

CONSTITUTION

OF THE

COOK ISLANDS

2022 OFFICIAL REPRINT

THE CONSTITUTION OF THE COOK ISLANDS

REPRINTED AS AT 13 JUNE 2022

(With amendments incorporated)

Introduction – Constitutional Position of the Cook Islands	165
Constitution of the Cook Islands.....	167
Cook Islands Constitution Act 1964 (NZ)	213
Cook Islands Constitution Amendment Act 1965 (NZ).....	214
Cook Islands Constitution Act Commencement Order 1965.....	215
Constitution Amendment Act 1968-69.....	215
Constitution Amendment (No. 2) Act 1968-69.....	215
Constitution Amendment (No. 3) Act 1969.....	216
Constitution Amendment (No. 4) Act 1970.....	216
Constitution Amendment (No. 5) Act 1970.....	216
Constitution Amendment (No. 6) Act 1973.....	216
Constitution Amendment (No. 7) Act 1975.....	217
Constitution Amendment (No. 8) Act 1978-79.....	218
Constitution Amendment (No. 9) Act 1980-81.....	218
Constitution Amendment (No. 10) Act 1981-82.....	223
Constitution Amendment (No. 11) Act 1982.....	225
Constitution Amendment (No. 12) Act 1986.....	225
Constitution Amendment (No. 13) Act 1992.....	226
Constitution Amendment (No. 14) Act 1991.....	227
Constitution Amendment (No. 15) Act 1993.....	227
Constitution Amendment (No. 16) Act 1993-94.....	228
Constitution Amendment (No. 17) Act 1994-95	
Constitution Amendment (No. 18) Act 1995-96	
Constitution Amendment (No. 19) Act 1995-96	
Constitution Amendment (No. 20) Act 1997	
Constitution Amendment (No. 21) Act 1997	
Constitution Amendment (No. 22) Act 1997	
Constitution Amendment (No. 23) Act 1999	
Constitution Amendment (No. 24) Act 2001	
Constitution Amendment (No. 25) Act 2002	
Constitution Amendment (No. 26) Act 2003	
Constitution Amendment (No. 27) Act 2004	
Constitution Amendment (No. 28) Act 2009	
Constitution Amendment (No. 29) Act 2021	

The Constitutional Position of the Cook Islands

This note was prepared under the direction of the Solicitor-General of the Cook Islands in May 1994 and is intended to provide answers to two questions sometimes asked in respect of the modern constitutional position of the Cook Islands. First, what is the significance of the origin of the Cook Island Constitution in an Act of the New Zealand Parliament? Second, what international capacity is enjoyed by the modern Cook Islands?

I CONTROL OF THE COOK ISLANDS CONSTITUTION

Only the Cook Islands Parliament has power to enact, amend and repeal laws in the Cook Islands, including the *Constitution* itself, in respect of which the Cook Islands Parliament must follow special procedures set out in the *Constitution*. From Constitution day (5 August 1965) the New Zealand Parliament ceased to have power to make laws of any kind in respect of the Cook Islands, unless the Cook Islands Parliament 'requested and consented' to such legislation. Since the enactment by the Cook Islands Parliament of the *Constitution Amendment No 9* in 1981, the New Zealand Parliament is absolutely disabled from legislating in respect of the Cook Islands even with the 'request and consent' of the Cook Islands Parliament.

It follows from this disability that even if the New Zealand Parliament were to repeal the *Cook Islands Constitution Act 1964* (the original, constitution containing instrument), that Act, and the *Constitution* itself, would remain the law of the Cook Islands, whatever its status at New Zealand law.

II INTERNATIONAL CAPACITY UNDER THE CONSTITUTION

It will be understood by students of Commonwealth constitutional law that the evolution of the older Commonwealth States such as Australia, Canada and New Zealand as autonomous members of the international community came about by the growth of *conventions* in accordance with which the Crown, as titular head of the British Empire, with legal authority to conduct external relations, came to be advised in the discharge of that function by the governments of each of the self-governing Dominions separately in respect of their interests.

In the case of the above Dominions, relevant early conventions were summarised in the 'Balfour Declaration' approved at the 1926 Imperial Conference. The Declaration described the status of the self-governing Dominions as follows:

They are autonomous communities within the British Empire, equal in status, and in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of nations.

The Conference concluded that "neither Great Britain nor the Dominions could be committed to the acceptance of active obligations except with the definite assent of their own governments."

Given early Commonwealth constitutional developments such as those noted above, it should surprise no-one that, *mutatis mutandis*, conventions have also played an important role in the assumption by the Cook Islands of direct responsibility for its international relations. The development of the conventional practice has been documented in *Frame* (1987) 17 *Victoria University of Wellington Law Review* 141 - 151. The same writer has recently observed:¹

Although 'the Queen in Right of New Zealand' is designated as having responsibilities for external affairs and defence, the real issue relates to the current state of convention as to which Ministers ... advise the Queen in Right of New Zealand on the matters in question. The careful student of current practice will, the writer believes, discover that the convention concerning the Cook Islands has developed very substantially ...

As has been confirmed by the Cook Islands and New Zealand Governments both individually and jointly, the exercise by New Zealand of certain responsibilities for the defence and external affairs of the Cook Islands does not give New Zealand any rights of control. The Cook Islands has plenary competence with respect to the conduct of its own international relations, and, with respect to both matters, New Zealand has acted on the delegated authority or, in other words, as an "agent or facilitator" of the Cook Islands Government. The modern understanding of the two Governments is that the effective source of advice to the Queen on Cook Islands' matters, including those referred to in section 5 of the *Cook Islands Constitution Act 1964* is that of Cook Islands Ministers. This understanding has now attained the status

¹ (1992) 22 *VUWLR* 85, n 1.

of a constitutional convention of the kind which typified the constitutional development of the older members of the Commonwealth.

As with the constitutional development in the older Commonwealth states referred to above, it is difficult to say at what precise moment particular conventions develop - there is rarely one 'magic moment' at which old understandings give way to new. Nor are such new understandings invariably reduced to written form. Nevertheless, 'markers' can often be found which recognise the development - as with the 'Balfour Declaration' mentioned above. In the Cook Islands' case, a significant marker is found in the New Zealand Declaration to the Secretary-General of the United Nations of 10 November 1988. The text of the Declaration was circulated to all members of the United Nations and Specialised Agencies as UNGA LE 222 New Zealand. It reads as follows:

WHEREAS the Cook Islands and Niue are self-governing states in voluntary free association with New Zealand resulting from acts of self-determination supervised and approved by the United Nations in accordance with General Assembly Resolution 1541 (XV);

AND WHEREAS the Governments of the Cook Islands and Niue have exclusive executive and legislative competence to implement treaties in the Cook Islands and Niue;

AND WHEREAS in accordance with the constitutional relationship which exists between New Zealand and the Cook Islands and New Zealand and Niue, there have been consultations between the Government of New Zealand and the Government of the Cook Islands and Niue regarding New Zealand treaty actions;

AND WHEREAS the Government of the Cook Islands and the Government of Niue have requested that henceforth no treaties signed, ratified, accepted, approved or acceded to by the Government of the New Zealand shall extend to the Cook Islands or Niue unless the Instrument of Ratification, Acceptance, Approval or Accession specifically so states;

NOW THEREFORE IT IS HEREBY DECLARED THAT:

- 1 No treaty signed, ratified, accepted, approved or acceded to by New Zealand from the date of receipt of this Declaration by the Secretary-General of the United Nations will extend to the Cook Islands or Niue unless the treaty is signed, ratified, accepted, approved or acceded to expressly on the behalf of the Cook Island or Niue.
- 2 Existing treaties applicable to the Cook Islands or Niue will continue to be applicable in accordance with their terms and subject to the rules of international law.
- 3 In the event that the Government of the Cook Islands or the Government of Niue desires that a treaty to which New Zealand is party but which was not expressly extended to the Cook Islands or Niue, should subsequently be so extended, the right is reserved to withdraw the territorial limitation provided for in paragraph 1 of this Declaration, by notification to the appropriate Depository.
- 4 Nothing in this Declaration shall limit any right of the Cook Islands or Niue to become party to any treaty which is open to the Cook Islands or Niue in their own right.

The Declaration reaffirms two principles. First, the Cook Islands has competence to enter into international relations 'in its own right' and not simply through the agency of New Zealand. The reference to treaties which are 'open' merely indicates that some treaties are not open to all states; the European Community treaties, for example, are not 'open' to the United States. And secondly, the Cook Islands will only participate in New Zealand treaty action with the consent of the Cook Islands Government. These principles, solemnly declared before the international community five years ago, have met with no objections. They have also been supported by unbroken practice accepted without demur by the community of States and demonstrate that the Cook Islands is responsible for its own international relations.

THE CONSTITUTION OF THE COOK ISLANDS

Analysis

1	Interpretation	24	Meetings of Executive Council
		25	Consideration of Cabinet decisions by Executive Council
	PART I		
	THE GOVERNMENT OF THE COOK ISLANDS		
2	The Head of State	26	Seal of the Cook Islands
	<i>The Queen's Representative</i>		
3	The Queen's Representative in the Cook Islands		
4	Oath of Office	27	The Parliament of the Cook Islands
5	Queen's Representative	28	Qualification of Electors
6	Information to Queen's Representative	28A	Special Voting
7	Deputy to the Queen's Representative	28B	Qualification of candidates
	<i>The House of Arikis of the Cook Islands</i>	28C	Election of member for Overseas Constituency
8	The House of Arikis of the Cook Islands	28D	Postal voting for electors of Cook Islands
9	Functions of House of Arikis	29	Meetings of Parliament
10	Members to take Oath of Allegiance	30	Members to take oath of Allegiance
11	Attendance of Prime Minister and other persons at House of Arikis	31	The Speaker of Parliament
11A	Procedure	32	Tenure of Office of Speaker
11B	Privileges of House of Arikis and its members	33	Deputy Speaker
		34	Procedure
		35	Languages
		36	Privileges of Parliament and its members
		37	Prorogation and dissolution of Parliament
	PART II	38	Clerk of Parliament
	THE EXECUTIVE GOVERNMENT OF THE COOK ISLANDS	39	Power to make laws
12	Executive authority	40	No property to be taken compulsorily without compensation
	<i>Cabinet</i>	41	Power of Legislative Assembly to repeal or amend this Constitution
13	Cabinet	42	Introduction of Bills, etc. into Parliament
14	Duration of office of members of Cabinet	43	Restrictions with regard to financial matters
15	Official Oath	44	Assent to Bills by Queen's Representative
16	Assignment of responsibilities to Ministers	45	Commencement of Acts
17	Summoning of Cabinet	46	New Zealand Parliament not to legislate for the Cook Islands
18	Cabinet procedure		
19	When decision of Cabinet takes effect		
20	Secretary to the Cabinet		
21	One Minister may act for another		
	<i>The Executive Council</i>		
22	Executive Council		
23	Clerk of the Executive Council		

**PART IV
THE JUDICIARY**

The High Court of the Cook Islands

- 47 High Court established
- 48 Jurisdiction of Divisions of the High Court
- 49 Judges of the High Court
- 50 Acting Chief Justice of the Cook Islands
- 51 Acting Judge of the High Court

Appointment, Tenure of Office and Salaries of Judges

- 52 Appointment of Judges
- 53 Tenure of office of Judges
- 54 Removal of Judge from office
- 55 Salaries of Judges
- 56 Court of Appeal established
- 57 Number of Judges
- 58 Judges not to sit on appeals from own decisions
- 59 Determination of Court of Appeal
- 60 Jurisdiction of Court of Appeal
- 61 Transmission of order of Court of Appeal

Justices of the Peace

- 62 Justices of the Peace
- Oath of Allegiance and Judicial Oath*
- 63 Oath of Allegiance and Judicial Oath

**PART IVA
FUNDAMENTAL HUMAN
RIGHTS AND FREEDOMS**

- 64 Fundamental human rights and freedoms
- 65 Construction of law
- 66 Saving

**PART V
THE PUBLIC REVENUES OF THE
COOK ISLANDS**

- 67 Public funds
- 68 Restriction on taxation
- 69 Public revenue
- 70 Revenue and expenditure of Cook Islands Government Account
- 71 Audit

**PART VI
THE COOK ISLANDS PUBLIC
SERVICE**

- 72 The Cook Islands Public Service
- 73 Public Service Commissioner

- 74 Term of office of the Public Service Commissioner
- 74A Removal from office of Public Service Commissioner
- 74B Functions of Public Service Commissioner
- 74BB Exempted positions
- 74C Procedure of Public Service Commissioner
- 75 Staff of Queen's Representative
- 76 Board of Appeal

**PART VIA
MISCELLANEOUS PROVISIONS**

- 76A Persons entitled to permanent residence
- 76B The Prerogative of Mercy and Pardon
- 76C The Cook Islands Ensign
- 76D National Anthem of the Cook Islands

**PART VII
TRANSITIONAL PROVISIONS**

- 77 Existing law to continue
- 78 *Repealed*
- 79 *Repealed*
- 80 Legislative Assembly of the Cook Islands
- 81 Ordinances of former Legislative Council or Legislative Assembly
- 82 The High Court
- 83 The Land Court
- 84 *Repealed*
- 85 *Repealed*
- 86 Cook Islands Government Account
- 87 *Repealed*
- 88 *Repealed*

FIRST SCHEDULE

Names and Boundaries of Constituencies together comprising the Islands of Aitutaki, Manuae and Te-Au-O-Tu, and the Islands of Rarotonga and Palmerston and the Islands of Mangala, and the Island of Atiu

SECOND SCHEDULE

Crimes Disqualifying for Election to Parliament

THIRD SCHEDULE

The Cook Islands Ensign

FOURTH SCHEDULE

The National Anthem of the Cook Islands

THE CONSTITUTION

Interpretation

- 1 (1) In this Constitution, unless the context otherwise requires-
- “Act” means an Act of the [Parliament] of the Cook Islands;
 - “Cabinet” means the Cabinet of Ministers of the Cook Islands;
 - “Constitution” means this Constitution; and includes any amendment thereof;
 - “Constitution Day” means the date appointed for the commencement of this Constitution;
 - “The Cook Islands” means all islands in the South Pacific Ocean lying between the 8th and 23rd degrees of south latitude and the 156th and 167th degrees of longitude west of Greenwich; and each island of the Cook Islands shall be deemed to include all smaller islands lying within 10 miles of the coasts thereof;
 - [“Court of Appeal” means the Court of Appeal of the Cook Islands established under this Constitution;]
 - “Enactment” means any Act of the [Parliament] of the Cook Islands, any Ordinance, any Act of Parliament of New Zealand in force in the Cook Islands, and any Proclamation, order, regulation, or rule, or any Island Council Ordinance or bylaw; *Proclamation*
 - “Executive Council” means the Executive Council of the Cook Islands established under this Constitution;
 - “Existing law” means any law in force in the Cook Islands immediately before Constitution Day; and includes any enactment passed or made before Constitution Day and coming into force on or after Constitution Day;
 - “High Court” means the High Court of the Cook Islands established under this Constitution;
 - “Law” means any law for the time being in force in the Cook Islands; and includes this Constitution and any enactment;
 - “Legislative Assembly” or “Assembly” where it appears in this Constitution or any other enactment means the [Parliament] of the Cook Islands established under this Constitution;
 - [“Minister” means a Minister of the Government of the Cook Islands; and includes the Prime Minister];
 - “New Zealand” means New Zealand exclusive of the Cook Islands;
 - “Ordinance” means an Ordinance of the Legislative Assembly of the Cook Islands made before Constitution Day and continuing in force on and after Constitution Day;
 - [“Parliament”] means the [Parliament] of the Cook Islands established under this Constitution, and the term “Legislative Assembly” or “Assembly” where it appears in this Constitution or in any other enactment shall have the same meaning;
 - [“Prime Minister” means the Prime Minister of the Cook Islands];
 - [“Queen’s Representative” means the representative of Her Majesty the Queen in the Cook Islands appointed under Article 3 hereof].
 - [“To reside”, in relation to the Cook Islands or to any constituency in the Cook Islands, means to have a usual place of abode in the Cook Islands, or, as the case may be, in that constituency, notwithstanding any temporary absence for the purpose of undergoing a course of education or of technical training or instruction, and notwithstanding any occasional absence, for any period not exceeding three months, for any other purpose and “resident” and “residing” have corresponding meanings];
- (2) Where under the provisions of this Constitution any person is required to subscribe an oath, he shall be permitted, if he so desires, to comply with that requirement by taking and subscribing an affirmation.

- (3) Where in this Constitution reference is made to the functions of any office, that reference shall, unless the context otherwise requires, be construed as a reference to the functions of that office and to any powers and authorities that may lawfully be exercised by, and any duties that may be required to be performed by, the holder of that office.

"Act": The word "Parliament" was substituted for the words "Legislative Assembly" by s 2(1) of the Constitution Amendment (No 9) Act 1980-81 (CI)

"Court of Appeal": This definition was inserted by s 2(2) of the Constitution Amendment (No 9) Act 1980-81 (CI)

"Enactment": The word "Parliament" was substituted for the words "Legislative Assembly" by s 17(4) of the Constitution Amendment (No 9) Act 1980-81 (CI)

"High Commissioner": A definition of this term was repealed by s 4(2)(a) of the Constitution Amendment (No 10) Act 1981-82 (CI)

"Land Appellate Court": A definition of this term was repealed by s 2(2) of the Constitution Amendment (No 9) Act 1980-81 (CI)

"Land Court": A definition of this term was repealed by s 2(2) of the Constitution Amendment (No 10) Act 1981-82 (CI) "Legislative Assembly" or "Assembly": This definition was substituted by s 2(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

"Minister": This definition was inserted by s 2(5) of the Constitution Amendment (No 9) Act 1980-81 (CI)

"Prime Minister": This definition was inserted by s 2(6) of the Constitution Amendment (No 9) Act 1980-81 (CI)

"Queen's Representative": This definition was added by s 4(2) of the Constitution Amendment (No 10) Act 1981-82 (CI)

"To reside": This definition was inserted by s 2(7) of the Constitution Amendment (No 9) Act 1980-81 (CI)

PART I

THE GOVERNMENT OF THE COOK ISLANDS

The Head of State

- 2 Her Majesty the Queen in right of New Zealand shall be the Head of State of the Cook Islands.

THE QUEEN'S REPRESENTATIVE

The Queen's Representative in the Cook Islands

- 3 (1) There shall be a representative of Her Majesty the Queen in the Cook Islands, to be known as the Queen's Representative.
 (2) The Queen's Representative shall be appointed by Her Majesty the Queen, and shall hold office for a period of three years, and may from time to time be reappointed.]

The heading preceding this Article was substituted for the heading "The High Commissioner of the Cook Islands" and this Article was substituted for the original Article 3 by s 2 of the Constitution Amendment (No 10) Act 1981-82 (CI)

Oath of Office

- 4 The [Queen's Representative] shall before assuming the functions of his office, take and subscribe before the [Chief Justice] of the High Court the following oath-
 I,, swear by Almighty God that I will be faithful and bear true allegiance to Her [or His] Majesty [Specify the name of the reigning Sovereign as thus: Queen Elizabeth the Second] as the Head of State of the

Cook Islands, heirs and successors, according to law, and that I will uphold the dignity of the office of Queen's Representative, and will justly and faithfully carry out my duties in the administration of the Cook Islands in accordance with the Constitution and the law. So help me God.

The words "Queen's Representative" were substituted for the words "High Commissioner" and also for the words "High Commissioner of the Cook Islands" by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

The words "Chief Justice" were substituted for the words "Chief Judge" by s 2(a) of the Constitution Amendment (No 7) Act 1975 (CI)

Queen's Representative to act on advice

- 5 (1) Except as otherwise provided in this Constitution, the [Queen's Representative] in the performance of his functions as the representative of Her Majesty the Queen shall act on the advice of Cabinet, the [Prime Minister], or the appropriate Minister, as the case may be.
- (2) If the Cabinet, the [Prime Minister], or an appropriate Minister tenders advice to the [Queen's Representative] as to the performance of any function as the representative of Her Majesty the Queen and if the [Queen's Representative] does not, within 14 days after the date on which the tendering of that advice comes to his notice, accept that advice or take some other action in relation thereto which he is entitled to take under the provisions of this Constitution or any other law, the [Queen's Representative] shall be deemed to have accepted that advice; and an instrument under the hand of the Secretary of the Cabinet, acting on the instruction of the [Prime Minister], to that effect shall operate as to the performance of the function concerned in accordance with that advice.

The words "Queen's Representative" were substituted for the words "High Commissioner" in the heading to this Article, in subcl (1), and in three places in subcl (2) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (c.1.)

The words "Prime Minister" were substituted for the word "Premier" in subcl (1) and in two places in subcl (2) by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

Information to Queen's Representative

- 6 It shall be the duty of the [Prime Minister] -
- (a) To arrange for the circulation to the [Queen's Representative] of the copies of the agenda and minutes of Cabinet and all other papers laid before Cabinet at the time when they are circulated to Ministers; and
- (b) To furnish such information relating to the affairs of the Cook Islands and proposals for legislation as the [Queen's Representative] may call for.

The words "Queen's Representative" were substituted for the words "High Commissioner" in the heading to this Article and in paras (a) and (b) s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

The words "Prime Minister" were substituted for the word "Premier" by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

[Deputy of the Queen's Representative]

- 7 (1) Whenever the office of Queen's Representative is vacant or the holder of that office is absent from the Cook Islands or is for any reason unable to perform any functions conferred on him by law, those functions shall be performed by the Chief Justice of the Cook Islands, or, if the Chief Justice is also for any reason unable to act, those functions shall be performed by the Judge of the High Court authorised by Article 50 hereof to exercise the functions of the Chief Justice.
- (2) Nothing in this Article shall preclude the Queen's Representative from performing at any time when he is absent from the Cook Islands any of the functions conferred on him by law.

- (3) No act done by the Chief Justice of the Cook Islands, or by the Judge of the High Court exercising the functions of the Chief Justice, in the performance of any function of the Queen's Representative shall be questioned or invalidated on the ground that the occasion therefor had not arisen or had ceased.]

Article 7 was substituted by s 3 of the Constitution Amendment (No 10) Act 1981-82 (CI)

THE HOUSE OF ARIKIS OF THE COOK ISLANDS

The House of Arikis of the Cook Islands

- 8 (1) There shall be a House of Arikis of the Cook Islands (hereinafter referred to as the House of Arikis).
- (2) The House of Arikis shall comprise the following members -
- (a) One Arika representing the Island of Aitutaki and the Island of Manuae;
 - (b) One Arika representing the Island of Atiu;
 - (c) One Arika representing the Island of Mangaia;
 - (d) One Arika representing the Island of Manihiki and the Island of Rakahanga:
Provided that provision may be made by law for the appointment of one Arika as representing the Island of Manihiki and one Arika as representing the Island of Rakahanga;
 - (e) One Arika representing the Island of Mauke;
 - (f) One Arika representing the Island of Mitiaro;
 - (g) One Arika representing the Island of Penrhyn;
 - (h) One Arika representing the Island of Pukapuka and the Island of Nassau;
 - (i) Such number of Arikis representing the Island of Rarotonga and the Island of Palmerston, being not more than 6, as is prescribed by law.
- (3) Subject to the provisions of this Article, the members of the House of Arikis shall be appointed by the [Queen's Representative].
- (4) If there is for the time being only one Arika for any of the islands or groups of islands specified in paragraphs (a) to (h) of subclause (2) of this Article, that Arika shall be appointed to be a member of the House of Arikis as representing that island or group; but if there are 2 or more Arikis for any such island or group, the [Queen's Representative] shall appoint the Arika for that island or group who is nominated for appointment in the manner prescribed by law.
- (5) If there are for the time being not more than the number of Arikis prescribed by law to be appointed as representing the group of islands comprising the Islands of Rarotonga and Palmerston, those Arikis shall be appointed to be members of the House of Arikis as representing that group; but, if there are more than the number so prescribed, the [Queen's Representative] shall appoint the Arikis for that group who are nominated for appointment in the manner prescribed by law.
- (6) Subject to the provisions of this Article, the qualifications of Arikis, the qualification and disqualification of members of the House of Arikis, and the terms and conditions of their membership shall be as prescribed by law.
- (7) If any vacancy occurs in the office of a member of the House of Arikis, the vacancy shall be filled in the same manner as an appointment to that office, and the appointee shall hold office for the unexpired portion of the term of office of his predecessor.

