otherwise, the Deputy Chairman shall preside.

(4) At every meeting of the District Council, the Chairman shall have a deliberative vote and in the case of an equality of votes, shall also have a casting vote.

19. Meetings of District Councils - (1) The first meeting of the District Council shall be held at such time and place as the Minister appoints, but shall in any event be not later than 14 days from the date on which the last warrant of appointment is signed for that district.

(2) Subsequent meetings shall be held at such times and places as the Chairman appoints.

(3) At every meeting, 3 members shall form a quorum, and every question shall be decided by a majority of votes of the members present.

(4) The Minutes of each meeting of each District Council shall be kept by the Clerk who shall be appointed by the District Council.

(5) The Clerk of a District Council shall be paid out of monies appropriated by Parliament for that purpose and

shall be employed on such terms and conditions as shall from time to time apply to members of the public service including remuneration, leave and superannuation.

20. Procedure - Subject to the provisions of this Act and any regulations made hereunder, the District Council may regulate its own procedure.

PART III
FINANCIAL PROVISIONS

21. Rarotonga Island Council funds - (1) There shall be a fund for the Island Council which shall consist of the following monies,-

- (a) All revenues of the Rarotonga Island Council from fees, services, charges, fines, contributions, subscriptions, rents, and other monies paid pursuant to any by-law.
- (b) Such other monies as may be appropriated by Parliament.

(2) All monies derived pursuant to paragraph (a) of subsection (1) shall be deposited in a bank approved by the Minister and shall be kept in an account to be known as the "Rarotonga Island Council Account".

- (3) No monies shall be withdrawn from the Rarotonga Island Council Account save pursuant to a resolution of the Council.

(4) All monies appropriated by Parliament shall be public monies and shall be dealt with in the manner provided by the Public Money and Stores Act 1987.

22. Estimates - (1) Subject to the provisions of subsection (3), the Rarotonga Island Council shall during the first month of every financial year, cause an estimate to be prepared of all proposed expenditure and all expected receipts of the Council during that year, showing separately,-

- (a) Any sums of money required for the purposes of capital and revenue expenditure respectively, including such expenditure to be incurred by each District Council.
- (b) Any sums of money available for those purposes.
- (c) The estimated receipts from all sources.
- (d) The amount (if any) by which the aggregate of the proposed expenditure exceeds the aggregate of the sums specified in paragraph (b) and (c) of this subsection.

(2) Any deficiency or surplus in the revenues of the Rarotonga Island Council for the preceding financial year shall be shown separately and shall form part of the sums specified in paragraph (a) or (b) of subsection (1) of this section as the case may be.

(3) For any expenditure that may subsequently be found necessary the Island Council shall prepare a supplementary estimate with the necessary modifications, to the provisions of this section in respect of the original estimate.

(4) If by reason of an election pursuant to this Act the first estimate of the Rarotonga Island Council under this section, cannot be prepared within the time specified in subsection (1) it shall be prepared within one month, after the first meeting of the Rarotonga Island Council newly elected pursuant to the provisions of this Act.

(5) Any estimate or supplementary estimate prepared under this section shall be confirmed as soon as practicable by the Rarotonga Island Council and transmitted through the Clerk or other person in charge as the case may be to the Financial Secretary.

(6) It shall not be lawful for the Rarotonga Island Council to incur any expenditure out of funds granted by Parliament except in accordance with an estimate or supplementary estimate, as the case may be, transmitted to the Financial Secretary.

23. Accounts - (1) Subject to the provisions of subsection (2) the Rarotonga Island Council shall keep such accounts and balance them in such manner as may be directed by the Financial Secretary.

(2) Proper and complete records shall be kept of all stores in the possession or under the control of the Rarotonga Island Council, of all other assets and of all liabilities of the Rarotonga Island Council, and of all sums of money received and expended by the Council for the purposes of this Act.

(3) The accounts of the Rarotonga Island Council shall be subject to audit in the same manner and in all respects as if the moneys and stores of the Council were public moneys and stores within the meaning of the Public Money and Stores Act 1987.

(4) This section shall apply to District Councils.

24. Annual Report - (1) Within three months after the expiration of each financial year the Rarotonga Island Council shall furnish to the Minister a report of the proceedings, operations and transactions of the Rarotonga Island Council during the previous financial year together with a copy of the accounts for that year.

(2) The report shall be furnished notwithstanding that the accounts may not have been audited but in any such case an explanatory note to that effect shall be incorporated.

(3) If by a subsequent audit it is found that amendments are required to any account attached to the report the Rarotonga Island Council shall furnish the amended figures or accounts with such explanatory notes as it deems necessary.

(4) Copies of the report shall be supplied by the Rarotonga Island Council to the Minister who shall cause the same to be tabled in Parliament.