The words "Queen's Representative" were substituted for the words "High Commissioner" in subclauses (3), (4) and (5) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

Functions of House of Arikis

- 9 The House of Arikis shall have the following functions -
- (a) It shall consider such matters relative to the welfare of the people of the Cook Islands as may be submitted to it by [Parliament] for its consideration, and it shall express its opinion and make recommendations thereon to [Parliament]; and
 - (b) It shall have such other functions as may be prescribed by law.
- The word "Parliament" was substituted for the words "the Legislative Assembly" in para (a) (in two places) by s 6 of the Constitution Amendment (No 9) Act 1980-81 (CI)*

Members to take Oath of Allegiance

- 10 Except for the purpose of enabling this Article to be complied with, no member of the House of Arikis shall be permitted to sit or vote therein until he has taken and subscribed the following oath before the [Queen's Representative] namely:
- I,, swear by Almighty God that I will be faithful and bear true allegiance to Her [or His] Majesty [Specify the name of the reigning Sovereign, as thus: Queen Elizabeth the Second] as the Head of State of the Cook Islands Her [or His] heirs and successors, according to law, and that I will justly and faithfully carry out my duties as a member of the House of Arikis of the Cook Islands. So help me God.
- The words "Queen's Representative" were substituted for the words "High Commissioner" by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)*

Attendance of [Prime Minister] and other persons at House of Arikis

- 11 (1) The [Prime Minister] may, at any time, attend and address the House of Arikis.
- (2) A Minister or a person appointed in that behalf by a Minister may attend the proceedings of the House of Arikis when any matter for which the Minister is responsible is under consideration by the House.
- (3) The presiding member of the House of Arikis, when in his opinion any matter before the House makes it desirable, may invite any member of [Parliament] to attend meetings of the House relating to that matter.
- (4) A person attending the proceedings of the House of Arikis by virtue of the provisions of subclause (2) or subclause (3) of this Article shall be entitled to take part in the proceedings of the House relating to the matter for which the Minister has responsibility or in respect of which he was invited to attend, as the case may be, as if he were a member of the House:
- Provided that he shall not be entitled to vote in the House or any of its committees.
- The words "Prime Minister" were substituted for the word "Premier" in the heading and in subcl (1) by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)*
- The word "Parliament" was substituted for the words "the Legislative Assembly" by s 6 of the Constitution Amendment (No 9) Act 1980-81 (CI)*

Procedure

- 11A (1) The House of Arikis shall be presided over by one of its members, who shall be elected by the members of the House in the manner prescribed by law and shall hold office for such period and subject to such conditions as may be prescribed by law.
- (2) The House of Arikis shall meet in Rarotonga at such times as may be prescribed by law:
- Provided that the House of Arikis shall meet at least once in every period of 12 months.

- (3) Meetings of the House of Arikis shall be summoned by the [Queen's Representative], acting on the advice of the [Prime Minister].
- (4) No business shall be transacted at any meeting of the House of Arikis if the number of members present is less than 8.
- (5) Subject to the provisions of this Constitution and to the provisions of any law, the House of Arikis may from time to time make, amend, and repeal Standing Orders for the regulation and orderly conduct of its proceedings and the dispatch of business.
- (6) Subject to the provisions of this Article and to the provisions of any law, the House of Arikis shall determine its own procedure.
- (7) The House of Arikis shall not be disqualified for the transaction of any business by reason of any vacancy among its members, and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do so sat or voted in the House or otherwise took part in the proceedings.

The words "Queen's Representative" were substituted for the words "High Commissioner" by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI).

Privileges of House of Arikis and its members

- 11B Provision may be made by law for the application to the House of Arikis, its members and officers, persons entitled to speak therein, and persons publishing by or under the authority of the House any report, paper, vote, or proceeding of any of the provisions of any law for the time being in force relating to the privileges and immunities of [Parliament], its members and officers, persons entitled to speak therein, and any persons publishing by or under the authority of [Parliament] any report, paper, vote, or proceeding.

The word "Parliament" was substituted for the words "the Legislative Assembly" and also for the words "the Assembly" by S.6 of the Constitution Amendment (No 9) Act 1980-81 (CI).

PART II

THE EXECUTIVE GOVERNMENT OF THE COOK ISLANDS

Executive authority

- 12 (1) The executive authority of the Cook Islands shall be vested in Her Majesty the Queen in right of New Zealand.
- (2) Subject to the provisions of this Constitution, the executive authority of the Cook Islands may be exercised on behalf of Her Majesty by the [Queen's Representative] either directly or through officers subordinate to him.
- (3) Nothing in this Article shall prevent [Parliament] from conferring functions on persons or authorities other than the [Queen's Representative].

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (2) and (3) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

The word "Parliament" was substituted for the words "the Legislative Assembly" in subcl (3) by s 6 of the Constitution Amendment (No 9) Act 1980-81 (CI).

CABINET

Cabinet

- 13 [(1) There shall be a Cabinet of Ministers, comprising the [Prime Minister] of the Cook Islands (who shall preside over Cabinet) and not fewer than 6 nor more than 8 other Ministers, which shall have the general direction and control of the executive government of the Cook Islands, and shall be collectively responsible to Parliament.]

- (2) The [Prime Minister] shall be appointed as follows -
- (a) If the appointment is to be made while [Parliament] is in session, the [Queen's Representative] shall appoint as [Prime Minister] a member of [Parliament] who commands the confidence of a majority of the members of [Parliament].
 - (b) If the appointment is to be made while [Parliament] is not in session, the [Queen's Representative] shall appoint as [Prime Minister] a member of [Parliament] who in the opinion of the [Queen's Representative], acting in his discretion, is likely to command the confidence of a majority of the members of [Parliament].
 - (c) If the appointment is to be made after a dissolution of [Parliament] and before the holding of a general election of [Parliament] following that dissolution, the [Queen's Representative] shall appoint as [Prime Minister] a person who was a member of [Parliament] immediately before that dissolution and who in the opinion of the [Queen's Representative], acting in his discretion, is likely to command the confidence of a majority of the persons who were members of [Parliament] immediately before that dissolution:

Provided that where [Parliament] has been dissolved pursuant to subclause (2) of Article 37 hereof, the [Queen's Representative] shall appoint as [Prime Minister] a person who was a member of [Parliament] immediately before that dissolution and who in the opinion of the [Queen's Representative] acting in his discretion, is capable of performing the functions of the [Prime Minister].

- (3) The Ministers other than the [Prime Minister] shall be appointed by the [Queen's Representative] on the advice of the [Prime Minister]. No person shall be so appointed unless -
- (a) He is a member of [Parliament]; or
 - (b) If the appointment is to be made after a dissolution of [Parliament] and before the holding of the general election of [Parliament] following that dissolution, he was a member of [Parliament] immediately before that dissolution; or
 - (c) If the appointment is to be made after the holding of a general election of [Parliament] and before the commencement of the first session of [Parliament] following that election, he was elected as a member of [Parliament] at that election.
- (4) Appointments under the provisions of this Article shall be made by instrument under the Seal of the Cook Islands.
- (5) If any employee of the Cook Islands Public Service is appointed to be a Minister, he shall forthwith be deemed to have vacated his office as an employee of that Service.

Subclause (1) was substituted by section 2 of the Constitution Amendment (No 14) Act 1991

The words "Prime Minister" were substituted for the word "Premier" in subcl (1), in subcl (2) (in six places), and in subcl (3) (in two places) by s 18(2) of the Constitution Amendment (No 9) Act 1980-81 (CI).

The word "Parliament" was substituted for the words, "the Legislative Assembly" in subcls (2) (in four places), and (3) (in three places) and also for the words "the Assembly" in subcls (2) (in eight places) and (3) (in three places) by s 6 of the Constitution Amendment (No 9) Act 1980-81 (CI)

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (2) (in seven places) and (3) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

Duration of office of members of Cabinet

- 14 [(1) The appointment of the Prime Minister who is in office immediately before the date of the holding of a general election of Parliament may be terminated by the Queen's Representative after the date of that election and before the date of the commencement of the first session of Parliament following that

election if it appears to the Queen's Representative, acting in his discretion, that the Prime Minister is unlikely to command the confidence of a majority of the members of Parliament.]

(2) *Repealed by section 2(b) of the Constitution Amendment (No 15) Act 1993.*

(3) The appointment of the [Prime Minister] shall also be terminated by the [Queen's Representative] -

(a) If the [Prime Minister] ceases to be a member of [Parliament] for any reason other than the dissolution of [Parliament]; or

(b) If [Parliament] passes a motion in express words of no confidence in Cabinet or if Cabinet is defeated on any question or issue which the [Prime Minister] has declared to be a question or issue of confidence:

Provided that, if after the passing of such motion or after that defeat the [Prime Minister] so requests, the [Queen's Representative], acting in his discretion, may dissolve [Parliament] instead of terminating the appointment of the [Prime Minister]; or

(c) If the [Prime Minister] resigns his office by writing under his hand delivered to the [Queen's Representative]; or

(d) If the [Prime Minister] is absent from the Cook Islands otherwise than on official business for a period of more than 3 months without written authority given by the [Queen's Representative], acting in his discretion.

(4) The office of any other Minister shall become vacant -

(a) If the appointment of the [Prime Minister] has been terminated under the provisions of subclause (1) or subclause (2) or subclause (3) of this Article; or

(b) If the appointment of the Minister to that office is revoked by the [Queen's Representative], acting on the advice of the [Prime Minister], by instrument under the Seal of the Cook Islands; or

(c) If the Minister ceases to be a member of [Parliament] for any reason other than the dissolution of Parliament; or

(d) If the Minister resigns his office by writing under his hand delivered to the [Queen's Representative].

(5) Whenever, by reason of illness or of absence from the Cook Islands, the [Prime Minister] is temporarily prevented from performing, in the Cook Islands, the functions of his office, the [Queen's Representative] may, by instrument under the Seal of the Cook Islands, appoint another Minister to perform those functions until such time as the [Prime Minister] is capable of again performing them or has vacated his office.

(6) The power conferred on the [Queen's Representative] under the provisions of subclause (5) of this Article shall be exercised by the [Queen's Representative], acting in his discretion, if in his opinion it is impracticable to obtain the advice of the [Prime Minister] by reason of the illness or absence of the [Prime Minister], and, in any other case, shall be exercised by the [Queen's Representative], acting on the advice of the [Prime Minister].

(7) The [Queen's Representative], acting on the advice of the [Prime Minister], may, by instrument under the Seal of the Cook Islands -

(a) Declare a Minister to be by reason of illness temporarily incapable of performing his functions as a Minister; or

(b) Suspend a Minister during the period of any investigation or inquiry into the conduct of that Minister.

(8) Any Minister in respect of whom action has been taken under the provisions of subclause (7) of this Article shall not perform any of the functions of his office or sit in or otherwise take part in the proceedings of Cabinet or of the Executive Council until the [Queen's Representative], acting on the advice of the [Prime Minister], has revoked the aforesaid instrument under the Seal of the Cook Islands.

Subclause (1) was substituted by section 2(a) of the Constitution Amendment (No 15) Act 1993

Subclause (2) was repealed by section 2(b) of the Constitution Amendment (No 15) Act 1993

The words "Prime Minister" were substituted for the word "Premier" in subcl (2) (in two places), (3) (in seven places), (4) (8) by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

The word "Parliament" was substituted for the words, "the Legislative Assembly" in subcls (1), (in two places), (2), (3) (in three places) and (4) and also for the words "the Assembly" in subcls (1) (3) and (4) by s 6 of the Constitution Amendment (No 9) Act 1980-81 (CI)

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (1), (2), (3) (in four places), (4) (in two places), (5), (6) (in three places), (7), and (8) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

Official Oath

- 15 Every Minister shall, before assuming the functions of his office, take and subscribe before the [Queen's Representative] the following oath:

I,, being chosen and accepted as [Prime Minister] (or a Minister) and member of Cabinet, swear by Almighty God that I will to the best of my judgement, at all times when thereto required, freely give my counsel and advice to the [Queen's Representative], for the good management of the affairs of the Cook Islands and that I will not directly or indirectly reveal such matters as shall be debated in Cabinet and committee and in Executive Council and committed to my secrecy, but that I will in any such things be a true and faithful [Prime Minister] (or Minister). So help me God.

The words "Prime Minister" were substituted for the word "Premier" in subcls (1) and (2) by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI).

Assignment of responsibilities to Ministers

- 16 (1) The [Prime Minister] may, by direction in writing under his hand -
- (a) Charge any Minister with the responsibility for any Department or subject; and
 - (b) Revoke or vary any direction given under the provisions of this subclause.

- (2) The [Prime Minister] may retain in his charge any Department or subject.

The words "Prime Minister" were substituted for the word "Premier" (in two places) by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

For the manner in which the Attorney-General is appointed, see the Crown Law Office Act 1980

Summoning of Cabinet

- 17 Cabinet shall be summoned only by the [Prime Minister], or in his absence, by such Minister as the [Prime Minister] appoints in that behalf.

The words "Prime Minister" were substituted for the word "Premier" (in two places) by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

Cabinet procedure

- 18 (1) Subject to the provisions of this Constitution, Cabinet may regulate its procedure (including the fixing of a quorum) in such manner as it thinks fit.
- (2) Cabinet shall not be disqualified for the transaction of business by reason of any vacancy in the number of its members, and any proceedings of Cabinet shall be valid notwithstanding that some person who was not entitled to do so sat or voted in Cabinet or otherwise took part in the proceedings.

- (3) It shall be the duty of the [Prime Minister], if the [Queen's Representative], acting in his discretion, so requires, to submit for the consideration of Cabinet any matter on which a decision has been taken by a Minister (including the [Prime Minister]) but which has not been considered by Cabinet.
- (4) A decision of Cabinet shall be recorded in minutes, which shall, under the hand of the Secretary of the Cabinet, be communicated to the [Queen's Representative] within 48 hours of the making of the decision or, if the decision is one to which paragraph (c) of subclause (1) of Article 19 hereof applies, within 24 hours of the making of the decision.
- (5) A decision of Cabinet shall not take effect except under the provisions of Article 19 hereof.

The words "Prime Minister" were substituted for the word "Premier" (in two places) by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (3) and (4) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

When decision of Cabinet takes effect

- 19 (1) A decision of Cabinet shall take effect -
 - (a) On its approval by the [Queen's Representative], acting in his discretion; or
 - (b) On the expiry of 4 days after the date of the decision, unless a meeting of the Executive Council is sooner held under the provisions of Article 25 hereof; or
 - (c) If the issue involved in the decision is, in the opinion of Cabinet, of extreme urgency, on the expiry of 2 days after the date of the decision, unless a meeting of the Executive Council is sooner held under the provisions of Article 25 hereof; or
 - (d) Under the provisions of Article 25 hereof.
- (2) For the purposes of paragraphs (b) and (c) of subclause (1) of this Article, the date of a decision of Cabinet shall be the date on which the minutes in which the decision is recorded are communicated to the [Queen's Representative] under the provisions of subclause (4) of Article 18 hereof.
- (3) An instrument under the hand of the Secretary of the Cabinet certifying that a decision of Cabinet has taken effect shall be conclusive evidence that that decision has taken effect.

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (1) and (2) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

Secretary to the Cabinet

- 20 There shall be a Secretary to the Cabinet, who shall be appointed under Article 74BB hereof.]

Article 20 was substituted by s 4 of the Constitution Amendment (No 9) Act 1980-81 (CI)

One Minister may act for another

- 21 In this Constitution and in every enactment, unless the context otherwise requires, words directing or empowering any Minister to do any act or thing, or otherwise applying to him by his title of office, include any other Minister acting for, or, if the office is vacant, in the place of that first-mentioned Minister, and also his successors in that office.

THE EXECUTIVE COUNCIL

Executive Council

- 22 (1) There shall be an Executive Council of the Cook Islands, which shall consist of -
- (a) The [Queen's Representative]; and
 - (b) The members of Cabinet.
- (2) No business shall be transacted at any meeting of the Executive Council unless there are present the [Queen's Representative] and at least 3 members of Cabinet or, if there are for the time being only 4 members of Cabinet, unless there are present the [Queen's Representative] and at least 2 members of Cabinet.
- (3) Subject to the provisions of this Constitution, the Executive Council may regulate its procedure in such manner as it thinks fit.
- The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls(1) and (2) (in two places) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)*

Clerk of the Executive Council

- 23 The Secretary to the Cabinet shall also be the Clerk of the Executive Council.

Meetings of Executive Council

- 24 The Executive Council shall be summoned only by the [Queen's Representative], acting in his discretion, or by the [Prime Minister].
- The words "Queen's Representative" were substituted for the words "High Commissioner" in subcl (3) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)*
- The words "Prime Minister" were substituted for the word "Premier" by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)*

Consideration of Cabinet decisions by Executive Council

- 25 (1) A meeting of the Executive Council may be summoned to consider any decision recorded in the minutes of a Cabinet meeting.
- (2) If at a meeting of the Executive Council thus summoned the [Queen's Representative], acting in his discretion, concurs in the decision concerned, that decision shall take effect as a decision of Cabinet.
- (3) If at a meeting of the Executive Council thus summoned the [Queen's Representative], acting in his discretion, does not concur in the decision concerned or requests any amendment thereto, Cabinet shall thereupon be summoned under the provisions of Article 17 hereof and requested to reconsider that decision.
- (4) If Cabinet after that reconsideration reaffirms its original decision or accepts the amendment requested by the [Queen's Representative], the original decision or the decision as so amended, as the case may be, shall forthwith take effect as a decision of Cabinet.
- (5) If Cabinet, after the reconsideration adopts a decision which incorporates an amendment to its original decision, other than an amendment requested by the [Queen's Representative], the decision as so amended shall operate as a new decision of Cabinet to which the provisions of subclauses (4) and (5) of Article 18 hereof shall apply.
- The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (2), (3), (4) and (5) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)*

THE SEAL OF THE COOK ISLANDS

Seal of the Cook Islands

- 26 (1) There shall be a Public Seal of the Cook Islands (in this Constitution referred to as the Seal of the Cook Islands), to be in such form or forms as the Executive Council from time to time approves.
- (2) The Seal shall be in the custody of the [Queen's Representative].
- (3) The Seal may be used by the [Queen's Representative] for the authentication of any public document in relation to the government of the Cook Islands or for the execution of any document required by law to be executed under the Seal of the Cook Islands.
- (4) Judicial notice shall be taken of the Seal in all Courts in the Cook Islands and in New Zealand (including Niue and the Tokelau Islands).

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (2) and (3) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

PART III

THE PARLIAMENT OF THE COOK ISLANDS

Part III was substituted for the original Part III (except Article 41) by s 5 of the Constitution Amendment (No 9) Act 1980-81 (CI). The original Article 41 was not repealed by that section, and continues in force.

[The Parliament of the Cook Islands

- 27 (1) There shall be a sovereign Parliament for the Cook Islands, to be called the Parliament of the Cook Islands.
- [(2) Parliament shall consist of 25 members, to be elected by secret ballot under a system of universal suffrage by the electors of the following islands or group of islands or areas and in the following numbers -]
- (a) The Island of Aitutaki and the Islands of Manuae and Te-Au-O-Tu, 3 members, being 1 member for each of the 3 constituencies together comprising those islands, having the names and boundaries set out in Part I of the First Schedule to this Constitution;
- (b) The Island of Atiu, 2 members, being 1 member for each of the 2 constituencies having the names and boundaries set out in Part IV of the First Schedule to this Constitution;
- (c) The Island of Mangaia, 3 members, being 1 member for each of the 3 constituencies having the names and boundaries set out in Part III of the First Schedule to this Constitution;
- (d) The Island of Manihiki, 1 member;
- (e) The Island of Mauke, 1 member;
- (f) The Island of Mitiaro, 1 member;
- (g) The Island of Penrhyn, 1 member;
- (h) The Island of Pukapuka and the Island of Nassau, 1 member;
- (i) The Island of Rakahanga, 1 member;
- (j) [The Island of Rarotonga and the Island of Palmerston, 10 members, being 1 member for each of the 10 constituencies together comprising those islands, having the names and boundaries set out in Part II of the First Schedule to this Constitution;]
- (k) The Islands comprising New Zealand and all other areas outside the Cook Islands, 1 member (that constituency being hereinafter referred to as the Overseas Constituency).

- (3) Subject to this Article and Articles 28, 28A, 28B, and 28C and 28D hereof, the qualifications and disqualifications of electors and candidates, the mode of electing members of Parliament, and the terms and conditions of their membership shall be as prescribed by Act.

Subclause (2) of this Article was substituted by section 3 of the Constitution Amendment (No 14) Act 1991

Paragraph (j) of subclause (2) was substituted by section 3(2) of the Constitution Amendment (No 14) Act 1991

[Qualification of electors

- 28 (1) Without limiting the provisions of any law prescribing any additional qualifications not inconsistent with any provision of this Constitution, a person shall be qualified to be an elector for the election of a Member of Parliament for any constituency other than the Overseas Constituency, if, and only if -
- (a) He is a Commonwealth citizen, or he has the status of a permanent resident of the Cook Islands as defined by Act; and
 - (b) He has been resident in the Cook Islands throughout the period of three months immediately preceding his application for enrolment as an elector and has not subsequently qualified as an elector under subclause (2) of this Article; and
 - (c) He has at some period actually resided continuously in the Cook Islands for not less than 12 months.
- (2) Without limiting the provisions of any law prescribing any additional qualifications not inconsistent with any provision of this Constitution, a person shall be qualified to be an elector for the election of a Member of Parliament for the Overseas Constituency, if, and only if -
- (a) He is a Commonwealth citizen, or he has the status of a permanent resident of the Cook Islands as defined by Act; and
 - (b) He has resided outside the Cook Islands throughout the period of 3 months immediately preceding his application for enrolment as an elector; and
 - (c) At the date of his application for enrolment as an elector he has been absent from the Cook Islands for a continuous period of not more than 3 years, and has, and has had ever since he left the Cook Islands, an intention to return and reside therein indefinitely; and
 - (d) He has at some period actually resided continuously in the Cook Islands for not less than 12 months.
- (3) Where any person has ceased to be qualified to be enrolled as an elector for any constituency by reason of his residence outside the Cook Islands for a period of more than 3 years, he shall not be entitled to apply for enrolment as an elector of any constituency unless he has returned to the Cook Islands and has actually resided in the Cook Islands throughout the continuous period of not less than 3 months.
- (4) In calculating for the purposes of paragraph (c) of subclause (2) or of subclause (3) of this Article the [[period for]] which any person has been outside the Cook Islands -
- (a) Any period for which he has been outside the Cook Islands for the purpose of undergoing a course of education or of technical training or instruction shall be disregarded; and
 - (b) His absence from the Cook Islands during any period shall be deemed to be continuous, notwithstanding any visit to the Cook Islands in that period, unless during that visit he remained in the Cook Islands for a continuous period of not less than 3 months.
- In subcl (4) the words "period for" were substituted for the words "period of" by s 6 of the Constitution Amendment (No 10) Act 1981-82 (CI)*

[Special voting

- 28A (1) Any person who is enrolled as an elector of any constituency may vote as a special voter at an election of Members of Parliament, if, on polling day, he is absent from the constituency for which he is enrolled.
- (2) Any person who is enrolled as an elector of a constituency other than the Overseas Constituency and who is outside the Cook Islands on polling day but has not qualified for enrolment as an elector of the Overseas Constituency may vote outside the Cook Islands, as a special voter, for the constituency for which he is enrolled.
- (3) Any person who is enrolled as an elector of the Overseas Constituency and who is in the Cook Islands on polling day may vote for that constituency as a special voter, at any polling place in the Cook Islands.
- (4) A special voter may vote at such place (whether a polling place or not), at such time, in such manner, and upon and subject to such conditions as may be prescribed by Act.
- (5) Nothing in this Article shall effect the right of an elector of any constituency to vote by postal vote at an election of a member representing that constituency conducted by postal vote pursuant to Article 28C hereof in the case of the Overseas Constituency and Article 28D hereof in the case of any other constituency.

[Qualification of candidates

- 28B (1) Notwithstanding anything in subclause (2) of this Article, a person shall not be qualified to be a candidate at an election of members of Parliament if -
- (a) He is not an elector duly enrolled pursuant to the provisions of an Act of Parliament; or
- (b) He has been adjudicated bankrupt within the meaning of the bankruptcy laws in force in the Cook Islands (whether before or after the commencement of this Article), unless he has obtained an order of discharge; or
- (c) He has been convicted (whether before or after the commencement of this Article) of any of the offences specified in Part I of the Second Schedule to this Constitution; or
- (d) He has been convicted (whether before or after the commencement of this Article) of any of the offences specified in Part II of the Second Schedule to this Constitution, unless a period of 5 years has elapsed from the date of his conviction.
- (2) Subject to subclause (1) of this Article -
- (a) Every person enrolled as an elector of any constituency shall be capable of being elected as a member for that constituency or for any other constituency;
- (b) In the case of any by-election of any constituency, a person shall be capable of being elected as a member for that constituency if he was enrolled as an elector on the roll of any constituency at the preceding general election, and at the time of nomination still possesses the qualifications to be enrolled as an elector.

[Election of member for Overseas Constituency

- 28C The following provisions shall apply with respect to the member representing the Overseas Constituency -
- (a) He shall be elected by persons who are for the time being residing in New Zealand or elsewhere outside the Cook Islands who are qualified as electors under subclause (2) of Article 28 and are enrolled as electors of that constituency; and
- (b) His election shall be by postal vote, special vote, or by vote cast at one or more polling places situated outside the Cook Islands, as prescribed by Act. The procedure for conducting any such election by postal vote,

special vote, or at one or more polling places outside the Cook Islands shall be prescribed by Act.

This Article did not come into force until the date of the first general election of Parliament held after the commencement of the Constitution Amendment (No 9) Act 1980-81, except so far as was necessary for the purposes of that election. See s 17(1) of that Act. The first general election held after the commencement of that Act was held on the 30th March 1983

[Postal voting for electors of Cook Islands Constituencies

28D Provision may be made by Act for any elector of a constituency other than the Overseas Constituency who is outside the Cook Islands on polling day to vote by postal vote at any election of a member representing the constituency for which the elector is enrolled.

Meetings of Parliament

29 (1) Parliament shall meet at such places and at such times as the [[Queen's Representative] from time to time appoints in that behalf.

Refer S.O. 53

Provided that Parliament shall meet not later than 90 days after the holding of a general election and at least once in every year thereafter, so that a period of 12 months shall not intervene between the last sitting of Parliament in one session and the first sitting thereof in the next session.

(2) Notwithstanding anything contained in subclause (1) of this Article, Parliament shall not meet after the holding of a general election until all election petitions filed in the High Court in respect of that election have been finally determined [[by the High Court at first instance or have been withdrawn or dismissed for want of prosecution]].

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcl (1) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (C.I).

The words in double square brackets in subcl (2) were added by s 3 of the Constitution Amendment (No 11) Act 1982 (CI).

[Members to take Oath of Allegiance

30 Except for the purposes of enabling this Article to be complied with and for the election of a Speaker, no member of Parliament shall be permitted to sit or vote therein until he has taken and subscribed the following oath before the Speaker of Parliament namely:

I,, swear by Almighty God that I will be faithful and bear true allegiance to Her [or His] Majesty [*Specify the name of the reigning Sovereign, as thus: Queen Elizabeth the Second*] as the Head of State of the Cook Islands, Her [or His] heirs and successors, according to law and that I will justly and faithfully carry out my duties as a member of Parliament of the Cook Islands. So help me God.

[The Speaker of Parliament

31 (1) Parliament shall, immediately when it first meets after a general election and as soon as possible after any vacancy occurs in the office of Speaker otherwise than by reason of a dissolution of Parliament, and before it proceeds to the dispatch of any other business, elect a person (not being a Minister) to be Speaker of Parliament.

*Recalled (2)
refer Const.
Amnt 24
2001/6*

The Speaker may be elected in such manner as Parliament decides from time to time, either from among the members of Parliament who are not Ministers or from among persons who are not members of Parliament:

Provided that a person who is not a member of Parliament shall not be elected Speaker unless he is qualified for election as a member of Parliament.

(3) Before a person who has been elected Speaker enters upon the duties of his office, he shall, unless he has already done so in accordance with Article 30

hereof, take and subscribe before the [[Queen's Representative]] the Oath of Allegiance prescribed in that Article substituting the word "Speaker" for the words "a member" where they appear in that oath.

- (4) The salary of the Speaker shall be determined by enactment, and shall be charged on the Cook Islands Government Account.

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcl (3) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

[Tenure of office of Speaker

32 The Speaker may at any time resign his office by writing under his hand addressed to the Clerk of Parliament, and shall vacate his office -

- (a) On the dissolution of Parliament next following his election; or
- (b) If he becomes a Minister; or
- (c) If, being a member of Parliament at the time of his election, he ceases to be a member; or
- (d) If, not being a member of Parliament at the time of his election, he ceases to be qualified for election as a member; or
- (e) If Parliament passes a resolution supported by the votes of not less than two-thirds of all the members thereof (including vacancies) requiring his removal from office.

[Deputy Speaker

33 (1) Parliament may elect a member of Parliament, not being the Speaker or a Minister, to be Deputy Speaker.

(2) The Deputy Speaker may at any time resign his office by writing under his hand addressed to the Clerk of Parliament, and shall vacate his office -

- (a) On the dissolution of Parliament next following his election; or
- (b) If he ceases to be a member of Parliament; or
- (c) If he becomes a Minister; or
- (d) If he is elected Speaker; or
- (e) If Parliament passes a resolution supported by the votes of not less than two-thirds of all the members thereof (including vacancies) requiring his removal from office.

(3) Subject to the provisions of this Constitution and of the Standing Orders of Parliament, the functions conferred by this Constitution or those Standing Orders upon the Speaker shall, if there is no person holding the office of Speaker or if the Speaker is absent from the Cook Islands or is otherwise unable to perform those functions, be performed by the Deputy Speaker.

[Procedure

34 (1) The Speaker, or in his absence the Deputy Speaker, shall preside over sittings of Parliament. In the absence from any sitting of both the Speaker and Deputy Speaker, the members present shall choose one of their number (not being a Minister) to preside over that sitting.

(2) Subject to the provisions of Article 41 hereof and of subclause (3) of this Article, every question before Parliament shall be decided by a majority of the votes of the members present.

(3) The person presiding over any sitting of Parliament shall not have a deliberative vote, but in case of an equality of votes, he shall have a casting vote.

Quorum is 12 (4) No business shall be transacted at any sitting of Parliament if the number of members present (excluding the Speaker if he is a member) is less than 12.

(5) Subject to the provisions of this Constitution, Parliament may from time to time make, amend, and repeal Standing Orders for the regulation and orderly conduct of its proceedings and the dispatch of business.

(6) Parliament shall not be disqualified for the transaction of business by reason of any vacancy among its members including any vacancy not filled at a general election, and any proceedings therein shall be valid notwithstanding

that some person who was not entitled to do so sat or voted in Parliament or otherwise took part in the proceedings.

[Languages

- 35 (1) All debates and discussions in Parliament shall be conducted in the Maori language as spoken in Rarotonga and also in the English language.
- (2) Every Bill introduced into Parliament and every Act shall be in the Maori language as spoken in Rarotonga and also in the English language: Provided that Parliament may, by resolution, determine that any Bill or Act shall be in the English language only.
- (3) The records of proceedings in Parliament, or in committees thereof shall be in the English language, and such of those records as are specified in the Standing Orders of Parliament shall also be in the Maori language as spoken in Rarotonga.
- (4) Where there is any conflict between the Maori version and the English version of any Bill or Act or of any such record, the English version shall prevail.

Privileges of Parliament and of its members

- 36 (1) The validity of any proceedings in Parliament or in any committee thereof shall not be questioned in any Court.
- (2) No officer or member or Speaker of Parliament in whom powers are vested for the regulation of procedure or the conduct of business or the maintenance of order shall in relation to the exercise by him of any of those powers be subject to the jurisdiction of any Court.
- (3) No member or Speaker of Parliament and no person entitled to speak therein shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in Parliament or in any committee thereof.
- (4) No person shall be liable to any proceedings in any Court in respect of the publication by or under the authority of Parliament of any report, paper, vote or proceeding.
- (5) Subject to the provisions of this Article, the privileges of Parliament and of the committees thereof, and the privileges of members and the Speaker of Parliament and of the persons entitled to speak therein may be determined by Act:

Provided that no such privilege of Parliament or of any committee thereof may extend to the imposition of a fine or to committal to prison for contempt or otherwise, unless provision is made by enactment for the trial and punishment of the person concerned by the High Court.

[Prorogation and dissolution of Parliament

- 37 (1) The [[Queen's Representative]] may at any time, by notice published in the *Cook Islands Gazette*, prorogue Parliament.
- (2) If at any time the office of [[Prime Minister]] is vacant, the [[Queen's Representative]] shall by notice published in the *Cook Islands Gazette*, dissolve Parliament as soon as he is satisfied, acting in his discretion, that a reasonable period has elapsed since that office was last vacated and that there is no member of Parliament who commands the confidence of a majority of the members.
- (3) The [[Queen's Representative]] may at any time, by notice published in the *Cook Islands Gazette*, dissolve Parliament if he is advised by the [[Prime Minister]] to do so, but shall not be obliged to act in this respect in accordance with the advice of the [[Prime Minister]] unless the [[Queen's Representative]] is satisfied, acting in his discretion, that in tendering that advice the [[Prime Minister]] commands the confidence of a majority of the members of Parliament.
- (4) Notwithstanding anything in the foregoing provisions of this Article, Parliament shall not be prorogued or dissolved before all electoral petitions filed in the High Court in respect of the last preceding general election of

members have been finally determined [[by the High Court at first instance or have been withdrawn or dismissed for want of prosecution]].

(5) The [[Queen's Representative] shall dissolve Parliament at the expiration of 5 years from the date of the last preceding general election, if it has not sooner been dissolved.

(6) There shall be a general election of the members of Parliament at such a time within 3 months after every dissolution of Parliament as the [[Queen's Representative]] appoints by notice published in the *Cook Islands Gazette*.

[(7) (a) No Bill repealing or amending or modifying or extending subclause (5) of this Article or this subclause or making any provision inconsistent with any provision of the said subclause (5) or this subclause shall be deemed to have been passed by Parliament, unless -

(i) At both the final vote thereon and the vote preceding that final vote it receives the affirmative vote of not less than two-thirds of the total membership (including vacancies) of Parliament; and

(ii) There is an interval of not less than 90 days between the date on which that final vote was taken and the date on which the preceding vote was taken; and,

[(b) No such Bill shall be presented to the [Queen's Representative] for his assent, unless -

(i) It has been passed by Parliament in accordance with the foregoing provisions of this subclause; and

(ii) It has been submitted to a poll, conducted in a manner prescribed by law, of the persons who are entitled to vote as electors at a general election of members of Parliament; and

(iii) It has been supported by not less than two thirds of the valid votes cast in such a poll; and

(iv) It is accompanied by a certificate under the hand of the Speaker to that effect]].

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (1), (2), (3) (in two places) (5), and (6) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

The words in square brackets were added to subcl (4) by s 4(a) of the Constitution Amendment (No 11) Act 1982 (CI)

Subcl (7) was added by s 4(b) of the Constitution Amendment (No 11) Act 1982 (CI)

[Clerk of Parliament

38 (1) There shall be a Clerk of Parliament.

(2) The Clerk shall keep a record of the proceedings of Parliament and shall transmit a copy of those records to the [[Queen's Representative]] as soon as practicable.

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcl (2) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

[Power to make laws

39 (1) Subject to the provisions of this Constitution, Parliament may make laws (to be known as Acts) for the peace, order, and good government of the Cook Islands.

(2) The powers of Parliament shall extend to the making of laws having extra-territorial operation.

(3) Without limiting the generality of the power conferred by subclause (1) of this Article to make laws for the peace, order, and good government of the Cook Islands, that power shall, subject to the provisions of this Constitution, include the repeal or revocation or amendment or modification or extension, in relation to the Cook Islands, of any law in force in the Cook Islands.

- (4) Except to the extent to which it is inconsistent with this Constitution, no Act and no provision of any Act shall be deemed to be invalid solely on the ground that it is inconsistent with any law in force in the Cook Islands.
- [[5) For the avoidance of doubt, it is hereby declared that the power conferred on the Legislative Assembly of the Cook Islands by Article 39 of this Constitution (as originally enacted) to make laws for the peace, order, and good government of the Cook Islands always conferred on that Assembly power to make laws, notwithstanding anything in Article 46 of this Constitution (as originally enacted), declaring that any specified Act of the Parliament of New Zealand or any regulations, rules, or order under any Act of that Parliament should extend to the Cook Islands as part of the law of the Cook Islands]].

Subcl (5) was added by s 7 of the Constitution Amendment (No 10) Act 1981-82 (CI)

[No property to be taken compulsorily without compensation

- 40 (1) No property shall be taken possession of compulsorily, and no right over or interest in any property shall be acquired compulsorily, except under the law, which of itself or when read with any other law -
- (a) Requires the payment within a reasonable time of adequate compensation therefor; and
 - (b) Gives to any person claiming that compensation, a right of access, for the determination of his interest in the property and the amount of compensation, to the High Court; and
 - (c) Gives to any party to proceedings in the High Court relating to such a claim the same rights of appeal as are accorded generally to parties to civil proceedings in that Court sitting as a Court of original jurisdiction.
- (2) Nothing in this Article shall be construed as affecting any general law -
- (a) For the imposition or enforcement of any tax, rate or duty; or
 - (b) For the imposition of penalties or forfeitures for breach of the law, whether under civil process or after conviction of an offence; or
 - (c) Relating to leases, tenancies, mortgages, charges, bills of sale, or any other rights or obligations arising out of contracts; or
 - (d) Relating to the vesting and administration of the property of persons adjudged bankrupt or otherwise declared insolvent, of infants or persons suffering under some physical or mental disability, of deceased persons, and of companies, other corporate bodies and unincorporated societies, in the course of being wound up; or
 - (e) Relating to the execution of judgments or orders of Courts; or
 - (f) Providing for the taking of possession of property which is in a dangerous state or is injurious to the health of human beings, plants, or animals; or
 - (g) Relating to trusts and trustees; or
 - (h) Relating to the limitation of actions; or
 - (i) Relating to property vested in statutory corporations; or
 - (j) Relating to the temporary taking of possession of property for the purposes of any examination, investigation, or inquiry; or
 - (k) Providing for the carrying out of work on land for the purpose of soil conservation or for the protection of water catchment areas].

[Power of Legislative Assembly to repeal or amend this Constitution

- 41 (1) Subject to the provisions of subclause (2) of this Article, no Bill repealing or amending or modifying or extending this Constitution or any provision thereof or making any provision inconsistent with any provision of this Constitution shall be deemed to have been passed by the Assembly, unless -
- (a) At both the final vote thereon and the vote preceding that final vote it receives the affirmative votes of not less than two-thirds of the total membership (including vacancies) of the [Parliament]; and

- (b) There is an interval of not less than 90 days between the date on which that final vote was taken and the date on which the preceding vote was taken;
and no such Bill shall be presented to the [Queen's Representative] for assent unless it is accompanied by a certificate under the hand of the Speaker to that effect.
- (2) No Bill repealing or amending or modifying or extending any of the provisions of sections 2 to 6 of the Cook Islands Constitution Act 1964 or Article 2 of this Constitution or this Article or making any provision inconsistent with any of those provisions shall be submitted to the [Queen's Representative] for his assent, unless -
- (a) It has been passed by the [Parliament] in accordance with the provisions of subclause (1) of this Article; and
- (b) It has been submitted to a poll, conducted in a manner prescribed by law, of the persons who are entitled to vote as electors at a general election of members of the [Parliament]; and
- (c) It has been supported by not less than two-thirds of the valid votes cast in such a poll; and
- (d) It is accompanied by a certificate under the hand of the Speaker to that effect.

The name of the Legislative Assembly of the Cook Islands was changed to the Parliament of the Cook Islands by s 5 of the Constitution Amendment (No 9) Act 1980-81, and the functions of that Assembly are now performed by Parliament

The functions of the High Commissioner are now performed by the Queen's Representative pursuant to sections 2 and 4 of the Constitution Amendment (No 10) Act 1981-82 (CI)

[Introduction of Bills, etc, into Parliament

- 42 Subject to the provisions of this Constitution and of the Standing Orders of Parliament, any member of Parliament may introduce any Bill or propose any motion for debate in or present any petition to Parliament, and the same shall be considered and disposed of in accordance with the Standing Orders.

[Restrictions with regard to financial measures

- 43 Except upon the recommendation of the [[Queen's Representative]], Parliament shall not -
- (a) Proceed upon any Bill (including an amendment to a Bill) that, in the opinion of the person presiding, makes provision for any of the following purposes -
- (i) For the imposition or alteration of taxation; or
- (ii) For the imposition of any charge upon the Cook Islands Government Account or any other public fund or account or for the alteration of any such charge otherwise than by way of reduction; or
- (iii) For the payment, issue, or withdrawal from the Cook Islands Government Account or from any other public fund or account of any money not charged thereon or any increase in the amount of such a payment, issue, or withdrawal; or
- (iv) For the composition or remission of any debt due to the Crown;
- (b) Proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes;
- (c) Receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

The words "Queen's Representative" were substituted for the words "High Commissioner" by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI).

[Assent to Bills by [Queen's Representative]

44 (1) No Bill shall become law until it has been passed by Parliament and has been assented to by the [[Queen's Representative]].

(2) Whenever any Bill which has been passed by Parliament is presented to the [[Queen's Representative]] for his assent, the [[Queen's Representative]] shall, acting on the advice of the [[Prime Minister]] declare that he assents to the Bill or that he refuses his assent to the Bill:

Provided that the [[Queen's Representative]], acting in his discretion, may summon a meeting of the Executive Council, to be held within 14 days after the Bill is presented to him for his assent to consider amendments to the Bill proposed by him or to consider whether he should refuse his assent to the Bill.

(3) If at a meeting of the Executive Council thus summoned the Executive Council decides that the Bill should be returned to Parliament for consideration of the amendments proposed or, as the case may be, that the [[Queen's Representative]] should refuse his assent to the Bill, the [[Queen's Representative]] shall, by Message -

(a) Return the Bill with the amendments proposed to Parliament for reconsideration by Parliament; or as the case may be,

(b) Return the Bill to Parliament for reconsideration by Parliament.

(4) If at a meeting of the Executive Council thus summoned the Executive Council decides that the Bill should not be returned to Parliament for consideration of the amendments proposed or, as the case may be, that the [[Queen's Representative]] should not refuse his assent to the Bill, he shall declare that he assents to the Bill.

(5) Where any Bill is returned to Parliament under the provisions of paragraph (a) of subclause (3) of this Article, and the Bill is again passed by Parliament with the amendments proposed, but with no other amendments, or in the form in which it was originally presented to the [[Queen's Representative]] for his assent, then, when the Bill is again presented to the [[Queen's Representative]] for his assent, he shall declare that he assents to the Bill.

(6) Where any Bill is returned to Parliament under the provisions of paragraph (b) of subclause (3) of this Article, and the Bill is again passed by Parliament in the form in which it was originally presented to the [[Queen's Representative]] for assent, he shall declare that he assents to the Bill.

(7) Where any Bill is returned to Parliament under the provisions of this Article and the Bill is again passed by Parliament with any amendments other than amendments proposed under the provisions of this Article, then, when the Bill is again presented to the [[Queen's Representative]] for his assent, the foregoing provisions of this Article shall apply with respect to the Bill as if it had not previously been presented to the [[Queen's Representative]] for his assent.

(8) A Bill assented to by the [[Queen's Representative]] as herein provided shall be known as an Act of Parliament.

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (1), (2) (in three places), (3) (in two places), (4), (5) (in two places), (6), (7) (in two places), and (8) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

Commencement of Acts

45 Every Act shall come into operation either on the day on which the Bill is assented to, or any other date (whether earlier or later than the date on which it is assented to) specified in that behalf in the Act, and different dates may be so specified in respect of different provisions of the Act.

[New Zealand Parliament not to legislate for the Cook Islands

46 Except as provided by Act of the Parliament of the Cook Islands, no Act, and no provision of any Act, of the Parliament of New Zealand passed after the

commencement of this Article shall extend or be deemed to extend to the Cook Islands as part of the law of the Cook Islands.]

As to the continuation in force of Acts of the Parliament of New Zealand that, pursuant to the original Article 46, were in force in the Cook Islands immediately before the date of the commencement of the Constitution Amendment (No 9) Act 1980-81 (CI) and of regulations made by the Governor-General in Council that, pursuant to the original Article 88, were in force immediately before that date, see s 22 of that Act, post.

PART IV

THE JUDICIARY

THE HIGH COURT OF THE COOK ISLANDS

[High Court established

- 47 (1) There shall be a Court of record, to be called the High Court of the Cook Islands, for the administration of justice throughout those islands.
- (2) Except as provided in this Constitution or by law, the High Court shall have all such jurisdiction (both civil jurisdiction, including jurisdiction in relation to land, and criminal jurisdiction) as may be necessary to administer the law in force in the Cook Islands.
- (3) There shall be 3 Divisions of the High Court, namely -
- (a) A Civil Division;
 - (b) A Criminal Division;
 - (c) A Land Division.
- (4) A Judge of the High Court may exercise any of the jurisdiction and powers of a Judge of any Division.
- (5) Nothing in this Article shall prevent a Judge of any Division from exercising any of the powers of a Judge of the High Court, whether or not in his capacity as a Judge of that Division.
- (6) Subject to the foregoing provisions of this Article and to Article 48 hereof, each Judge of the High Court, or any 2 or more Judges, may, in any part of the Cook Islands and at any time or place, exercise all the powers of the High Court.]