PART IV MISCELLANEOUS

25. Disability of members of Rarotonga Island Council and District Councils - (1) No member of the Rarotonga Island Council or a District Council shall vote on or take part in

any discussion relating to a matter in which that member has any direct or indirect pecuniary interest, apart from an interest in common with the public.

(2) Any decision made contrary to subsection (1) shall be void ab initio and of no effect.

26. Liability of members of Rarotonga Island Council and District Councils - No member of the Rarotonga Island Council or of a District Council shall be personally liable for any act or omission of the Rarotonga Island Council or a District Council as the case may be, if done or omitted to be done in good faith in the exercise of the powers or functions of the Rarotonga Island Council or District Council.

27. Privilege of members of Rarotonga Island Council or District Councils - No member of the Rarotonga Island Council or of a District Council shall be liable for anything said or any vote given in good faith at any meeting.

28. Exemption from tax - The Rarotonga Island Council and every District Council shall be exempt from every tax, impost, levy, duty or due.

29. Regulations - (1) The Queen's Representative may by Order in Executive Council make regulations as may be deemed necessary or expedient for the purpose of giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the generality of subsection (1), regulations not inconsistent with this Act may be made in respect of the following matters,-

- (a) The manner in which elections and by-elections shall be conducted, including the registration of electors, compilation of electoral rolls, objections in respect of registrations and the determination of such objections, nomination of candidate, the manner of voting and scrutiny of such votes, the provision of ballot-boxes, electoral offences and election petitions including such notices as may be required to ensure fair and orderly elections, and for the counting of votes;
- (b) The procedure to be followed at meetings by the Rarotonga Island Council and every District Council;
- (c) To give effect to any by-laws recommended by the Rarotonga Island Council and penalties not exceeding \$200 for breach of any such by-laws;
- (d) The disqualification of elected members;
- (e) The manner in which funds of the Rarotonga Island Council or a District Council may be received, held, invested and expended;
- (f) The keeping and auditing of accounts and the provision of reports relating thereto;
- (g) The establishment of committees to assist the Rarotonga Island Council or any District Council;
- (h) The provision of notices by the Rarotonga Island Council or a District Council;

- (i) If requested by the Aronga Mana, the manner in which members of the Aronga Mana shall be nominated for the Rarotonga Island Council or elected to a District Council;
- (j) The remuneration of members of the Rarotonga Island Council and District Councils and any officers or employees thereof.

30. Repeals - The enactment specified in the Second Schedule are repealed.

This Act is administered by the Rarotonga Island Council.

FIRST SCHEDULE

(Section 11(1) (a))

<u>NAME OF DISTRICT</u>	<u>NAME OF TAPERE COMPRISING EACH OF THE CONSTITUENCIES WITHIN THE DISTRICT</u>
<u>TE-AU-O-TONGA</u>	
<u>Nikao-Panama</u>	1. Pokoinu 2. Nikao 3. Puapuautu, Areatu and Kaikaveka
<u>Avatiu-Ruatonga</u>	1. Avatiu 2. Atupa 3. Ruatonga
<u>Takuvaine-Tutakimoa</u>	1. Tutakimoa 2. Tauae 3. Takuvaine
<u>Tupapa-Maraerenga</u>	1. Ngatipa, Tapae-i-uta and Vaikai 2. Pue, Tapae and Punamaia 3. Kiikii and Tupapa
<u>TAKITUMU</u>	
<u>Matavera</u>	1. Titama and Tupapa 2. Matavera (Rotopu) Tapere 3. Vaenga and Pouara
<u>Ngatangia</u>	1. Turangi, Ngati Au, Ngati Maoate and Ngati Vaikai 2. Avana 3. Aroko, Nukupure, Areiti, Aremango, Vail and Maii
<u>Titikaveka</u>	1. Tikioki, Akapuao and Te Puna 2. Titikaveka and Kauare 3. Arakuo, Turoa, Totokoitu, Avaavaroa and Vaimaanga
<u>PUAIKURA</u>	
<u>Muri-enua</u>	1. Rutaki and Aroa 2. Kavera and Vaiakura 3. Akaoa
<u>Ruaau</u>	1. Arerenga 2. Inave 3. Tokerau and Pokoinu-i-Raro

SECOND SCHEDULE

(Section 30)

Enactments Repealed

Rarotonga Island Council Ordinance	1958	No.4
Rarotonga Island Council Ordinance Amendment Act	1965	No.10
Local Government Act	1966	No.9
Local Government Amendment Act	1966	No.15
Local Government Amendment Act	1967/68	No.18
Local Government Amendment Act	1968	No.2
Local Government Amendment Act	1971/72	No.12
Local Government Amendment Act	1973/74	No.45