[Jurisdiction of Divisions of the High Court

- 48 (1) Each Division of the High Court shall hear and determine -
- (a) Such proceedings as are, under or by virtue of any enactment, to be heard and determined by that Division;
 - (b) Such other proceedings as may from time to time be determined by the Chief Justice, either generally or in any particular proceedings or classes of proceedings.
- (2) Subject to subclause (3) of this Article, the Land Division shall have all the jurisdiction and powers in relation to land that immediately before the commencement of this Article were conferred on the Land Court of the Cook Islands, and shall have such other jurisdiction as may be conferred on it by enactment.
- (3) Notwithstanding anything in this Article, the Land Division shall not exercise any jurisdiction or power in relation to land in any of the Islands of Mangaia, Mitiaro and Pukapuka that was not, according to local custom, being exercised by the Land Court before the commencement of this Article unless -
- (a) In the case of land in the Island of Mangaia, the exercise of such jurisdiction or power is requested by the Aronga Mana of Mangaia;

- (b) In the case of land in the Island of Mitiaro, the exercise of such jurisdiction or power is requested by the Aronga Mana of Mitiaro;
- (c) In the case of land in the Island of Pukapuka, the exercise of such jurisdiction and power is requested by the Aronga Mana of Pukapuka.]

[Judges of the High Court

- 49 (1) The High Court shall consist of 1 or more Judges, each of whom shall be appointed under the provisions of this Constitution.
- (2) If only 1 Judge is so appointed, he shall be the Chief Justice of the Cook Islands, but if more than 1 Judge is appointed, one of them shall be appointed as the Chief Justice of the Cook Islands.
- (3) A person shall not be qualified for appointment as a Judge of the High Court under this Article, unless -
- (a) He holds or has held office as a Judge of the High Court of New Zealand or of the Supreme Court of New Zealand or of the Court of Appeal of New Zealand or an equivalent office in any other part of the Commonwealth or in a designated country; or
 - (b) He has been in practice as a barrister in New Zealand or in any other part of the Commonwealth or in a designated country, or partly in New Zealand and partly in any other part of the Commonwealth or in a designated country, for a period of, or periods amounting in the aggregate to, not less than 7 years.
- (4) The [[Queen's Representative]], acting in his discretion, may declare to be a designated country for the purposes of this Article any country which in his opinion has a legal system similar to that existing in New Zealand.]

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcl 4 by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

[Acting Chief Justice of the High Court

- 50 Where any vacancy exists in the office of Chief Justice of the High Court or the Chief Justice of the High Court is absent from the Cook Islands, or is, by reason of illness or any cause other than absence from the Cook Islands, unable to perform the office or exercise any function of Chief Justice of the High Court, the senior other Judge of the High Court for the time being in the Cook Islands may perform that office or exercise that function until a Chief Justice of the High Court is appointed, or, as the case may be the Chief Justice of the High Court resumes that office or exercises that function.

[Acting Judge of the High Court

- 51 (1) The [[Queen's Representative]], acting on the advice of the Chief Justice and the Minister of Justice, may appoint any person who is qualified for appointment as a Judge of the High Court to act as a Judge of the High Court, if there is no Judge of the High Court for the time being in the Cook Islands or, by reason of illness or other cause, there is no Judge of the High Court available to act.
- (2) Any appointment made under this Article may be revoked at any time by the [[Queen's Representative]], acting on the advice of the Chief Justice.]

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (1) and (2) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

APPOINTMENT, TENURE OF OFFICE AND SALARIES OF JUDGES

[Appointment of Judges

52 The Chief Justice and other Judges of the High Court shall be appointed as follows -

- (a) The Chief Justice of the High Court shall be appointed by the [[Queen's Representative]], acting on the advice of the Executive Council tendered by the Prime Minister;
- (b) The other Judges of the High Court shall be appointed by the [[Queen's Representative]], acting on the advice of the Executive Council tendered by the Chief Justice of the High Court and the Minister of Justice.]

The words "Queen's Representative" were substituted for the words "High Commissioner" in paras (a) and (b) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

[Tenure of office of Judges

- 53
- (1) Except in the case of an appointment made under subclause (2) of this Article, no person who has attained the age of 70 years shall be appointed to or continue to hold office as the Chief Justice or other Judge of the High Court.
 - (2) Any person of any age who does not reside in the Cook Islands and who is qualified for appointment may be appointed to hold office as the Chief Justice or other Judge of the High Court for a term of not more than 3 years, but may be reappointed for one or more further terms, being in each case a term of not more than 3 years.
 - (3) Nothing done by the Chief Justice or other Judge of the High Court in the performance of his functions shall be deemed to be invalid by reason only that he has reached the age at which he is required by this Article to retire or that his term has expired, as the case may be.
 - (4) The Chief Justice or any other Judge of the High Court may resign his office by writing under his hand addressed to the [[Queen's Representative]].

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcl (4) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

[Removal of Judge from office

- 54
- (1) The Chief Justice or any other Judge of the High Court, other than a Judge appointed under the provisions of Article 51 hereof, may be removed from office by the [[Queen's Representative]] only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or from any other cause) or misbehaviour, and shall not be so removed unless the question of removal of the Chief Justice or other Judge from office has been referred to a tribunal appointed under subclause (2) of this Article and that tribunal has recommended that the Chief Justice or other Judge be removed from office for inability as aforesaid or misbehaviour.
 - (2) If the Prime Minister advises the [[Queen's Representative]] that the question of removing from office the Chief Justice or any other Judge of the High Court for inability as aforesaid or misbehaviour ought to be investigated, then -
 - (a) The [[Queen's Representative]] shall appoint a tribunal consisting of a chairman and 2 other members; and
 - (b) The tribunal shall inquire into the matter and report on the facts thereof to the [[Queen's Representative]] and recommend to the [[Queen's Representative]] whether or not the Chief Justice or other Judges should be removed from office; and
 - (c) If the tribunal recommends that the Chief Justice or other Judge be so removed, the [[Queen's Representative]] shall, by warrant, revoke the appointment of the Chief Justice or other Judge, as the case may be.

- (3) No person shall be qualified for appointment as a member of a tribunal under this Article unless he is qualified for appointment as a Judge of the High Court under Article 49 hereof.
- (4) No business shall be transacted by a tribunal appointed under this Article unless all 3 members are present, and all questions proposed for decision by the tribunal shall be decided by the votes of a majority of those members.
- (5) Subject to this Article, the tribunal shall determine its own procedure.
- (6) If the question of removing from office the Chief Justice or any other Judge of the High Court has been referred to a tribunal under subclause (2) of this Article -
 - (a) The [[Queen's Representative]], acting on the advice of the Prime Minister, may suspend the Chief Justice or other Judge from performing the functions of his office for a period of 1 month;
 - (b) If the decision of the tribunal has not been given before the expiration of that period, the [[Queen's Representative]], acting on the advice of the Executive Council tendered to him by the Prime Minister, may suspend the Chief Justice or other Judge from performing the functions of his office for a further period of 1 month.
- (7) Any such suspension may be at any time revoked by the [[Queen's Representative]], acting on the advice of the Prime Minister in the case of a suspension under paragraph (a) of subclause (6) of this Article and on the advice of the Executive Council in the case of a suspension under paragraph (b) of that subclause, and shall in any case cease to have effect if the tribunal -
 - (a) Before the expiration of the total period of suspension, recommends to the [[Queen's Representative]] that the Chief Justice or other Judge be not removed from office; or
 - (b) Does not, before the expiration of the total period of suspension, recommend to the [[Queen's Representative]] that the Chief Justice or other Judge be removed from office.

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (1); (2) (in five places), (6) (in two places), and (7) (in three places) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

[Salaries of Judges

- 55 (1) The salaries of the Chief Justice and other Judges of the High Court shall be determined by Act, and shall be charged on the Cook Islands Government Account.
- (2) The salaries of those Judges shall not be diminished during their period of office, unless as part of a general reduction of salaries applied proportionately to all persons whose salaries are determined by enactment.

COURT OF APPEAL

[Court of Appeal established

- 56 (1) There shall be a Court of Appeal of the Cook Islands, which shall be a superior Court of record.
- (2) Subject to Articles 57 and 58 hereof, the Judges of the Court of Appeal shall be -
 - (a) A Judge of the Court of Appeal of New Zealand or a person who has held office as a Judge of that Court, or a Judge of the High Court of New Zealand, to be appointed by the [[Queen's Representative]] acting on the advice of the Executive Council tendered to him by the Prime Minister; and
 - (b) The Chief Justice and other Judges of the High Court; and
 - (c) Such other persons, possessing the qualifications prescribed by subclause (3) of this Article, as may from time to time be appointed by the [[Queen's Representative]] acting on the advice of the Executive Council tendered to him by the Prime Minister.

- (3) No person shall be qualified for appointment as a Judge of the Court of Appeal under paragraph (c) of subclause (2) of this Article, unless he is qualified under Article 49 hereof to be appointed as a Judge of the High Court.
- (4) The Judge of the Court of Appeal of New Zealand, or, as the case may be, the person who has held office as a Judge of that Court or the Judge of the High Court of New Zealand who is a member of the Court of Appeal of the Cook Islands, shall be the President of the Court of Appeal of the Cook Islands, but in his absence the Chief Justice of the High Court, if present, shall preside, but if the Chief Justice is also absent, the Judge present who is highest in seniority shall preside.
- (5) Judges of the Court of Appeal shall take seniority according to the respective dates of their first appointment as Judges, whether of the High Court or of the Court of Appeal or of any Court in any place outside the Cook Islands.
- (6) An appointment under paragraph (c) of subclause (2) of this Article shall be for a period of time or for the trial or hearing of one or more particular causes or matters, as may be specified in the instrument of appointment.

The words "Queen's Representative" were substituted for the words "High Commissioner" in paras (a) and (c) of subcl (2) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

[Number of Judges

- 57 (1) Any 3 Judges of the Court of Appeal may exercise all the powers of the Court:

Provided that the Court may have its judgment delivered by any one of its members who is also a Judge of the High Court, and, if there is no such member, then through the Registrar of the Court of Appeal.

- (2) The judgment of the Court of Appeal shall be in accordance with the opinion of the majority of the Judges present.]

[Judges not to sit on appeals from own decision

- 58 A Judge of the Court of Appeal shall not sit on the hearing of an appeal from any decision made by him or by a Court on which he sat as a member.]

[Determination of Court of Appeal

- 59 (1) Except as provided in subclause (2) of this Article, the determination of the Court of Appeal shall be final, and there shall be no appeal to the High Court of New Zealand or to the Court of Appeal of New Zealand from any judgment of the Court of Appeal of the Cook Islands.
- (2) There shall be a right of appeal to Her Majesty the Queen in Council, with the leave of the Court of Appeal, or, if such leave is refused, with the leave of Her Majesty the Queen in Council, from judgments of the Court of Appeal in such cases and subject to such conditions as are prescribed by Act.]

[Jurisdiction of Court of Appeal

- 60 (1) Subject to the provisions of this Constitution, the Court of Appeal shall have jurisdiction to hear and determine any appeal from a judgment of the High Court.
- (2) Subject to the provisions of this Constitution, and except where under any Act a judgment of the High Court is declared to be final, an appeal shall lie to the Court of Appeal from a judgment of the High Court -
- (a) As of right, if the High Court certifies that the case involves a substantial question of law as to the interpretation or effect of any provision of this Constitution;
 - (b) As of right, from any conviction by the High Court in the exercise of its criminal jurisdiction whereby the appellant has been sentenced to death or to imprisonment for life or for a term exceeding 6 months or to

a fine of not less than \$200 and from any such sentence (not being a sentence fixed by law);

- (c) As of right, when the matter in dispute on the appeal amounts to or is of the value of \$400 or upwards;
 - (d) As of right, from any judgment of the High Court involving any question as to the interpretation or application or effect of any provision of Part IVA of this Constitution.
 - (e) With the leave of the High Court in any other case, if in the opinion of that Court the question involved in the appeal is one which by reason of its general or public importance, or of the magnitude of the interest affected, or for any other reason, ought to be submitted to the Court of Appeal for decision.
- [(3) Notwithstanding anything in subclause (2) of this Article, and subject to such limitations as may be prescribed by Act, the Court of Appeal may in any case in which it thinks fit and at any time, grant special leave to appeal to that Court from any judgment of the High Court, subject to such conditions as to security for costs and otherwise as the Court of Appeal thinks fit.]
- (4) In this Article the term "judgment" includes any judgment, decree, order, writ, declaration, conviction, sentence, or other determination.]

Subclause (3) of Article 60 was substituted by section 2 of the Constitution Amendment (No 16) Act 1993-94

[Transmission of order of Court of Appeal

61 The determination of the Court of Appeal on any appeal from the High Court shall be transmitted to the Registrar of the High Court by the Registrar of the Court of Appeal under the seal of the Court of Appeal, and judgment shall thereupon be entered by the High Court in conformity with that determination, or such other proceedings by way of a new trial or otherwise shall be taken in the High Court as are required by that determination.

JUSTICES OF THE PEACE

[Justices of the Peace

- 62 (1) The [[Queen's Representative]], acting on the advice of the Executive Council tendered to him by the Minister of Justice, may appoint Justices of the Peace for the Cook Islands, who shall hold office for such time as may be prescribed in their warrants of appointment and may be paid such remuneration as may be prescribed by enactment.
- (2) *Repealed by s 2 of the Constitution Amendment (No 12) Act 1986.*
- (3) An Act shall prescribe the jurisdiction and powers of Justices of the Peace appointed under this Article and for an appeal to lie to the High Court from a final judgment of a Justice of the Peace.
- (4) A Justice of the Peace for the Cook Islands shall not be removed from office as such, except by the [[Queen's Representative]], acting on the advice of the Chief Justice.
- (5) In [[subclause (3)]] of this Article the term "judgment" includes any judgment, decree, order, writ, declaration, conviction, sentence, or other determination.

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (1) and (4) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

The words "subclause (3)" were substituted for the words "subclause (2)" by s 8 of the Constitution Amendment (No 10) Act 1981-82 (CI)

OATH OF ALLEGIANCE AND JUDICIAL OATH

[Oath of Allegiance and Judicial Oath

- 63 (1) Every Judge of the Court of Appeal who is not a Judge of the Court of Appeal of New Zealand or of the High Court of New Zealand or a Judge of the High Court of the Cook Islands and every Justice of the Peace for the Cook Islands, shall, as soon as may be after his acceptance of office, take and subscribe before the [[Queen's Representative]] the following oaths -
- (a) An Oath of Allegiance in the following form:
I,, swear by Almighty God that I will be faithful and bear true allegiance to Her [or His] Majesty [*Specify the name of the reigning Sovereign as thus: Queen Elizabeth the Second*], as the Head of State of the Cook Islands, Her [or His] heirs, and successors, in accordance with the Constitution and the law. So help me God.
- (b) The Judicial Oath in the following form:
I,, swear by Almighty God that I will well and truly serve Her [or His] Majesty [*Specify as above*] as the Head of State of the Cook Islands, Her [or His] heirs, and successors, in accordance with the Constitution and the law, in the office of; and I will do right to all manner of people, without fear or favour, affection or ill will. So help me God.
- (2) If any person mentioned in this Article declines or neglects, when the oaths required to be taken by him under this Article are duly tendered, to take those oaths, he shall if he has already entered on his office vacate the same, and if he has not entered on the same be disqualified from entering on the same; but no person shall be compelled in respect of the same appointment to the same office to take any oath more than once:
Provided that no proceedings before any such person may be questioned in any Court solely on the ground that that person has failed to take the oaths prescribed by this Article.

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcl (1) by s 4(1) of the Constitution Amendment (No 10) Act 1981 (CI)

Part IV was substituted for the original Part IV by s 7 of the Constitution Amendment (No 9) Act 1981-82

PART IVA

FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

[Fundamental human rights and freedoms

- 64 (1) It is hereby recognised and declared that in the Cook Islands there exist, and shall continue to exist, without discrimination by reason of race, national origin, colour, religion, opinion, belief, or sex, the following fundamental human rights and freedoms -
- (a) The right of the individual to life, liberty, and security of the person, and the right not to be deprived thereof except in accordance with law;
- (b) The right of the individual to equality before the law and to the protection of the law;
- (c) The right of the individual to own property and the right not to be deprived thereof except in accordance with law;
- Provided that nothing in this paragraph or in Article 40 of this Constitution shall be construed as limiting the power of Parliament to prohibit or restrict by Act the alienation of Native land (as defined in section 2(1) of the Cook Islands Act 1915 of the Parliament of New Zealand);
- (d) Freedom of thought, conscience, and religion;
- (e) Freedom of speech and expression;

- (f) Freedom of peaceful assembly and association.
- (2) It is hereby recognised and declared that every person has duties to others, and accordingly is subject in the exercise of his rights and freedoms to such limitations as are imposed, by any enactment or rule of law for the time being in force, for protecting the rights and freedoms of others or in the interests of public safety, order, or morals, the general welfare, or the security of the Cook Islands.

[Construction of law

- 65 (1) Subject to subclause (2) of this Article and to subclause (2) of Article 64 hereof, every enactment shall be so construed and applied as not to abrogate, abridge, or infringe or to authorise the abrogation, abridgement, or infringement of any of the rights or freedoms recognised and declared by subclause (1) of Article 64 hereof, and in particular no enactment shall be construed or applied so as to -
- (a) Authorise or effect the arbitrary detention, imprisonment, or exile of any person; or
 - (b) Impose or authorise the imposition on any person of cruel and unusual treatment or punishment; or
 - (c) Deprive any person who is arrested or detained -
 - (i) Of the right to be informed promptly of the act or omission for which he is arrested or detained, unless it is impracticable to do so or unless the reason for the arrest or detention is obvious in the circumstances; or
 - (ii) Of the right, wherever practicable to retain and instruct a barrister or solicitor without delay; or
 - (iii) Of the right to apply, by himself or by any other person on his behalf, for a writ of habeas corpus for the determination of the validity of his detention, and to be released if his detention is not lawful; or
 - (d) Deprive any person of the right to a fair hearing, in accordance with the principles of fundamental justice, for the determination of his rights and obligations before any tribunal or authority having a duty to act judicially; or
 - (e) Deprive any person charged with an offence of the right to be presumed innocent until he is proved guilty according to law in a fair and public hearing by an independent and impartial tribunal; or
 - (f) Deprive any person charged with an offence of the right to reasonable bail, except for just cause; or
 - (g) Authorise the conviction of any person of any offence except for the breach of a law in force at the time of the act or omission; or
 - (h) Authorise the imposition on any person convicted of any offence of a penalty heavier than that which might have been imposed under the law in force at the time of the commission of the offence.
- (2) Every enactment, and every provision thereof shall be deemed remedial, whether its immediate purpose is to direct the doing of anything that the enacting authority deems to be for the public good, or to prevent or punish the doing of anything it deems contrary to the public good, and shall accordingly receive such fair, large, and liberal construction and interpretation as will best ensure the attainment [[of the object] of the enactment or provision thereof according to its true intent, meaning and spirit.
- (3) In this Article the term "enactment" includes any Act of the Parliament of England or the Parliament of Great Britain or the Parliament of the United Kingdom, being an Act in force in the Cook Islands, and any regulation, rule, order, or other instrument made thereunder.

The words "of the object" were inserted in subcl (2) by s.9 of the Constitution Amendment (No 10) Act 1981 (CI)

[Saving

- 66 Nothing in this Part of this Constitution shall limit or affect any right or freedom, not specified in this Part, that may exist in the Cook Islands at the commencement of this Part.]

Part IVA was inserted by s 8 of the Constitution Amendment (No 9) 1980-81 (CI)

PART V**THE PUBLIC REVENUES OF THE COOK ISLANDS****Public Funds**

- 67 There shall be a Cook Islands Government Account and such other public funds or accounts as may be provided by law.

Restriction on taxation

- 68 No taxation shall be imposed except by law.

Public revenue

- 69 All taxes and other revenues and money raised or received by the Government of the Cook Islands shall be paid into the Cook Islands Government Account unless required or permitted by law to be paid into any other public fund or account.

Revenue and expenditure of Cook Islands Government Account

- 70 (1) Except as provided in subclause (3) of this Article, or by any specific appropriation contained in any enactment, all expenditure in any financial year from the Cook Islands Government Account or from any other public fund or account, shall be charged to votes specified in an Appropriation Act and in accordance with the statement of proposed expenditure for that financial year as approved by [Parliament].
- (2) Every Appropriation Act shall lapse at the end of the financial year to which it relates.
- (3) Subject to such limits and restrictions as may from time to time be prescribed by any enactment, the Minister responsible for finance, or, where any enactment so provides, the Executive Council, may approve the expenditure of such sums as he or it considers necessary -
- (a) In anticipation of provision to be made in [an Appropriation Act] for any financial year:
Provided that the total amount issued and paid under this paragraph (a) in any financial year shall not exceed the unexpended balance of the vote in the Appropriation Act [or Acts] for the preceding financial year together with an amount equal to [five-twelfths] of that vote; or
- (b) Where during the period between the passing of the [last Appropriation Act] for any financial year and the end of that year it is desirable that money should be expended in excess of or without the appropriation of [Parliament]:
Provided that the total amount of all sums issued and paid under this paragraph (b) in any financial year shall not exceed one and a half percent of the total amount of all sums appropriated by the Appropriation Act [or Acts] for that year.

- [(3A) The Audit Office shall, in the last Session of Parliament before the date on which a general election of Parliament is required to be held, forward to the Speaker for presentation to Parliament a separate report specifying any expenditure made in any financial year that is in excess of the limits prescribed by subclause (3) of this Article or by any other enactment and has not been reported in any report previously presented pursuant to this

subclause, and Parliament may by Act validate the whole or any part of that expenditure.]

- (4) A statement of the unauthorised expenditure for any financial year shall be included in the accounts for that year laid before [Parliament].
- (5) Subject to the foregoing provisions of this Article, the collection, receipt, custody, banking, issue, expenditure, care, and management of money credited or to be credited to the Cook Islands Government Account or to any other public fund or account shall be as prescribed by enactment.

The word "Parliament" was substituted for the words "the Legislative Assembly" in subcls (1), (3)(b) and (4) by s 6 of the Constitution Amendment (No 9) Act 1980-81 (CI)

The words "an Appropriation Act" were substituted for the words "the Appropriation Act" in subcl (3)(a) by s 9(2) of the Constitution Amendment (No 9) Act 1980-81 (CI)

The words "or Acts" were inserted where they appear in the proviso to subcl (3)(a) by s 9(2)(d) of the Constitution Amendment (No 9) Act 1980-81 (CI)

The words "five-twelfths" were substituted for the words "one-fourth" in the proviso to subcl (3) of the Constitution Amendment (No 2) Act 1968-69 (CI)

The words "last Appropriation Act" were substituted for the words "Appropriation Act" in subcl (3)(b) by s 9(2)(c) of the Constitution Amendment (No 9) Act 1980-81 (CI)

The words "or Acts" were inserted where they appear in the proviso to subcl (3)(b) by s 9(2)(b) of the Constitution Amendment (No 9) Act 1980-81 (CI). Subcl (3A) was inserted by s 9(1) of the Constitution Amendment (No 9) Act 1980-81 (CI)

Audit

- 71 (1) The Audit Office of [the Cook Islands] shall be the auditor of the Cook Islands Government Account and of all other public funds or accounts, and of the accounts of all Departments and offices of executive government and of such other public, statutory, or local authorities or bodies as may be provided by law.
- (2) The Audit Office shall, at least once annually, forward to the Speaker of [Parliament] for presentation to [Parliament] a report containing such information as is required to be submitted by any enactment, together with such other information relating to the Cook Islands Government Account or other funds or accounts which under this Constitution or under any other enactment are required to be audited by the Audit Office as that Office considers desirable.
- [(3) There shall be established by enactment a Public Expenditure Committee comprising -
- (a) a Chairman who shall not be a member of Parliament; and
 - (b) such number of members of Parliament as shall be prescribed by enactment each of whom shall not, while a member of the Committee, be a member of Cabinet.
- (4) The enactment referred to in subclause (3) of this Article shall provide to the Public Expenditure Committee sufficient powers to investigate expenditure from the Cook Islands Government Account and other public funds or accounts of executive government and such other public statutory or local authorities or bodies as may be prescribed by law, and shall have such other functions, duties, powers, and responsibilities as shall be provided by enactment.]

The words "the Cook Islands" in subclause (1) were substituted for the words "New Zealand" by section 4(1) of the Constitution Amendment (No 14) Act 1991

The word "Parliament" was substituted for the words "the Legislative Assembly" and also for the words "the Assembly" in subcl (2) by s 6 of the Constitution Amendment (No 9) Act 1980-81 (CI)

Subclauses (3) and (4) were added by section 4(2) of the Constitution Amendment (No 14) Act 1991

PART V

THE COOK ISLANDS PUBLIC SERVICE

The Cook Islands Public Service

72 There shall be a Cook Islands Public Service, which shall comprise such persons in the service of the Government of the Cook Islands as may from time to time be prescribed by law.

[Public Service Commissioner

- 73 (1) There shall be a Public Service Commissioner appointed by the [[Queen's Representative]] on the advice of the [[Prime Minister]].
- (2) No person shall be appointed to be or shall remain the Public Service Commissioner -
- [[a) If he is not, or ceases to be, a Commonwealth citizen or a permanent resident of the Cook Islands; or]]
- (b) If he is or becomes a member of [[Parliament]].
- (3) The Public Service Commissioner shall not hold concurrently any other office in the Cook Islands Public Service.
- (4) The actions of the Public Service Commissioner shall not be invalidated in consequence of the subsequent discovery of some defect with regard to his appointment.
- (5) The Public Service Commissioner shall be paid such remuneration by way of salary and allowances as may from time to time be appropriated by [[Parliament]].

This Article was substituted for Article 73 (as substituted by s 2 of the Constitution Amendment (No 6) Act 1973 (CI) for Article 73 that had been substituted for the original Article 73 by s 4 of the Constitution Amendment (No 2) Act 1968-69 (CI))

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcl (1) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

The words "Prime Minister" were substituted for the word "Premier" in subcl (1) by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

Para.(a) of subcl (2) was substituted by s 10(1) of the Constitution Amendment (No 9) Act 1980-81 (CI)

The word "Parliament" was substituted for the words "Legislative Assembly" in subcl (2)(b) and in subcl (5) by s 6 of the Constitution Amendment (No 9) Act 1980-81 (CI)

[Term of Office of the Public Service Commissioner

- 74 (1) The Public Service Commissioner shall be appointed for a term of not more than four years but shall be eligible for re-appointment.
- (2) The Public Service Commissioner may at any time resign his office by writing under his hand addressed to the [[Prime Minister]].]

This Article was substituted by s 2 of the Constitution Amendment (No 6) Act 1973 (CI) for Article 74 that had been substituted for the original Article 74 by s 4 of the Constitution Amendment (No 2) Act 1968-69 (CI)

The words "Prime Minister" were substituted for the word "Premier" in subcl (2) by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

[Removal from office of Public Service Commissioner

- 74A (1) The Public Service Commissioner may be suspended or removed from office in accordance with the following provisions of this Article and not otherwise.
- (2) The [[Queen's Representative]], acting on the advice of the [[Prime Minister]], may suspend the Public Service Commissioner from office for misbehaviour or incompetence, but the Public Service Commissioner shall not be removed from office except as provided in this Article.
- (3) The [[Queen's Representative]] shall cause to be laid before [[Parliament]] a full statement of the grounds of any suspension within seven days after the date of that suspension if [[Parliament]] is then in session, or if [[Parliament]] is not in session then within seven days after the date of the commencement of the next ensuing session.
- (4) Unless [[Parliament]], within twenty-one days from the date on which the statement in respect of the suspension of the Public Service Commissioner under this Article has been laid before it, declares by resolution that he ought to be removed from office, the Public Service Commissioner shall be deemed to be restored to office as from the date of his suspension; and if [[Parliament]] within the said time does so declare, the Public Service Commissioner shall be removed by the [[Queen's Representative]] from the date of his suspension.]

This Article was substituted by s 2 of the Constitution Amendment (No 6) Act 1973 (CI) for Article 74A that had been inserted by s 4 of the Constitution Amendment (No 2) Act 1968-69 (CI)

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (2), (3) and (4) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

The words "Prime Minister" were substituted for the word "Premier" in subcl (2) by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

The word "Parliament" was substituted for the words "the Legislative Assembly" in subcls (2) (in two places) and (4) (in two places) by s 6 of the Constitution Amendment (No 9) Act 1980-81 (CI)

[Functions of the Public Service Commissioner

- 74B (1) Subject to the provisions of Article 74BB hereof and of subclauses (3) and (4) of this Article and except as may otherwise be provided by enactment, the Public Service Commissioner shall be responsible for the appointment, promotion, transfer, termination of appointment, dismissal, and disciplinary control of employees of the Cook Islands Public Service, and shall have such other functions as may be prescribed by law.]
- (2) *Repealed by section 2(2)(a) of the Constitution Amendment (No 13) Act 1992.*
- (3) An Act shall make provision for the grading of positions in the Cook Islands Public Service and, except as provided in Article 74BB hereof and in [subclause (4)] of this Article, any promotion or appointment to such graded positions shall be made by the Public Service Commissioner and 2 heads of departments of the Cook Islands Public Service. The appointment of those heads of departments for the purpose of this subclause shall be as prescribed by Act.
- (4) An Act may provide for the appointment of persons from outside the Cook Islands to positions in the Cook Islands Public Service and the conditions on which such appointments are to be made, and the appointment of any such person shall be made with the concurrence of Cabinet.
- (5) A decision of Cabinet under subclause (4) of this Article shall be deemed to be a decision to which Article 25 hereof (which relates to reconsideration of Cabinet decisions by the Executive Council) applies.
- (6) In the performance of their functions under this Article -
- (a) The Public Service Commissioner when acting alone; and

- (b) *Repealed by section 2(2)(d) of the Constitution Amendment (No 13) Act 1992;*
- (c) The Public Service Commissioner and the heads of Departments when acting together -

shall have regard to the general policy of Cabinet relating to the Cook Islands Public Service, and shall give effect to any decision of Cabinet defining that policy conveyed to him or them, as the case may be, in writing signed by the [Prime Minister].

Subclause (1) was substituted by section 2 of the Constitution Amendment (No 13) Act 1992

The words in square brackets in subclause (3) were substituted by section 2(3) of the Constitution Amendment (No 13) Act 1992

The opening words of subclause (4) were deleted by section (4) of the Constitution Amendment (No 13) Act 1992

This Article was substituted for Article 74B (as substituted by s 2 of the Constitution Amendment (No 6) Act 1973 (CI) for Article 74B that had been inserted by s 4 of the Constitution Amendment (No 2) Act 1968-69 (CI) by s 10(2) of the Constitution Amendment (No 9) Act 1980-81 (CI))

The words "Queen's Representative" were substituted for the words "High Commissioner" in paras (b) and (c) of subcl (2) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

[Exempted positions

74BB (1) The positions specified in subclause (2) of this Article are hereby designated as exempted positions.

- (2) The exempted positions shall be -
 - (a) The Secretary to the Cabinet;
 - (b) [[All Heads of Departments, regardless of their titles or designations;]]
 - (c) The [[Government Representative]] in each of the islands of the Cook Islands other than Rarotonga.

(3) Appointments to the exempted positions and the removal of any person from an exempted position shall be made by the Public Service Commissioner in accordance with a decision of Cabinet.

(4) The positions designated as special posts pursuant to subclause (3) of Article 74B hereof (as enacted by section 2 of the Constitution Amendment (No 6) Act 1973) shall cease to be designated as such and are hereby declared to have been vacated at the commencement of this Article.

(5) Where -

- (a) Any person who before his appointment to an exempted position was an employee of the Cook Islands Public Service is removed from that position by the Public Service Commissioner in accordance with a decision of Cabinet; or
- (b) A person whose appointment to a position designated as a special post has terminated under subclause (4) of this Article is not appointed to an exempted position, and before his appointment to that special post he was an employee of the Cook Islands Public Service -

he shall be re-appointed to that Service with the grading held by him immediately before his appointment to the exempted position or to that special post, as the case may be.

(6) Every decision of Cabinet under subclause (3) or subclause (5)(a) of this Article or to remove any person from an exempted position shall be deemed to be a decision to which Article 25 hereof (which relates to the reconsideration of Cabinet decisions by the Executive Council) applies.

This Article was inserted by s 11 of the Constitution Amendment (No 9) Act 1980-81 (CI)

The words in square brackets in paragraph (b) of subclause (2) were substituted by section 3 of the Constitution Amendment (No 13) Act 1992

The words in square brackets in paragraph (c) of subclause (2) were substituted by section 3 of the Constitution Amendment (No 13) Act 1992

[Procedure of Public Service Commissioner

- 74C (1) Subject to the provisions of this Constitution and of any law, the Public Service Commissioner may -
- (a) Exercise his functions in such manner as he sees fit; and
 - (b) Delegate any of his functions to any person or persons.
- (2) When acting with the heads of departments for the purposes of making promotions or appointments to or in graded positions pursuant to [[subclause (3)]] of Article 74B of this Constitution, the Public Service Commissioner and the heads of departments shall regulate their own procedure and exercise their functions in such manner as they think fit.]

This Article was substituted for Article 74C by s 2 of the Constitution Amendment (No 6) Act 1973 (CI) for Article 74C that had been inserted by s 4 of the Constitution Amendment (No 2) Act 1968-69 (CI)

The words "subclause (3)" were substituted for the words "subclause (2)" in subcl (2) by s 10(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

Staff of Queen's Representative

- 75 (1) Except as provided in subclause (2) of this Article, 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 [Public Service Commissioner]; and the provisions of subclause (1) of this Article (except so far as they relate to appointment) shall apply in relation to a person so appointed in respect of his service on the staff of the [Queen's Representative] but not in respect of his service as an employee of the Cook Islands Public Service.

The words "Queen's Representative" were substituted for the words "High Commissioner" in subcls (1) (in two places) and (2) (in two places) by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

The words "Prime Minister" were substituted for the word "Premier" in subcl (2) by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

The words "Public Service Commissioner" were substituted for the words "Public Service Commission" in subcl (2) by s 7(1) of the Constitution Amendment (No 11) Act 1982 (CI), those words having previously been substituted for the words "Secretary to the Premier's Department" by s 5 of the Constitution Amendment (No 2) Act 1968-69 (CI)

Board of Appeal

- 76 (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 of 3 years.
- (2) The [Chief Justice] shall be Chairman of the Board of Appeal.
- [(2A) In the absence of the Chief Justice from any sitting of the Board of Appeal, 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 the Chairman of the Board of Appeal].
- (3) An Act -
- (a) Shall prescribe whether or not the person to be appointed under the provisions of paragraph (c) of subclause (1) of this Article is to be elected or nominated and the manner of that election or nomination;
 - (b) May provide for the appointment of deputies to act for members of the Board of Appeal appointed under the provisions of paragraph (b) or paragraph (c) of subclause (1) of this Article;
 - (c) Shall prescribe the jurisdiction of the Board of Appeal to hear and determine appeals from the decisions of the [Public Service Commissioner (whether acting alone or together with two heads of departments)] [or in accordance with a decision of the Public Service Appointments Board]) in relation to the Cook Islands Public Service.
 - (d) Shall prescribe the procedure of the Board of Appeal.
- (4) Subject to the provisions of any Act, the Board of Appeal shall determine its own procedure.
- (5) In this Article the term "employee" does not include a temporary or probationary employee.

The words "Chief Justice" were substituted for the words "Chief Judge" in subcls (1)(a), and (2) by s 2(a) of the Constitution Amendment (No 7) Act 1975 (CI)

The words "Prime Minister" were substituted for the word "Premier" in subcl (1)(a) by s 3(3) of the Constitution Amendment (No 9) Act 1980-81 (CI)

Subcl (2A) was inserted by s 12 of the Constitution Amendment (No 9) Act 1980-81 (CI)

The words in the first set of square brackets in subcl (3)(c) were substituted for the words "Public Service Commission" by s 10(1) of the Constitution Amendment (No 10) Act 1981-82 (CI), and the words in the second set of square brackets in subcl (3)(c) were inserted by s 5 of the Constitution Amendment (No 11) Act 1982 (CI)

PART VIA

[MISCELLANEOUS PROVISIONS

Persons entitled to permanent residence

- 76A (1) A person shall have the status of a permanent resident of the Cook Islands if he was born in the Cook Islands, and -
- (a) Either or both of his parents had the status of a permanent resident of the Cook Islands at the date of his birth; or
 - (b) In the case of a child who was born after the death of his father to a mother who did not have that status at the date of birth of the child, his father had that status at the date of his death; or
 - (c) He was adopted by a person who at the date of adoption had that status.
- (2) Any person may apply, pursuant to the provisions of an Act of Parliament, for a certificate granting to him the status of a permanent resident of the Cook Islands.
- (3) An Act may -
- (a) Prescribe the qualifications to be held by a person to whom subclauses (2) of this Article applies who is an applicant for such a certificate, and

- the circumstances in which such an applicant is disqualified from being granted such a certificate; and
- (b) Prescribe the conditions subject to which such a certificate may be granted to a person to whom subclause (2) of this Article applies; and
 - (c) Confer on a Minister a discretion to grant or refuse such a certificate to a person to whom subclause (2) of this Article applies; and
 - (d) Prescribe the circumstances in which such a certificate granted may be revoked:

Provided that any certificate granted may only be revoked by a Judge of the High Court.

- (4) Notwithstanding any of the provisions of this Article, the Minister responsible for immigration may cancel any certificate granted if the person to whom the certificate relates is absent from the Cook Islands continuously for a period exceeding three years in circumstances indicating that the person has ceased to make his home in the Cook Islands.
- (5) Nothing in this Article shall affect the status as a permanent resident of the Cook Islands of any person holding that status pursuant to the Entry, Residence, and Departure Act 1971-72, immediately before the commencement of this Article.

The Prerogative of Mercy and Pardon

76B The Prerogative of Mercy and Pardon shall be exercised by the [[Queen's Representative]], acting pursuant to a resolution of Parliament, provided that any such resolution must receive the support of not less than two-thirds of the total membership (including vacancies) of Parliament.

The words "Queen's Representative" were substituted for the words "High Commissioner" by s 4(1) of the Constitution Amendment (No 10) Act 1981-82 (CI)

The Cook Islands Ensign

- 76C (1) The Cook Islands Ensign shall be the flag described in the Third Schedule to this Constitution.
- (2) The Cook Islands Ensign is hereby declared to be the recognised flag of the Cook Islands.
- (3) Provision may be made by enactment prescribing the circumstances in which and the conditions subject to which the Cook Islands Ensign may be flown, and prohibiting the defacing of the ensign by placing any sign, representation or letter thereon.

[National anthem of the Cook Islands

- 76D (1) The anthem entitled "Te Atua Mou E" shall be the national anthem of the Cook Islands.
- (2) The words of the national anthem shall be as set out in the Fourth Schedule to this Constitution.]

This Part VIA was inserted by s 13 of the Constitution Amendment (No 9) Act 1980-81 (CI)

PART VII

TRANSITIONAL PROVISIONS

Existing law to continue

- 77 Subject to the provisions of this Constitution -
- (a) The existing law shall, until repealed, and subject to any amendment thereof, continue in force on and after Constitution Day;

- (b) All rights, obligations, and liabilities arising under the existing law shall continue to exist on and after Constitution Day, and shall be recognised, exercised, and enforced accordingly.

- 78 *Repealed by s 15 of the Constitution Amendment (No 9) Act 1980-81 (CI).*
- 79 *Repealed by s 2(1) of the Cook Islands Constitution Amendment Act 1965 (NZ).*
- 80 *Legislative Assembly of the Cook Islands*
 (1)-(3) *Repealed by s 15 of the Constitution Amendment (No 9) Act 1980-81 (CI).*
 (4) Subject to the provisions of this Constitution, the Standing Orders of the Legislative Assembly in force immediately before Constitution Day shall continue to be the Standing Orders of [Parliament], and they may be amended, repealed, or added to under the provisions of Article 34 hereof.
The word "Parliament" was substituted for the words "Legislative Assembly" in subcl (4) by s 17(4) of the Constitution Amendment (No 9) Act 1980-81 (CI)

Ordinances of Former Legislative Council or Legislative Assembly

- 81 (1) Every Ordinance made by the Legislative Council of the Cook Islands under section 2 of the Cook Islands Amendment Act 1946, and in force immediately before Constitution Day, shall be deemed to be an Ordinance of the Legislative Assembly of the Cook Islands made before Constitution Day and shall continue in force as if it were such an Ordinance on and after Constitution Day.
- (2) All Ordinances made by the Legislative Assembly of the Cook Islands under section 38 of the Cook Islands Amendment Act 1957, and in force immediately before Constitution Day, shall continue in force on and after Constitution Day.

The High Court

- 82 (1) The High Court of the Cook Islands established by Article 47 hereof is hereby declared to be the same Court as the High Court of the Cook Islands established by the Cook Islands Act 1915.
- (2) The Judges and Commissioners of that Court in office immediately before Constitution Day shall continue to hold office on and after Constitution Day as if they had been appointed under the provisions of this Constitution, and those Judges shall receive the salary to which they were entitled immediately before Constitution Day as if that salary had been fixed by enactment.
- (3) All judgments, decrees, records, and acts of the High Court of the Cook Islands shall continue to have full force and effect on and after Constitution Day as judgments, decrees, records and acts of the High Court established under this Constitution; and all proceedings, civil or criminal, pending in the High Court immediately before Constitution Day, and all appeals pending immediately before Constitution Day from decisions of the High Court, may be continued on and after Constitution Day.

The Land Court

- 83 (1) The Land Court of the Cook Islands established by Article 52 hereof is hereby declared to be the same Court as the Native Land Court of the Cook Islands established by the Cook Islands Act 1915.
- (2) The Land Court of the Cook Islands shall also be deemed for all purposes to be the same Court as that which existed at the commencement of the Cook Islands Act 1915 under the name of the Cook Islands Land Titles Court, and all orders theretofore made by the last-mentioned Court shall have effect accordingly.
- (3) *Repealed by s 15 of the Constitution Amendment (No 9) Act 1980-81 (CI).*

Articles 84 and 85 were repealed by s 6 of the Constitution Amendment (No 11) Act 1982 (CI)

Cook Islands Government Account

86 The Cook Islands Government Account established by Article 67 hereof is hereby declared to be the same account as the Cook Islands Assembly Account established by section 15 of the Cook Islands Amendment Act 1957; and all money in the last-mentioned account immediately before Constitution Day shall on and after Constitution Day be deemed to form part of the Cook Islands Government Account.

Articles 87 and 88 were repealed by ss 15 and 14 of the Constitution Amendment (No 9) Act 1980-81.

FIRST SCHEDULE

(Article 27)

NAMES AND BOUNDARIES OF CONSTITUENCIES TOGETHER
 COMPRISING THE ISLANDS OF AITUTAKI, MANUAE, AND
 TE-AU-O-TU, AND THE ISLANDS OF RAROTONGA
 AND PALMERSTON, AND THE ISLAND OF
 MANGAIA, AND THE ISLAND OF ATIU

[[PART I

CONSTITUENCIES COMPRISING THE ISLANDS OF AITUTAKI
 MANUAE AND TE-AU-O-TU

VAIPAE-TAUTU CONSTITUENCY

All that area in the Island of Aitutaki delineated and edged in red on the plan SO 1008 deposited in the office of the Chief Surveyor at Rarotonga, comprising -

- (i) The Avanui Tapere being part of the Avanui District; and
- (ii) The Oako Tapere and Vaipae Tapere of the Vaipae District; and
- (iii) The Mataotane Tapere and Tautu Tapere of the Tautu District; and
- (iv) The motus known as -

Angarei
 Niura
 Mangere
 Papau
 Tavairuaiti
 Tavairuanui
 Akaiami
 Muritapua
 Rapota
 Moturakau
 Tekopua
 Tapuaetai
 Motukituu

AMURI-UREIA CONSTITUENCY

All that area in the Island of Aitutaki delineated and edged blue on plan SO 1008 deposited in the office of the Chief Surveyor at Rarotonga, comprising -

- (i) The Ureia Tapere being part of the Arutanga District; and
- (ii) The Amuri Tapere and Punganui Tapere of the Amuri District; and
- (iii) The Anaunga Tapere and Punoa Tapere of the Anaunga District; and
- (iv) The Taakarere Tapere and Vaitupa Tapere of the Vaitupa District; and
- (v) The Vaipeka Tapere, being part of the Avanui District; and
- (vi) The motu known as Akitua.

ARUTANGA-REUREU-NIKAUPARA CONSTITUENCY

All the area in the Island of Aitutaki delineated and edged green in the plan SO 1008 deposited in the office of the Chief Surveyor at Rarotonga, comprising -

- (i) The Arutanga Tapere, the Reureu Tapere and Nukunoni Tapere being part of the Arutanga District; and
- (ii) The Valorea Tapere, the Vaiiau Tapere and Taravao Tapere of the Taravao District; and
- (iii) The Islands of Manuae and Te-Au-O-Tu; and
- (iv) The motu known as Maina.]]

[PART II

CONSTITUENCIES COMPRISING THE ISLANDS OF RAROTONGA
AND PALMERSTON

NIKAO-PANAMA CONSTITUENCY

All that area in the Avarua Survey District in the Island of Rarotonga comprising the Tapere of Pokoinu, Nikao, Puapuautu, Areamu, and Kaikaveka, as delineated on plan SO 1002D, deposited in the office of the Chief Surveyor at Rarotonga.

AVATIU-RUATONGA CONSTITUENCY

All that area in the Avarua Survey District in the Island of Rarotonga comprising the Tapere of Atupa, Avatiu and Ruatonga, as delineated on plan SO 1002C, deposited in the office of the Chief Surveyor at Rarotonga together with the Island of Palmerston.

TAKUVAINÉ-TUTAKIMOA CONSTITUENCY

All that area in the Avarua Survey District in the Island of Rarotonga, comprising the Tapere of Tutakimoa, Tauae, and Takuvaine, as delineated on plan SO 1002, deposited in the office of the Chief Surveyor at Rarotonga.

TUPAPA-MARAERENGA CONSTITUENCY

All that area in the Avarua Survey District in the Island of Rarotonga comprising the Tapere of Ngatipa, Vaikai, Tapae-I-Uta, Pue, Punamaia, Kiiki and Tupapa as delineated on the said plan SO 1002.

MATAVERA CONSTITUENCY

All that area comprising the Matavera Survey District in the Island of Rarotonga, as delineated on the said plan SO 1002.

NGATANGIHA CONSTITUENCY

All that area comprising the Ngatangia Survey District in the Island of Rarotonga, as delineated on the said plan SO 1002.

TITIKAVEKA CONSTITUENCY

All that area comprising the Takitumu Survey District in the Island of Rarotonga, as delineated on the said plan SO 1002.

MURIENUA CONSTITUENCY

[All that area of the Arorangi Survey District in the Island of Rarotonga, comprising the Tapere of Kavera, the Tapere of Aroa, and the Tapere of Rutaki, as delineated on the said plan SO 1002.]

[AKAOA CONSTITUENCY

All that area of the Arorangi Survey District in the Island of Rarotonga, comprising the Tapere of Akaoa, and the Tapere of Vaiakura, as delineated on the said plan SO 1002.

RUAAU CONSTITUENCY

All that area in the Arorangi Survey District in the Island of Rarotonga, comprising the Tapere of Pokoinu-i-Raro, Tokerau, Inave, and Arerenga, as delineated on the said plan SO 1002.]

PART III

CONSTITUENCIES COMPRISING THE ISLAND OF MANGAIA

ONEROA CONSTITUENCY

All that area in the Island of Mangaia comprising the Tapere of Tava'enga, Keia, and Veitatei, as delineated on plan SO 1014 deposited in the Office of the Chief Surveyor at Rarotonga.

IVIRUA CONSTITUENCY

All that area in the Island of Mangaia comprising the Tapere of Karanga and Ivirua, as delineated on the said plan SO 1014.

TAMARUA CONSTITUENCY

All that area in the Island of Mangaia comprising the Tapere of Tamarua, as delineated on the said plan SO 1014.

PART IV

CONSTITUENCIES COMPRISING THE ISLAND OF ATIU

TENGATANGI- AREORA -NGATIARUA CONSTITUENCY

All that area in the Island of Atiu bounded by a line commencing at Trig station CB1 and proceeding due west along a right line to the sea-coast; thence generally southerly, easterly, and northerly along the sea-coast to its intersection with a right line bearing of 45 degrees from CB1; thence south-westerly along that right line to the point of commencement, to include the villages of Areora, Tengtangi, and Ngatiarua, as delineated on Plan SO 1015 deposited in the office of the Chief Surveyor at Rarotonga.

TEENUI-MAPUMAI CONSTITUENCY

All that area in the Island of Atiu bounded by a line commencing at Trig station CBI and proceeding due west along a right line to the sea-coast; thence generally northerly, and south-easterly, along the sea-coast to its inter-section with a right line bearing of 45 degrees from CBI; thence south-westerly along that right line to the point of commencement, to include the villages of Teenui and Mapumai, as delineated on the said SO Plan 1015.]

The First Schedule was added by s 16 of the Constitution Amendment (No 9) Act 1980-81 (CI)

Part I was substituted by s 8 of the Constitution Amendment (No 11) Act 1982 (CI)

Part II was substituted by s 3 of the Constitution Amendment (No 12) Act 1986

The description of the Murienua constituency was amended, and the Akaoa constituency added, by sections 3(3) and 3(4) respectively of the Constitution Amendment (No 14) Act 1991

 SECOND SCHEDULE
(Article 28)

CRIMES DISQUALIFYING FOR ELECTION TO PARLIAMENT

PART I

CRIMES AGAINST THE STATE, AND MURDER, SLAVERY, PIRACY, AND KIDNAPPING

Crimes against the following sections of the Crimes Act 1969:

Section 75	(treason)
Section 78	(inciting to mutiny)
Section 80	(communicating secrets)
Section 81	(sabotage)

PART III

CONSTITUENCIES COMPRISING THE ISLAND OF MANGAIA

ONEROA CONSTITUENCY

All that area in the Island of Mangaia comprising the Tapere of Tava'enga, Keia, and Veitatel, as delineated on plan SO 1014 deposited in the Office of the Chief Surveyor at Rarotonga.

IVIRUA CONSTITUENCY

All that area in the Island of Mangaia comprising the Tapere of Karanga and Ivirua, as delineated on the said plan SO 1014.

TAMARUA CONSTITUENCY

All that area in the Island of Mangaia comprising the Tapere of Tamarua, as delineated on the said plan SO 1014.

PART IV

CONSTITUENCIES COMPRISING THE ISLAND OF ATIU

TENGATANGI- AREORA -NGATIARUA CONSTITUENCY

All that area in the Island of Atiu bounded by a line commencing at Trig station CB1 and proceeding due west along a right line to the sea-coast; thence generally southerly, easterly, and northerly along the sea-coast to its intersection with a right line bearing of 45 degrees from CB1; thence south-westerly along that right line to the point of commencement, to include the villages of Areora, Tengtangi, and Ngatiarua, as delineated on Plan SO 1015 deposited in the office of the Chief Surveyor at Rarotonga.

TEENUI-MAPUMAI CONSTITUENCY

All that area in the Island of Atiu bounded by a line commencing at Trig station CBI and proceeding due west along a right line to the sea-coast; thence generally northerly, and south-easterly, along the sea-coast to its inter-section with a right line bearing of 45 degrees from CBI; thence south-westerly along that right line to the point of commencement, to include the villages of Teenui and Mapumai, as delineated on the said SO Plan 1015.]

The First Schedule was added by s 16 of the Constitution Amendment (No 9) Act 1980-81 (CI)

Part I was substituted by s 8 of the Constitution Amendment (No 11) Act 1982 (CI)

Part II was substituted by s 3 of the Constitution Amendment (No 12) Act 1986

The description of the Murienua constituency was amended, and the Akaoa constituency added, by sections 3(3) and 3(4) respectively of the Constitution Amendment (No 14) Act 1991

SECOND SCHEDULE

(Article 28)

CRIMES DISQUALIFYING FOR ELECTION TO PARLIAMENT

PART I

CRIMES AGAINST THE STATE, AND MURDER, SLAVERY, PIRACY, AND KIDNAPPING

Crimes against the following sections of the Crimes Act 1969:

Section 75	(treason)
Section 78	(inciting to mutiny)
Section 80	(communicating secrets)
Section 81	(sabotage)

Section 84	(seditious conspiracy)
Section 85	(seditious statements)
Section 86	(publication of seditious documents)
Section 87	(use of apparatus for making seditious documents or statements)
Section 103 and 104	(piracy)
Section 109	(dealing in persons)
Section 192	(murder)
Section 231(1)(c)	(kidnapping)

PART II

CRIMES AFFECTING THE ADMINISTRATION OF LAW AND JUSTICE

Crimes against the following provisions of the Crimes Act 1969:

Section 111	(judicial corruption)
Section 112	(bribery of judicial officer)
Section 113	(bribery and corruption of Minister of the Crown)
Section 114	(corruption and bribery of Member of Parliament)
Section 115	(corruption and bribery of law enforcement officer)
Section 116	(corruption and bribery of official)
Section 120	(perjury)
Section 121	(false oaths)
Section 124	(fabricating evidence)
Section 126	(conspiring to bring false accusations)
Section 127	(conspiring to defeat justice)
Section 128	(corrupting juries and witnesses)

CRIMES INVOLVING DISHONESTY

Crimes against the following sections of the Crimes Act 1969:

Section 249 (a) and (b)	(theft)
Section 250	(conversion)
Section 252	(criminal breach of trust)
Section 256	(robbery)
Section 257	(aggravated robbery)
Section 258	(compelling execution of documents by force)
Section 259	(assault with intent to rob)
Section 260	(extortion)
Section 261	(demanding with menaces)
Section 263	(burglary)
Section 264	(entering with intent)
Section 265	(being armed with intent to break and enter)
Section 269 (1) and (2)(a)	(false pretences)
Section 271	(personation)
Section 272	(acknowledging instrument in false name)
Section 273	(false statement by promoter)
Section 274	(falsifying accounts relating to public funds)
Section 275	(false accounting by officer or member of body corporate)
Section 276	(false accounting by employee)
Section 278	(issuing false dividend warrants)
Section 279	(concealing deeds and encumbrances)
Section 280	(conspiracy to defraud)
Section 281(a)	(receiving)
Section 288 to 309, 314 and 315	(forgery, uttering and counterfeiting offences)]

The Second Schedule was added by s 16 of the Constitution Amendment (No 9) Act 1980-81 (CI)

THIRD SCHEDULE
(Article 76C)

THE COOK ISLANDS ENSIGN

The Cook Islands Ensign shall be described as follows:

The Cook Islands Ensign shall be a Royal blue ensign. The Union Jack shall occupy the upper staff quarter, having on the fly 15 stars in a symmetrical ring, all of equal size and equal spacing, and the colour of the stars shall be white. The flag proportion of length to breadth shall be two to one.

And it shall mean -

Blue - is the colour most expressive of our Nation, it is representative of the vast area of the Pacific Ocean in which the islands of the Cook Islands are scattered. Blue also depicts the peaceful nature of the inhabitants of our islands.

Union Jack - indicates our historical association with and membership of the British Commonwealth.

The 15 white stars - represent the 15 islands of the group.

FOURTH SCHEDULE
(Article 76D)

THE NATIONAL ANTHEM OF THE COOK ISLANDS

The words of the National Anthem of the Cook Islands, ('Te Atua Mou E'), shall be as follows:

TE ATUA MOU E
TE ATUA MOU E
KO KOE RAI TE PU
OTE PA ENUA E
AKARONGO MAI
I TO MATOU NEI REO
TE KAPIKI ATU NEI
PARURU MAI
IA MATOU NEI
OMAI TE KORONA MOU
KIA NGATEITEI
KIA VAI RAI TE AROA
O TE PA ENUA E.

*The Fourth Schedule was added by s 16 of the Constitution Amendment
(No 9) Act 1980-81 (CI)*

Cook Islands National Anthem
(Official translations)

Te Atua mou e
ko koe rai te Pu
O te Pa Enua e
Akarongo mai
I to matou nei reo
Te kapiki atu nei
Paruru mai ia matou nei
Omai te korona mou
Kia ngateitei
Kia vai rai te aroa
O te Pa Enua e

Oh God of truth
The guide of our islands
Hear our voices calling to you
Give us your protection
Crown us with dignity and
honour
So that love is amongst us
who live in these islands.

(Co-written and translated by
Sir Tom Davis, former Prime
Minister, from p.81, NZ
Geographic no.12, Oct-Dec
1991).

Following translation by Ministry of Foreign Affairs, Rarotonga, from "Information Booklet on the Cook Islands", June 1985:

O God almighty
Lord of this nation
Hearken to our voices calling
protect us that we may reign graciously
with honour and love over our nation.

THE COOK ISLANDS CONSTITUTION ACT 1964 (NZ)

Analysis

Title			
1	Short Title and commencement	5	External affairs and defence
2	Interpretation and application	6	British nationality and New Zealand citizenship
3	Cook Islands to be self-governing		Schedule
4	Constitution of the Cook Islands		

An Act to make provisions for self government by the people of the Cook Islands (other than Niue) and to provide a constitution for those islands

(17 November 1964)

Short Title and Commencement

- 1 (1) This Act may be cited as the Cook Islands Constitution Act 1964.
 (2) This Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General, by Proclamation, being a date later than the date on which the first meeting of the Legislative Assembly of the Cook Islands is held after the first general election of the Assembly held after the passing of this Act.
In subs (2) the words "Subject to the provisions of Article 79 of the Constitution" were omitted by s 2(2) of the Cook Islands Amendment Act 1965 (NZ)
This Act came into force on 4 August 1965; see clause 2 of the Cook Islands Constitution Act Commencement Order 1965. (SR 1965/128) (NZ)

Interpretation and application

- 2 (1) In this Act -
 "The Constitution" means the Constitution of the Cook Islands as set out in the Schedule to this Act;
 "The Cook Islands" has the same meaning as in the Constitution.
 (2) This Act shall be in force in the Cook Islands and, unless the context otherwise requires, shall apply to the Cook Islands only and not to New Zealand.

Cook Islands to be self-governing

- 3 The Cook Islands shall be self-governing.

Constitution of the Cook Islands

- 4 The Constitution set out in the Schedule to this Act shall be the Constitution of the Cook Islands, and shall be the supreme law of the Cook Islands.

External affairs and defence

- 5 Nothing in this Act or in the Constitution shall affect the responsibilities of Her Majesty the Queen in right of New Zealand for the external affairs and defence of the Cook Islands, those responsibilities to be discharged after consultation by the Prime Minister of New Zealand with the [Prime Minister] of the Cook Islands.
The title of the Premier was changed to Prime Minister by s 5 of the Constitution Amendment (No 9) Act 1980-81 (CI)

British nationality and New Zealand citizenship

- 6 Nothing in this Act or in the Constitution shall affect the status of any person as a British subject or New Zealand citizen by virtue of the British Nationality and New Zealand Citizenship Act 1948.
The 1948 Act was repealed and replaced by the Citizenship Act 1977 (NZ) in accordance with the request and consent procedure.

SCHEDULE

THE CONSTITUTION OF THE COOK ISLANDS
[Printed earlier in this volume]

THE COOK ISLANDS CONSTITUTION AMENDMENT ACT 1965 (NZ)

Analysis

Title		
1	Short Title and commencement	Schedules
2	Amendments of Cook Islands Constitution	

1965, No 2

An Act to amend the Cook Islands Constitution Act 1964

(7 June 1965)

Short Title and commencement

- 1 (1) This Act may be cited as the Cook Islands Constitution Amendment Act 1965, and shall be read together with and deemed part of the Cook Islands Constitution Act 1964 (hereinafter referred to as the principal Act).
- (2) This Act shall come into force on the date to be appointed for the commencement of the principal Act.
- The Cook Islands Constitution Act 1964 came into force on the 4th August 1965; see clause 2 of the Cook Islands Constitution Act Commencement Order 1965 (SR 1965/128).*

Amendments of the Cook Islands Constitution

- 2 (1) The Constitution of the Cook Islands (as set out in the Schedule to the principal Act) is hereby amended in the manner indicated in the First Schedule to this Act.
- (2) This subsection amended s 1(2) of the Cook Islands Constitution Act 1964.
- (3) The Constitution of the Cook Islands (as so amended) is set out in the Second Schedule to this Act.

SCHEDULES

FIRST SCHEDULE

Section 2(1)

AMENDMENTS OF THE CONSTITUTION

The amendments specified in this Schedule have been incorporated in the Constitution as set out in the Schedule to the Cook Islands Constitution Act 1964.

Section 2(3)

SECOND SCHEDULE

The Constitution (as amended) set out in this Schedule, together with the further amendments made by the Legislative Assembly of the Cook Islands and by the Parliament of the Cook Islands has been substituted for the original Constitution in the Schedule to the Cook Islands Constitution Act 1964, where it appears in this reprint.

THE COOK ISLANDS CONSTITUTION ACT
COMMENCEMENT ORDER 1965

HE Barrowclough, Administrator of the Government

A PROCLAMATION

Whereas by subsection (2) of section 1 of the Cook Islands Constitution Act 1964 it is provided that that Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Proclamation:

Now, therefore, pursuant to the said Act, I, Major-General the Right Honourable Sir Harold Eric Barrowclough, the Administrator of the Government of New Zealand, hereby proclaim as follows:

- 1 This Proclamation may be cited as the Cook Islands Constitution Act Commencement Order 1965.
- 2 The Cook Islands Constitution Act 1964 shall come into force at the hour of half past ten in the evening on the 4th day of August 1965, being the time in New Zealand corresponding to the commencement of that date in the Cook Islands.

Given under the hand of His Excellency the Administrator of the Government, and issued under the Seal of New Zealand, this 28th day of July 1965.

KEITH HOLYOAKE, Prime Minister

[LS]

GOD SAVE THE QUEEN !

CONSTITUTION AMENDMENT ACT 1968-69

[Repealed by Act 1980-81/24]

THE CONSTITUTION AMENDMENT (NO 2) ACT 1968-69 (CI)

Analysis

Title			
1	Short Title	4	<i>Repealed</i>
2	<i>Repealed</i>	5	<i>Repealed</i>
3	Revenue and expenditure of Cook Islands Government Account	6	<i>Repealed</i>

1968-69, No 27

An Act to amend the Constitution

(9 May 1969)

Short Title

1. This Act may be cited as the Constitution Amendment (No 2) Act 1968-69, and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand (hereinafter referred to as "the Constitution").
2. *Repealed by s 23(1)(b) of the Constitution Amendment (No 9) Act 1980-81.*
3. *This section amended Article 70(3)(a) of the Constitution.*
4. *Repealed by s 23(1)(b) of the Constitution Amendment (No 9) Act 1980-81.*
5. *Repealed by s 7(2) of the Constitution Amendment (No 11) Act 1982.*

6 *Repealed by s 10 (2) of the Constitution, Amendment (No 10) Act 1981.*

CONSTITUTION AMENDMENT (NO 3) ACT 1969 (CI)

[Repealed Act 1980-81/24]

CONSTITUTION AMENDMENT (NO 4) ACT 1970 (CI)

[Repealed by 1980-81/24]

THE CONSTITUTION AMENDMENT (NO 5) ACT 1970 (CI)

Analysis

Title

1	Short Title	2	Cabinet
---	-------------	---	---------

1970, No 21

An Act to amend the Constitution by increasing the number of Cabinet Ministers by one

(20 January 1971)

Short Title

- 1 This Act may be cited as the Constitution Amendment (No 5) Act 1970 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 (hereinafter referred to as "the Constitution").
- 2 *This section amended Article 13(1) of the Constitution.*

THE CONSTITUTION AMENDMENT (NO 6) ACT 1973 (CI)

Analysis

Title

1	Short Title	2	New Articles substituted
---	-------------	---	--------------------------

1973, No 1

An Act to amend the Constitution

(30 March 1973)

Short Title

- 1 This Act may be cited as the Constitution Amendment (No 6) Act 1973 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand (hereinafter referred to as "the Constitution").
- 2 *This section substituted new Articles 73, 74, 74A, 74B, and 74C in the Constitution. The substituted Article 74B has been repealed by s 10(2) of the Constitution Amendment (No 9) Act 1980-81 (CI) which also substituted a new Article 74B.*

THE CONSTITUTION AMENDMENT (NO 7) ACT 1975 (CI)

Analysis

Title	Schedule
1 Short Title	
2 Amendment of title "Chief Judge" of the High Court to "Chief Justice"	

1975, No 17

An Act to amend the Constitution

(1 October 1975)

Short Title

- 1 This Act may be cited as the Constitution Amendment (No 7) Act 1975 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand (hereinafter referred to as "the Constitution").
- 2 (a) *Para (a) amended the provisions of the Constitution set out in the Schedule to this Act.*
- (b), (c) *Repealed by s 23(1)(e) of the Constitution Amendment (No 9) Act 1980-81.*

SCHEDULE

**PROVISIONS OF CONSTITUTION WHERE REFERENCE
TO CHIEF JUDGE OF THE HIGH COURT SUBSTITUTED
BY REFERENCE TO CHIEF JUSTICE OF THE HIGH COURT**

Article 4

*Subclauses (1) and (2) of Article 76.
The item relating to subclauses (2) and (4) of Article 7 was repealed by s 5 of the
Constitution Amendment (No 10) Act 1981-82*

*The item relating to Articles 48(2)
49(1) and 66(1) were repealed by s 23(1)(e) of the Constitution Amendment (No 9) Act
1980-81.*

CONSTITUTION AMENDMENT ACT (NO 8) 1978-79

[Repealed Act 1980-81/24]

THE CONSTITUTION AMENDMENT (NO 9) ACT 1980-81 (CI)

ANALYSIS

Title			
1	Short Title and commencement	14	Abolishing power of Governor-General to make regulations for Cook Islands
	<u>PART I</u>		
	<u>AMENDMENTS OF THE CONSTITUTION</u>		
2	Interpretation	15	Repeal of spent provisions
3	The Prime Minister	16	Schedules added
4	Secretary to the Cabinet		<u>PART II</u>
5	New Part as to the Parliament of the Cook Islands substituted		<u>TRANSITIONAL PROVISIONS AND CONSEQUENTIAL REPEALS AND AMENDMENTS</u>
6	Amendments consequential on provisions of section 5	17	Parliament of the Cook Islands
7	New Part as to the Judiciary substituted	18	The Prime Minister
8	New Part as to the fundamental rights inserted	19	The Land Court
9	Revenue and expenditure of Cook Islands Government Account	20	The Land Appellate Court
10	Public Service Commissioner	21	Appeals from High Court
11	Exempted positions	22	Acts of New Zealand Parliament and regulations in force in the Cook Islands
12	Public Service Board of Appeal	23	Consequential repeals and amendments
13	New Part VIA inserted in Constitution		Schedule

1980-81, No 24

An Act to amend the Constitution

(5 June 1981)

Short Title and commencement

- 1 (1) This Act may be cited as the Constitution Amendment (No 9) Act 1980-81 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the [Cook Islands Constitution Amendment Act 1965] of the Parliament of New Zealand, as amended by Acts of the Legislative Assembly (hereinafter referred to as "the Constitution").
- (2) Subject to section 17(1) of this Act, this Act shall come into force on the date on which it is assented to by the High Commissioner.
- The words "Cook Islands Constitution Amendment Act 1965" were substituted for the words "Cook Islands Constitution Act 1964" by s 2(1) of the Constitution Amendment (No 11) Act 1982. By that section, this amendment is declared to have come into force on the date of the commencement of Amendment (No 9).*

PART I

AMENDMENTS OF THE CONSTITUTION

- 2 (1) *This subsection amended Article (1) of the Constitution.*
- (2) *This subsection inserted a definition of "Court of Appeal" in Article 1(1) of the Constitution.*

- (3) *This subsection repealed the definitions of "Land Appellate Court" and "Land Court" in Article 1(1) of the Constitution and substituted a new definition of "Legislative Assembly" or "Assembly" in that Article 1(1).*
 - (4) *This subsection substituted a new definition for the definition of "Minister" in Article 1(1) of the Constitution.*
 - (5) *This subsection inserted a definition of "Parliament" in Article 1(1) of the Constitution.*
 - (6) *This subsection repealed the definition of "Premier" and substituted a definition of "Prime Minister" in Article 1(1) of the Constitution.*
 - (7) *This subsection added a definition of "To reside" to Article 1(1) of the Constitution.*
- 3
 - (1) *This subsection amended Article 13(1) of the Constitution.*
 - (2) *This subsection amended subclauses (2) and (3) of Article 13 of the Constitution.*
 - (3) *This subsection amended the provisions of the Constitution specified in the First Schedule to this Act.*
 - 4 *This section substituted a new Article for Article 20 of the Constitution.*
 - 5 *This section repealed Part III of the Constitution except Article 41 and substituted a new Part III with the exception of Article 41.*
 - 6 *This section amended the provisions of the Constitution specified in the Second Schedule to this Act.*
 - 7 *This section substituted a new Part IV for Part IV of the Constitution.*
 - 8 *This section inserted a new Part IVA in the Constitution.*
 - 9
 - (1) *This subsection inserted article 70 (3A) in the Constitution.*
 - (2)
 - (a) *This paragraph amended Article 70(3)(a) of the Constitution.*
 - (b) *This paragraph amended the proviso to Article 70(3)(a) of the Constitution.*
 - (c) *This paragraph amended Article 70(3)(b) of the Constitution.*
 - (d) *This paragraph amended the proviso to Article 70(3)(b) of the Constitution.*
 - 10
 - (1) *This subsection substituted a new paragraph (a) for paragraph (a) of Article 73(2) of the Constitution.*
 - (2) *This subsection substituted a new Article 74B for Article 74B of the Constitution.*
 - (3) *This subsection amended Article 74C (2) of the Constitution.*
 - 11 *This section inserted Article 74BB in the Constitution.*
 - 12 *This section inserted subclause (2A) in Article 76 of the Constitution.*
 - 13 *This section inserted Part VIA in the Constitution.*
 - 14 *This section repealed Article 88 of the Constitution.*
 - 15 *This section repealed Articles 78, subclauses (1), (2) and (3) of Article 80, Article 83(3), and Article 87 of the Constitution.*
 - 16 *This section added the First, Second, Third, and Fourth Schedules to the Constitution.*

PART II

TRANSITIONAL PROVISIONS AND CONSEQUENTIAL
REPEALS AND AMENDMENTS**The Parliament of the Cook Islands**

- 17 (1) Notwithstanding the repeal and substitution by section 5 of this Act of Article 27 of the Constitution, and the enactment by that section of Article 28C of the Constitution -
- (a) Subclause (2) of Article 27 (as so substituted) and the said Article 28C shall not come into force until the date of the first general election of the Parliament of the Cook Islands held after the commencement of this Act, except so far and to such extent as may be necessary to provide for that election; and
 - (b) Subclause (2) of Article 27 of the constitution as originally enacted) shall continue in force until that date, as if for the words "Legislative Assembly" in the subclause there were substituted the word "Parliament", except so far and to such extent as may be necessary to provide for the said election.
- (2) Every person holding office as a member of the Legislative Assembly immediately before the commencement of this Act shall, after the commencement of this Act, hold office as a Member of Parliament, subject to the provisions of the Constitution, and, unless he previously vacates office for any reason, shall continue to hold office as a Member of Parliament until the end of the day immediately preceding the day on which the members elected at the said election come into office.
- (3) Every office of the Legislative Assembly shall, after the commencement of this Act, be an office of Parliament, and every person holding any such office immediately before the commencement of this Act shall continue to hold office after the commencement of this Act.
- (4) Every reference to the Legislative Assembly or to the Assembly in any other law in force at the commencement of this Act or in any instrument or document of any kind in force at the commencement of this Act, be read as a reference to the Parliament of the Cook Islands.

The Prime Minister

- 18 (1) The person holding office as Premier of the Cook Islands immediately before the commencement of this Act shall, after the commencement of this Act, without further appointment, hold the office of Prime Minister of the Cook Islands, subject to the provisions of Article 14 of the Constitution.
- (2) Every reference to the Premier of the Cook Islands in any other law in force at the commencement of this Act is any instrument or document of any kind whatsoever in force at the commencement of this Act shall, after the commencement of this Act, be read as a reference to the Prime Minister of the Cook Islands.

The Land Court

- 19 (1) Every person holding office immediately before the commencement of this Act as a Judge of the Land Court of the Cook Islands shall, on and after the commencement of this Act, without further appointment, be deemed to be a Judge of the High Court as if he had been appointed as such under Article 52 of the Constitution, with seniority from the date on which he had been appointed a Judge of the Land Court.
- (2) All judgments, decrees, records, and acts of the Land Court of the Cook Islands shall continue to have full force and effect on and after the commencement of this Act as judgments, decrees, records and acts of the High Court, and all proceedings pending in the Land Court immediately before the commencement of this Act may be continued in the High Court after the commencement of this Act.
- (3) Where any final judgement of the Land Court of the Cook Islands has been given before the commencement of this Act, the right of appeal from that judgment shall be governed by the provisions of Article 60 of the Constitution as if that final judgment had been a final judgment of the High Court.

- (4) Every reference to the Land Court of the Cook Islands or to a Judge of that Court in any other law in force at the commencement of this Act, or in any judgment, decree, order, record, or act of the Land Court, or in any other instrument or document whatsoever in force at the commencement of this Act shall, unless the context otherwise requires be read after the commencement of this Act as a reference to the High Court of the Cook Islands or, as the case may be, to a Judge of that Court.
- (5) Every reference to a Commissioner or to a Commissioner of the High Court in any other law in force at the commencement of this Act, or in any instrument or document of any kind whatever in force at the commencement of this Act shall after the commencement of this Act, be read as a reference to a Justice of the Peace of the Cook Islands.
- (6) Every reference to the Judicial Service Commission in any other law in force at the commencement of this Act, or in any instrument or document of any kind whatever in force at the commencement of this Act shall, after the commencement of this Act, be read as a reference to the Minister responsible for Justice.
- (7) Articles 84 and 85 of the Constitution are hereby repealed.

The Land Appellate Court

- 20 (1) All judgments, decrees, records, and acts of the Land Appellate Court of the Cook Islands shall continue in full force and effect on and after the commencement of this Act as judgments, decrees, records, and acts of the Court of Appeal of the Cook Islands, and all proceedings pending in the Land Appellate Court immediately before the commencement of this Act may be continued in the Court of Appeal after the commencement of this Act.
- (2) Every reference to the Land Appellate Court of the Cook Islands or to a Judge of that Court in any other law in force at the commencement of this Act, or in any judgment, decree, order, record, or act of the Land Appellate Court, or in any other instrument or document whatsoever in force at the commencement of this Act shall, unless the context otherwise requires, be read after the commencement of this Act as a reference to the Court of Appeal of the Cook Islands or, as the case may be, to a Judge of that Court.

Appeal from High Court

- 21 (1) In any case in which immediately before the commencement of this Act an Appeal to the High Court of New Zealand from any judgment of the High Court 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.
- (2) The determination of the High Court of New Zealand on any appeal continued pursuant to subsection (1) of this section shall be transmitted to the Registrar of the High Court of the Cook Islands by the Registrar of the High Court of New Zealand under the seal of the High Court of New Zealand, and the High Court of the Cook Islands shall act in respect thereof as if it were a determination of the High Court of New Zealand transmitted under Article 62 of the Constitution, as in force before the commencement of this Act.
- (3) Every provision in any Act conferring a right of appeal from a judgment of the High Court of New Zealand shall, after the commencement of this Act, be read as a provision conferring a right of appeal to the Court of Appeal of the Cook Islands.

Acts of New Zealand Parliament and regulations in the Cook Islands

- 22 (1) Every Act, and every provision of any Act, of the Parliament of New Zealand that pursuant to Article 46 of the Constitution (as in force before the commencement of this Act), was in force in the Cook Islands immediately before the commencement of this Act shall continue in force in the Cook Islands after the commencement of this Act, but, subject to Article 41 of the Constitution, may be repealed, in relation to the Cook Islands, by Act of the Parliament of the Cook Islands.
- (2) Regulations made by the Governor-General in Council pursuant to Article 88 of the Constitution (as in force before the commencement of this Act), and in force immediately before the commencement of this Act, shall continue in

force after the commencement of this Act, but may be revoked or amended, in relation to the Cook Islands, by Act of the Parliament of the Cook Islands.

Consequential repeals and amendments

- 23 (1) The following enactments are hereby repealed -
- (a) The Constitution Amendment Act 1968-69;
 - (b) Sections 2 and 4 of the Constitution Amendment (No 2) Act 1968-69;
 - (c) The Constitution Amendment (No 3) Act 1969;
 - (d) The Constitution Amendment (No 4) Act 1970;
 - (e) Paragraphs (b) and (c) of section 2 of the Constitution Amendment (No 7) Act 1975 and so much of the Schedule to that Act as relates to Articles 48, 49, and 66 of the Constitution;
 - (f) The Constitution Amendment (No 8) Act 1978-79;
 - (g) Section 6 of the Electoral Act 1966 and the Second Schedule to that Act (as enacted by sections 2 and 3 of the Electoral Amendment Act 1973;
 - (h) The Electoral Amendment Act 1979;
 - (i) The Cook Islands Ensign Act 1973;
 - (j) The Cook Islands Ensign Amendment Act 1978-79.
- (2) The following provisions of the Cook Islands Act 1915 of the Parliament of New Zealand shall cease to have effect as part of the law of the Cook Islands -
- (a) Section 107 (relating to the powers of Judges of the High Court);
 - (b) Section 114 (relating to the jurisdiction of the High Court);
 - (c) Subsection (2) of section 115 (relating to injunction, certiorari, mandamus, and prohibition against the Land Court or Land Appellate Court);
 - (d) Section 156 (relating to the stating of cases to the High Court of New Zealand);
 - (e) Sections 158 to 161 and 163 to 169 (relating to appeals to the High Court of New Zealand);
 - (f) Sections 371 to 385, 387 to 390, 392, and 400 to 408 (relating to the Constitution and procedure of the Land Court of the Cook Islands);
- (3) Part II of the Cook Islands Amendment Act 1946 of the Parliament of New Zealand (except section 26) and sections 43, 44, 45, 46 and 48 of that Act shall cease to have effect as part of the law of the Cook Islands.
- (4) The Cook Islands Act 1915 of the Parliament of New Zealand shall have effect, in relation to the Cook Islands, as if it had been amended as follows -
- (a) By repealing the definitions of the terms "Land Appellate Court" and "Land Court" in section 2(1);
 - (b) By omitting from paragraph(b) of section 126(1) the words "or of the Land Court";
 - (c) By omitting from section 171 the words "save by way of appeal in accordance with the provisions of the Constitution or of this Act in that behalf";
 - (d) By omitting from section 278 the words "Judge of the Land Court" and also the words "or of the Land Court";
 - (e) By repealing section 314B;
 - (f) By omitting from section 475(2) the words "the Land Court or" and also the words "or by a Judge of the Land Appellate Court";
 - (g) By omitting from section 510(b) the words "or of the Land Court or any Judge of the Land Appellate Court";
 - (h) By omitting from section 653(1) the words "or of the Land Court or any Judge of the Land Appellate Court";
-

SCHEDULES

FIRST SCHEDULE

Section 3(3)

PROVISIONS OF CONSTITUTION WHERE REFERENCES
TO PRIME MINISTER OF THE COOK ISLANDS SUBSTITUTED FOR
REFERENCES TO PREMIER OF THE COOK ISLANDS

In the text of the Constitution, as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 (NZ) references to the Prime Minister have been substituted for references to the Premier in the provisions specified in this Schedule.

SECOND SCHEDULE

Section 6

PROVISIONS OF CONSTITUTION WHERE REFERENCES
TO PARLIAMENT SUBSTITUTED FOR REFERENCES

TO LEGISLATIVE ASSEMBLY OR ASSEMBLY

In the text of the Constitution, as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 (NZ) references to Parliament have been substituted for references to the Legislative Assembly or to the Assembly in the provisions specified in this Schedule.

THIRD SCHEDULE

Section 16

FIRST, SECOND, THIRD AND FOURTH SCHEDULES
TO THE CONSTITUTION

These Schedules are incorporated in the text of the Constitution, as set out in the Second Schedule to the Cook Islands Amendment Act 1965 (NZ).

THE CONSTITUTION AMENDMENT (NO 10) ACT 1981-82 (CI)

Analysis

Title		<i>Miscellaneous Amendments</i>	
1	Short Title and commencement <i>The Queen's Representative</i>	6	Qualification of Electors
2	The Queen's Representative in the Cook Islands	7	Power to make laws
3	Deputy of the Queen's Representative	8	Justices of the Peace
4	Consequential amendments	9	Construction of Law
5	Repeal	10	Board of Appeal
		11	Schedule

1981-82, No 20

An Act to amend the Constitution

(6 April 1982)

Short Title and commencement

- 1 (1) This Act shall be cited as the Constitution Amendment (No 10) Act 1981, and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution

- Amendment Act 1965 of the Parliament of New Zealand, as amended by Acts of the Legislative Assembly (hereinafter referred to as the Constitution).
- (2) Section 10 of this Act shall be deemed to have come into force on the 30th day of March 1973 (being the date of the commencement of the Constitution Amendment (No 6) Act 1973).
 - (3) Except as provided in subsection (2) of this section, this Act shall come into force on the date on which it is assented to by the High Commissioner.

THE QUEEN'S REPRESENTATIVE

- 2 *This section substituted a new Article 3 and the heading preceding it for Article 3 of the Constitution and the heading preceding it.*
- 3 *This section substituted a new Article 7 for Article 7 of the Constitution.*
- 4
 - (1) *This subsection amended the provisions of the Constitution set out in the Schedule to this Act.*
 - (2) *This subsection repealed the definition of "High Commissioner" in Article 1(1) of the Constitution and added to that Article 1(1) a definition of "Queen's Representative".*
 - (3) *Every reference to the High Commissioner in any other law in force in the Cook Islands at the commencement of this Act or in any other instrument or document of any kind whatsoever in force at the commencement of this Act shall, after the commencement of this Act, be read as a reference to the Queen's Representative.*

Repeal

- 5 *The Schedule to the Constitution Amendment (No 7) Act 1975 is hereby amended by repealing so much thereof as relates to Article 7 of the Constitution.*

MISCELLANEOUS AMENDMENTS

- 6 *This section amended Article 28(4) of the Constitution.*
- 7 *This section added subclause (5) to Article 39 of the Constitution.*
- 8 *This section amended Article 62 (5) of the Constitution.*
- 9 *This section amended Article 65 (2) of the Constitution.*
- 10
 - (1) *This subsection amended Article 76 (3) (c) of the Constitution.*
 - (2) *This subsection repealed section 6 of the Constitution Amendment (No 2) Act 1968-69.*
 - (3) *All determinations of the Public Service Board of Appeal made before the commencement of this section that would have been valid if this section had been in force when the determinations were made are hereby validated and deemed to be and always to have been validly made, and sections 40, 41, and 42 of the Public Service Act 1975 and section 10 of the Public Service Amendment Act (No 3) 1980-81 are hereby declared to be and always to have been validly enacted.*

SCHEDULE

PROVISIONS OF CONSTITUTION WHERE REFERENCES TO QUEEN'S REPRESENTATIVE SUBSTITUTED FOR REFERENCES TO HIGH COMMISSIONER.

In the text of the Constitution, as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 (N.Z.) references to the Queen's Representative have been substituted for references to the High Commissioner in the provisions specified in this Schedule.

THE CONSTITUTION AMENDMENT (NO 11) ACT 1982 (CI)

Analysis

Title			
1	Short Title	5	Board of Appeal
2	Amendment of Short Title to Amendments No's 9 and 10	6	Consequential amendments
		7	Staff of Queen's Representative
3	Meetings of Parliament	8	Amendment of First Schedule
4	Prorogation and dissolution of Parliament		

1982, No 2

An Act to amend the Constitution

(24 August 1982)

Short Title

- 1 This Act may be cited as the Constitution Amendment (No 11) Act 1982, and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand, as amended by Acts of the Legislative Assembly and Parliament (hereinafter referred to as "the Constitution").
- 2 (1) *This subsection amended section 1(1) of the Constitution Amendment (No 9) Act 1980-81 as from its commencement.*
 (2) *This subsection amended section 1(1) of the Constitution Amendment (No 10) Act 1981-82 as from its commencement.*
- 3 *This section amended Article 29(2) of the Constitution.*
- 4 *This paragraph amended Article 37(4) of the Constitution.*
This paragraph added subclause (7) to Article 37 of the Constitution.
- 5 *This section amended Article 76(3) of the Constitution.*
- 6 *This section added subsections (5), (6) and (7) to section 19 of the Constitution Amendment (No 9) Act 1980-81.*
- 7 (1) *This subsection amended Article 75(2) of the Constitution.*
 (2) *This subsection repealed section 5 of the Constitution Amendment (No 2) Act 1968-69.*
- 8 *This section substituted a new Part I for Part I of the First Schedule of the Constitution.*

THE CONSTITUTION AMENDMENT (NO 12) ACT 1986(CI)

Analysis

Title		
1	Short Title	3 First Schedule
2	Justices of the Peace	

1986, No 19

An Act to amend the Constitution

(11 December 1986)

Short Title

- 1 This Act may be cited as the Constitution Amendment (No 12) Act 1986 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand as amended by Acts of the Legislative Assembly and Parliament of the Cook Islands (hereinafter referred to as "the Constitution").
- 2 *This section amended Article 62 of the Constitution by repealing subclause 2.*
- 3 *This section amended the First Schedule by repealing Part II and substituting a new Part II.*

THE CONSTITUTION AMENDMENT (NO 13) ACT 1992

Analysis

Title			
1	Short Title	3	Exempted positions
2	Functions of the Public Service Commissioner	4	Savings

1992 No 10

An Act to amend the Constitution

(21 December 1992)

Short Title

- 1 This Act may be cited as the Constitution Amendment (No 13) Act 1992 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand as amended by Acts of the Legislative Assembly and Parliament of the Cook Islands (hereinafter referred to as "the Constitution").
- 2
 - (1) *This subsection amended Article 74B(1) of the Constitution.*
 - (2) *This subsection amended Article 74B(2) of the Constitution.*
 - This subsection amended Article 74B(3) of the Constitution.*
 - This subsection amended Article 74B(4) of the Constitution.*
 - This subsection repealed Article 74B(6)(b) of the Constitution.*
- 3 *This section amended s (b) and (c) of Article 74BB(2) of the Constitution.*

Savings

- 4 A person holding office as a Head of Department immediately before the coming into force of this Act shall upon and after the commencement of this Act and without further appointment, continue to hold office as if that person were appointed to an exempted position referred to in Article 74BB(2)(b) (as inserted by this Act) and in accordance with Article 74BB(3) and notwithstanding the terms and conditions of that persons original appointment, may be removed from such appointment in accordance with the provisions of Article 74BB.
-

THE CONSTITUTION AMENDMENT (NO 14) ACT 1991 (CI)

Analysis

Title			
1	Short Title	3	New constituency
2	New Cabinet Minister	4	Audit

1991 No 21

An Act to amend the Constitution

(12 August 1991)

Short Title

- 1 This Act may be cited as the Constitution Amendment (No 14) Act 1991 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand as amended by Acts of the Legislative Assembly and Parliament of the Cook Islands (hereinafter referred to as "the Constitution").
- 2 *This section substituted a new subclause (1) in Article 13 of the Constitution.*
- 3
 - (1) *This subsection substituted a new subclause (2) in Article 27 of the Constitution.*
 - (2) *This subsection substituted a new paragraph (j) in Article 27(2) of the Constitution.*
 - (3) *This subsection amended the definition of the Murienua constituency in Part II of the First Schedule of the Constitution.*
 - (4) *This subsection inserted the definition of the Akaoa constituency in Part II of the First Schedule of the Constitution.*
 - (5) *Notwithstanding the amendment of Part II of the First Schedule to the Constitution, by subsection (3) of this section, the person elected as the Member of Parliament for the Murienua Constituency at the General Election held immediately before the coming into force of this Act, shall be deemed, after the coming into force of this Act, but subject to the provisions of section 7 of the Electoral Act 1966, to have been elected as the Member of Parliament for the Akaoa Constituency as created by this Act.*
 - (6) *Notwithstanding that the circumstances provided for in section 7(1) of the Electoral Act 1966 may not have arisen the Speaker shall pursuant to section 7(5) of that Act and upon the coming into force of this Act declare the seat in respect of the Murienua Constituency as amended by this Act to be vacant without specifying the cause thereof and such declaration of the Speaker shall be sufficient for the Chief Electoral Officer to appoint a day for the by-election to fill that vacancy under section 27 of the Electoral Act 1966.*
- 4
 - (1) *This subsection amended Article 71(1) of the Constitution.*
 - (2) *This subsection added subclauses (3) and (4) to Article 71 of the Constitution.*

THE CONSTITUTION AMENDMENT (NO 15) ACT 1993 (CI)

Analysis

Title			
1	Short Title	2	Duration of office of members of Cabinet

1993 No 10

An Act to amend the Constitution

(30 November 1993)

Short Title

- 1 This Act may be cited as the Constitution Amendment (No 15) Act 1993 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand as amended by Acts of the Legislative Assembly and Parliament of the Cook Islands (hereinafter referred to as "the Constitution").
- 2 *This section substituted a new subclause (1) in Article 14 of the Constitution, and repealed subclause (2) of that Article.*

 THE CONSTITUTION AMENDMENT (NO 16) ACT 1993-94 (CI)

Analysis

Title

- | | | | |
|---------------|-------------|---|---------------------------------|
| 1 | Short Title | 2 | Jurisdiction of Court of Appeal |
| 1993-94 No 12 | | | |

An Act to amend the Constitution

(13 January 1994)

Short Title

- 1 This Act may be cited as the Constitution Amendment (No 14) Act 1993-94 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand as amended by Acts of the Legislative Assembly and Parliament of the Cook Islands (hereinafter referred to as "the Constitution").
- 2 *This section substituted a new subclause (3) in Article 60 of the Constitution.*



ANALYSIS

	Title		
1.	Short Title and commencement	6.	Justices of the Peace
2.	Interpretation	7.	Custom
3.	Secretary to the Cabinet	8.	Cook Islands Public Service
4.	Qualification of candidates	9.	Transitional
5.	Jurisdiction of Divisions of the High Court	10.	Consequential amendments to Electoral Act

 1994-95, No. 36
An Act to amend the Constitution

(30 June 1995)

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 Constitution Amendment (No. 17) 1994-95 and shall be read together with and deemed part of the Constitution of the Cook Islands (hereinafter referred to as "the Constitution").

(2) This Act shall come into force on the 1st day of July 1995.

2. Interpretation – Article 1 of the Constitution is amended by –

“(a) inserting after the expression “Court of Appeal” and its definition (as inserted by the Constitution Amendment (No. 9) Act 1980-81), the following –

“Crown servant” includes any person who is an employee of the Crown, or a director, member or employee of any agency of the Crown or any statutory or other body or corporation substantially owned or controlled by the Crown, or a member of an Island Council, but does not include a person who holds office by virtue of his being a member of Parliament or a Minister.”

- (b) inserting after the expression "High Court" and its definition, the following –

"Judicial officer" means the chief Justice or a Judge of the Court of Appeal or of the High Court, or a Justice of the Peace who acts in a judicial capacity."

3. Secretary to the Cabinet – The Constitution is amended, by repealing Article 20 and substituting the following new Article –

"20. Secretary to the Cabinet – There shall be a Secretary to the Cabinet, who shall be appointed in such manner as shall be prescribed by Act."

4. Qualification of candidates – Article 28B of the Constitution is amended by –

- (a) adding after paragraph (d) of subclause (1), the following new paragraph –

"(c) He is a Crown servant or a judicial officer."

- (b) adding after subclause (2), the following new subclause –

"(3) Notwithstanding the definitions of "Crown servant" and "Judicial officer" in Article 1 of this Constitution, and subclauses (1) and (2) of this Article, an Act may –

- (a) Add to or delete from those definitions, any class or classes of persons;
 (b) Provide for further qualifications or disqualifications of candidates."

5. Jurisdiction of Divisions of the High Court – Article 48 of the Constitution is amended by repealing subclause (3), and substituting the following new subclauses –

"(3) Notwithstanding anything in this Part or Part IVA, and in recognition of the customs and traditions of the people of those islands, the Land Division shall not exercise any jurisdiction or power in relation to land or chiefly titles in any of the islands of Mangaia, Mitiaro and Pukapuka, and such other islands as may be prescribed by Act, provided that no such Act shall be introduced to Parliament except with the consent of the Aronga Mana of the island to which it relates.

(4) Where on any island to which subclause (3) applies, jurisdiction or power in relation to land or chiefly titles is exercised in accordance with the customs and usages of that island, the exercise of that jurisdiction or power shall be final and binding on all persons affected thereby, and shall not be questioned in any Court of law."

6. Justices of the Peace – Article 62 of the Constitution is amended, by inserting after subclause (1), the following –

(2) Every Justice of the Peace (whether appointed before or after the coming into force of this subclause) shall cease to act in a judicial capacity before becoming a candidate for election to Parliament, but such ceasing to act shall

not otherwise affect that person's status as a Justice of the Peace."

7. Custom – The Constitution is amended, by inserting after Part IVA, the following new Part –

**“PART IVB
CUSTOM**

66A. Custom – (1) In addition to its power to make laws pursuant to Article 39, Parliament may make laws recognising or giving effect to custom and usage.

(2) In exercising its powers pursuant to this Article, Parliament shall have particular regard to the customs, traditions, usages, and values of the indigenous people of the Cook Islands.

(3) Until such time as an Act otherwise provides, custom and usage shall have effect as part of the law of the Cook Islands, provided that this subclause shall not apply in respect of any custom, tradition, usage or value that is, and to the extent that it is, inconsistent with a provision of this Constitution or of any enactment.

(4) For the purposes of this Constitution, the opinion or decision of the Aronga Mana of the island or vaka to which a custom, tradition, usage or value relates, as to matters relating to and concerning custom, tradition, usage or the existence, extent or application of custom shall be final and conclusive and shall not be questioned in any court of law."

8. Cook Islands Public Service – The Constitution is amended by repealing Part VI, and substituting the following new Part VI –

**“PART VI
THE COOK ISLANDS PUBLIC SERVICE**

72. The Cook Islands Public Service – (1) There shall be a Cook Islands Public Service, which shall comprise such persons in the service of the Government of the Cook Islands as may from time to time be prescribed by law.

(2) An Act shall provide for the administration and regulations of the Cook Islands Public Service including without limitation, the appointment, terms of service, disciplinary control, termination of appointment, and dismissal of members of the Public Service, and different such provisions may be made in respect of different classes of members of the Public Service.

73. Public Service Commissioner – (1) There shall be a Public Service Commissioner appointed by the Queen's Representative on the advice of the Prime Minister.

(2) No person shall be appointed to be or remain the Public Service Commissioner if he is or becomes a member of Parliament.

(3) The Public Service Commissioner shall not hold office concurrently with any other office in the Cook Islands Public Service.

(4) The actions of the Public Service Commissioner shall not be invalidated in consequence of the subsequent discovery of some defect with regard to his appointment.

(5) The Public Service Commissioner shall be paid such remuneration by way of salary and allowances as may from time to time be determined by Cabinet.

(6) The procedure to be followed by the Public Service Commissioner in the exercise of his functions, and the delegation of his powers and functions may be prescribed by enactment.

74. Term of Office and functions of Public Service Commissioner – (1) The Public Service Commissioner shall be appointed for such term as shall be determined by Cabinet and may from time to time be reappointed.

(2) The Public Service Commissioner may at any time resign his office by writing under his hand addressed to the Prime Minister.

(3) The Queen's Representative, acting on the advice of the Prime Minister, may suspend or remove the Public Service Commissioner from office for disability, bankruptcy, neglect of duty, breach of the terms of his appointment, or misconduct.

(4) The Public Service Commissioner shall have such functions as shall be prescribed by Act.

75. Staff of Queen's Representative – (1) Except as provided in subclause (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 subjected by the Public Service Commissioner; and the provisions of subclause (1) of this Article (except so far as they relate to appointment) shall apply in relation to a person so appointed in respect of his service on the staff of the Queen's Representative but not in respect of his service as an employee of the Cook Islands Public Service.

76. Board of Appeal – (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 organization of those employees, and to hold office for a period of 3 years.
- (2) The Chief Justice shall be Chairman of the Board of Appeal.
- (3) In the absence of the Chief Justice from any sitting of the Board of Appeal, 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 of Appeal.
- (4) In the absence of the Chief Justice or other Judge nominated pursuant to subclause (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 of Appeal.
- (5) An Act –
 - (a) shall prescribe whether or not the person to be appointed under the provisions of paragraph (c) of subclause (1) of this Article is to be elected or nominated and the manner of that election or nomination;
 - (b) may provide for the appointment of deputies to act for members of the Board of Appeal appointed under the provisions of paragraph (b) or paragraph (c) of subclause (1) of this Article;
 - (c) shall prescribe the jurisdiction of the Board of Appeal to hear and determine appeals;
 - (d) shall prescribe the procedure of the Board of Appeal.
- (6) Subject to the provisions of any Act, the Board of Appeal shall determine its own procedure.”

9. Transitional – Notwithstanding the repeal and substitution by section 8 of this Act of Part VI of the Constitution, every person holding office as Public Service Commissioner, Secretary to the Cabinet, a member of the Public Service, an exempted employee, a member of the staff of the Queen’s Representative, or as a member of the Cook Islands Public Service Board of Appeal immediately before the commencement of this Act, shall continue to hold office as Public Service Commissioner, Secretary to the Cabinet, member of the Public Service, an exempted employee, a member of the staff of the Queen’s Representative or as a member of the Cook Islands Public Service Board of Appeal (as the case may be) subject to the provisions of the Constitution.

10. Consequential amendments to the Electoral Act— The Second Schedule to the Electoral Act 1966 is amended, by amending 28B(2) of the Constitution (as reproduced in that Schedule) by —

- (a) adding after paragraph (d) of subclause (1), the following new paragraph —

“(c) He is a Crown servant or a judicial officer.”

- (b) adding after subclause (2), the following new subclause —

“(3) Notwithstanding the definitions of “Crown servant” and “Judicial officer in Article 1 of this Constitution, and subclauses (1) and (2) of this Article, an Act may —

- (a) add to, vary, or delete from those definitions, any class or classes of persons;
- (b) provide for further qualification of disqualifications of candidates.”
-



ANALYSIS

- | | | | |
|----|----------------------|----|-------|
| 1. | Title
Short Title | 2. | Audit |
|----|----------------------|----|-------|

1995-96, No. 8

An Act to amend the Constitution

(11 March 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 - This Act may be cited as the Constitution Amendment (No. 18) Act 1995-96 and shall be read together with and deemed part of the Constitution of the Cook Islands (hereinafter referred to as "the Constitution").

2. Audit - Article 71 of the Constitution is amended, by repealing subclauses (3) and (4), and substituting the following new subclauses -

"(3) There shall be established by enactment a Public Expenditure Review Committee comprising a chairperson appointed by the Minister of Finance, and other members whose number and manner of appointment shall be prescribed by Act.

(4) The Act referred to in subclause (3) of this Article shall provide to the Public Expenditure Review Committee sufficient powers to investigate expenditure from the Cook Islands Government Account and other public funds or accounts of executive government and such other public statutory or local authorities or bodies as may be prescribed by law, and shall have such other functions, duties, powers, and responsibilities as shall be provided by enactment.



ANALYSIS

- | | |
|--|--|
| 1. Title
Short Title and commencement | 2. Persons entitled to permanent residence |
|--|--|

1995-96, No. 33

An Act to amend the Constitution

(12 December 1996)

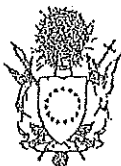
BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, and by the authority of the same as follows:

1. Short Title and commencement - (1) This Act may be cited as the Constitution Amendment (No. 19) Act 1995-96 and shall be read together with and deemed part of the Constitution of the Cook Islands (hereinafter referred to as "the Constitution").

(2) This Act shall come into force on the date that it is assented to by the Queen Representative.

2. Persons entitled to permanent residence - Article 76A of the Constitution (as enacted by section 13 of the Constitution Amendment (No. 9) Act 1980-81) is hereby amended by adding the following new paragraph (e) in subclause (3)

"(e) prescribe the number of permanent residence certificates that may for the time being, be in effect."



ANALYSIS

1.	Title Short Title	2.	Preamble to Constitution
----	----------------------	----	--------------------------

1997, No. 2

An Act to amend the Constitution

WHEREAS

(19 March 1997)

The people of the Cook Islands affirm that the Cook Islands is a nation founded on Christian principles, Cook Islands custom, and the rule of law:

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 Constitution Amendment (No. 20) Act 1997 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand, as amended by Acts of Parliament (hereinafter referred to as "the Constitution").

2. Preamble to Constitution - The Constitution is amended by inserting after the words "the Constitution of the Cook Islands" the following preamble:

"PREAMBLE

IN THE HOLY NAME OF GOD, THE ALMIGHTY,
THE EVERLOVING, AND THE EVERLASTING

We, the people of the Cook Islands, recognising the heritage of Christian principles, Cook Islands custom, and the rule of law, remember to keep holy the Sabbath Day, being that day of the week which, according to a person's belief and conscience, is the Sabbath of the Lord."



ANALYSIS

- | | | | |
|----|----------------------|----|---|
| 1. | Title
Short Title | 2. | Term of office of His
Excellency Apenera Short
O.B.E. |
|----|----------------------|----|---|

1997, No. 3

An Act to amend the Constitution

(19 March 1997)

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 Constitution Amendment (No. 21) Act 1997, and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand, as amended by Acts of Parliament (hereinafter referred to as "the Constitution").

2. Term of office of His Excellency Apenera Short O.B.E. - The Constitution is amended by inserting the following clause:

"Term of office of His Excellency Apenera Short O.B.E. - Whereas:

(1) His Excellency Apenera Short O.B.E. has acted as Queen's Representative since 19 December 1990 and Her Majesty the Queen's Commission appointing His Excellency to a further term did not take effect until 11 October 1994, a period of approximately 10 months after the expiry of His Excellency's first term of office.

(2) His Excellency shall be deemed to have been validly appointed as Queen's Representative during the period from 19 December 1993 to 11 October 1994 notwithstanding that His Excellency's second term of office did not begin until 11 October 1994 and will accordingly expire on 11 October 1997.

(3) All official acts carried out by His Excellency during the period from 19 December 1993 to 11 October 1994 shall be as valid and effectual as if His Excellency had been appointed as the Queen's Representative by Her Majesty the Queen during that period."



ANALYSIS

1.	Title Short Title	2.	Revenue and Expenditure of Cook Islands Government Account
----	----------------------	----	---

1997, No. 17

An Act to amend the Constitution

(1 July 1997)

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 Constitution Amendment (No. 22) Act 1997 and shall be read together with and deemed part of the Constitution of the Cook Islands (hereinafter referred to as "the Constitution").

2. Revenue and expenditure of Cook Islands Government Account - The Constitution is amended by repealing Article 70 subclauses (1), (2) and (3) and substituting the following Article -

"70. Expenditure - (1) All expenditure from the Cook Islands Government Account, or from any other public fund or account shall be in accordance with an Appropriation Act unless otherwise authorised or permitted by any other enactment.

(2) An appropriation provision for a specific purpose shall make reference to any anticipated income in relation to that purpose and the amount appropriated shall be the nett amount.

(3) The Minister responsible for Finance, with the concurrence of Cabinet, or, where any enactment so provides, the Executive Council, may approve the expenditure of such sums as he or it considers necessary -

(a) in anticipation of provision to be made in an Appropriation Act for any financial year:

Provided that the total amount issued and paid in any financial year shall not exceed the unexpended balance of the vote in the Appropriation Act (or Acts) for the preceding financial year together with an amount equal to three-twelfths of that vote; or

- (b) when during the period between the passing of the last Appropriation Act for any financial year and the end of that year it is desirable that money should be expended in excess of or without the prior appropriation of Parliament:

Provided that:

- (i) the total amount of all sums issued and paid shall not exceed a one and one-half percent (1 1/2%) of the total amount of all sums appropriated by the Appropriation Act or Acts for that year; and
- (ii) in such case the Public Expenditure Review Committee shall investigate and make a recommendation to the Minister of Finance who may direct that any amount paid to any Government Department or Crown Agency in accordance with paragraph (b) be repaid to the Cook Islands Government Account out of any appropriation in any following financial year."
-



ANALYSIS

- | | | | |
|----|-------------|----|--|
| 1. | Short Title | 3. | Duration of office of members of Cabinet |
| 2. | Cabinet | 4. | Transitional |
-

1999, No. 4

An Act to amend the Constitution

(12 March 1999)

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 Constitution Amendment (No. 23) Act 1999 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand, as amended by Acts of Parliament of the Cook Islands (hereinafter referred to as "the Constitution").

2. Cabinet – Article 13 of the Constitution is amended by –

- (a) repealing subclauses (1) and (3) and substituting the following clauses –

“(1) There shall be a Cabinet of Ministries, comprising the Prime Minister of the Cook Islands (who shall preside over Cabinet) and not more than 6 other ministers, which shall have the general direction and control of the executive government of the Cook Islands and shall be collectively responsible to Parliament”.

“(3) Five Ministers, other than the Prime Minister, shall be appointed by the Queen’s Representative on the advice of the Prime Minister. No person shall be appointed under this subclause unless –

- (a) that person is a member of Parliament; or
- (b) if the appointment is to be made after a dissolution of Parliament and before the holding of a general election of Parliament following that dissolution, that person was a member of Parliament immediately before that dissolution; or
- (c) if the appointment is to be made after the holding of a general election of Parliament and before the commencement of the first session of Parliament following that election, that person was elected as a member of Parliament at that election”.

(b) inserting after subclause (3) the following subclause –

“(3A) One Minister other than the Prime Minister, may in the discretion of the Prime Minister, be appointed by the Queen’s Representative on the advice of the Prime Minister from persons other than those referred to in paragraphs (a), (b) and (c) of subclause (3) and who shall -

- (a) be qualified for election as a member of Parliament on and for the duration of his appointment; and
- (b) be entitled to attend and address meetings of Parliament and any committee thereof as if he were a member but shall not be entitled to vote on any question before Parliament”.

3. Duration of office of members of Cabinet – Article 14 of the Constitution is amended by repealing subclause (4) and substituting the following subclause –

“(4) The office of any other Minister shall become vacant –

- (a) if the appointment of the Prime Minister has been terminated under the provisions of subclauses (1) or (3) of this Article; or
- (b) if the appointment of the Minister to that office is revoked by the Queen’s Representative acting on the advice of the Prime Minister by instrument under the seal of the Cook Islands; or

- (c) if the Minister, being a member of Parliament, ceases to be a member of Parliament for any reason other than the dissolution of Parliament; or
- (d) if the Minister, not being a Member of Parliament, ceases to be qualified for election as a member of Parliament; or
- (e) if the Minister resigns his office by writing under his hand delivered to the Queen's Representative."

4. Transitional -- Notwithstanding the amendment of Article 13 by this Act, the persons holding office as Prime Minister of the Cook Islands and Ministers of Cabinet immediately before the commencement of this Act shall, without further appointment, continue to hold office as Prime Minister and Ministers (as the case may be) subject to Article 14 (as amended by this Act) until either:

- (a) in the case of the Prime Minister and Ministers, the end of the day immediately preceding the day of the appointment of a Prime Minister pursuant to Article 13(2); or
- (b) in the case of a Minister, other than the Prime Minister, the end of the day immediately preceding the exercise by the Queen's Representative of the discretion under Article 14(1) not to terminate the appointment of the Prime Minister,

which ever shall happen first following the next general election of the members of Parliament after the commencement of this Act.



ANALYSIS

- | | | | |
|----|-----------------------------|----|----------------|
| 1. | Title | 4. | Deputy Speaker |
| 2. | Short Title | 5. | Procedure |
| 3. | The Speaker of Parliament | | |
| | Tenure of office of Speaker | | |

2001, No. 6

An Act to amend the Constitution

(24 July 2001)

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 Constitution Amendment (No.24) Act 2001 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand, as amended by Acts of Parliament of the Cook Islands (herein referred to as "the Constitution").

2. The Speaker of Parliament - Article 31 of the Constitution is amended by repealing subclause (2) and substituting the following subclauses --

- "(2) The person who shall be elected Speaker of Parliament and no other, shall be the person nominated by the Prime Minister or, if there is no Prime Minister, the member of Parliament who commands or is likely to command the confidence of a majority of the members of Parliament.
- (2A) The person nominated under subclause (2) may be either --
- (a) a member of Parliament who is not a Minister; or
- (b) a person who is not a member of Parliament if that person is qualified to be a member of Parliament."

Price \$1.50c

3. Tenure of office of Speaker - Article 32 of the Constitution is amended by repealing paragraph (e) and substituting the following paragraph -

“(e) If Parliament passes a resolution supported by the votes of not less than a majority of all members (including vacancies) requiring the Speaker’s removal from office.”

4. Deputy Speaker - - Article 33(2) of the Constitution is amended by repealing paragraph (e) and substituting the following paragraph -

“(e) If Parliament passes a resolution supported by the votes of not less than a majority of all members (including vacancies) requiring the Deputy Speaker’s removal from office.”

5. Procedure - Article 34 of the Constitution is amended by repealing subclause (3) and substituting the following subclause -

“(3) The person presiding over a sitting of Parliament shall, -
(a) if the person is a member, have a deliberative vote and in case of an equality of votes, have a casting vote;
(b) if the person is not a member have a casting vote only in case of an equality of votes.”



ANALYSIS

1.	Title	3.	Qualification of electors
2.	Short title	4.	Transitional
	The House of Arikis of the Cook Islands		

2002, No. 8

An Act to amend the Constitution

(5 November 2002)

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 Constitution Amendment (No. 25) Act 2002 and shall be read together with and deemed part of the Constitution of the Cook Islands as set out in the Second Schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand, as amended by Acts of the Parliament of the Cook Islands (herein referred to as “the Constitution”).

2. The House of Arikis of the Cook Islands – Article 8 of the Constitution is amended by—

- (a) Repealing subclause (2), and substituting the following subclause:

“(2) The House of Arikis shall comprise the following members:

- (a) The four Arikis of the islands of Aitutaki and Manuae;
 (b) The three Arikis of the island of Atiu;
 (c) The Ariki of the island of Mangaia;
 (d) The Ariki of the island of Manihiki;

- (e) The Ariki of the island of Rakahanga;
 - (f) The three Arikis of the island of Mauke;
 - (g) The three Arikis of the island of Mitiaro;
 - (h) The Ariki of the island of Penrhyn;
 - (i) The Ariki of the islands of Pukapuka and Nassau;
 - (j) The six Arikis of the island of Rarotonga”;
- and

(b) Repealing subclauses (4) and (5).

3. Qualification of electors – Article 28 of the Constitution is amended by repealing paragraph (a) of subclause (4), and substituting the following paragraph:

- “(a) Any period for which he has been—
- (i) Outside the Cook Islands for the purpose of undergoing a course of education or of technical training or instruction; or
 - (ii) Residing in the Overseas Constituency whilst being the Member of Parliament for that Constituency, — shall be disregarded.”

4. Transitional – The persons holding office as members of the House of Arikis immediately before the coming into force of this Act, shall, on the coming into force of this Act, continue to hold office as such members, subject to Article 8 of the Constitution.



ANALYSIS

1.	Title		
1.	Short Title and commencement	4.	Qualification of electors
2.	Interpretation	5.	Consequential repeals
3.	The Parliament of the Cook Islands	6.	Savings

 2003, No. 15

An Act to amend the Constitution

(10 September 2003)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, by the authority of the same, and in accordance with Article 41(1) of the Constitution of the Cook Islands, as follows:

1. Short Title and commencement - (1) This Act may be cited as the Constitution Amendment (No.26) Act 2003 and shall be read together with and deemed part of the Constitution of the Cook Islands (herein referred to as "the Constitution").

(2) This Act shall come into force on the date that it is assented to by the Queen's Representative.

2. Interpretation - Article 1 of the Constitution is amended by omitting the definition of "To reside".

Price \$1.50

3. The Parliament of the Cook Islands - Article 27 of the Constitution is amended by—

- (a) Omitting from subclause (2) the number “25” and substituting the number “24”;
- (b) Omitting paragraph (k) of subclause (2);
- (c) Omitting from subclause (3) the expression “28A, 28B, and 28C and 28D”, and substituting the following expression:

“and 28B”.

4. Qualification of electors — Article 28 of the Constitution is repealed, and substituted with the following Article:

“Qualification of electors

- 28 (1) No person shall be qualified to be an elector for the election of a Member of Parliament unless—
- (a) The person is a Cook Islander (as defined in an Act prescribing the qualifications of electors), a New Zealand citizen or has the status of a permanent resident of the Cook Islands (as provided for by Article 76A); and
 - (b) The person has at some time resided continuously in the Cook Islands for a period of not less than 12 months.
- (2) A person who meets the qualifications imposed by subclause (1) (or re-qualifies under subclause (3)) is disqualified from being an elector for the election of a Member of Parliament if the person is subsequently absent from the Cook Islands for a continuous period of 3 months or more.
- (3) A person disqualified under subclause (2) shall re-qualify to be an elector for the election of a Member of Parliament if the person returns to the Cook Islands and at any time thereafter remains in the Cook Islands for a continuous period of not less than 3 months.
- (4) The following shall not be regarded or treated as a period of absence from the Cook Islands for the purposes of subclause (2):
- (a) Any continuous period not exceeding 4 years spent by a person outside the Cook Islands for the purpose of—
 - (i) Receiving education, technical training, or technical instruction; or
 - (ii) Receiving medical treatment;

- (b) Any period spent by a person outside the Cook Islands as-
 - (i) A member of a Cook Islands diplomatic or consular mission; or
 - (ii) A spouse, partner, or member of the household of a person referred to in subparagraph (i) of this paragraph.
- (5) Nothing in this Article limits the provisions of any law prescribing additional qualifications to be (or additional disqualifications from being) an elector for the election of a member of Parliament, insofar as the law is not inconsistent with any provision of this Constitution."

5. Consequential repeals – Articles 28A, 28C, and 28D are repealed.

6. Savings – (1) Notwithstanding the abolition of the Overseas Constituency by section 3 of this Act, the person (if any) who is the member of Parliament for that constituency immediately before the commencement of this Act shall continue to hold office as, and shall be, the member of Parliament for that constituency as if that constituency had not been abolished by this Act.

- (2) Subsection (1) has effect only until, and expires on, the earlier of-
 - (a) The seat of the member of Parliament for the Overseas Constituency becoming vacant pursuant to any Act; or
 - (b) The Queen's Representative, dissolving Parliament under Article 37 of the Constitution.



ANALYSIS

- | | |
|---------------------------------|--|
| 1. Short Title and commencement | 2. Prorogation and dissolution of Parliament |
|---------------------------------|--|
-

2004, No. 21

An Act to amend the Constitution and to provide for the dissolution of Parliament upon the expiration of 4 years from the date of the last preceding general election

(21 December 2004)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, by the authority of the same, and in accordance with Article 37(7) of the Constitution of the Cook Islands, as follows:

1. Short Title and commencement – (1) This Act may be cited as the Constitution Amendment (No. 27) Act 2004 and shall be read together with and deemed part of the Constitution of the Cook Islands (herein referred to as “the Constitution”).

(2) This Act shall come into force on the date that it is assented to by the Queen’s Representative.

2. Prorogation and dissolution of Parliament – The Constitution is amended by repealing subclause (5) of Article 37, and substituting the following subclause:

“(5) The Queen’s Representative shall dissolve Parliament at the expiration of 4 years from the date of the last preceding general election if Parliament has not sooner been dissolved.”



ANALYSIS

- | | | | |
|----|---|----|---------------------------|
| 1. | Title | 5. | Appointment of Judges |
| 2. | Short Title | 6. | Masters of the High Court |
| 3. | Jurisdiction of Divisions of the High Court | 7. | Court of Appeal |
| 4. | Judges of the High Court | 8. | Savings and transitional |
| | Acting Judge of the High Court | | |

2009, No. 17

An Act to amend the Constitution

(26 November 2009)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled, by the authority of the same, and in accordance with Article 41(1) of the Constitution of the Cook Islands, as follows:

1. Short Title - (1) This Act may be cited as the Constitution Amendment (No. 28) Act 2009 and shall be read together with and deemed part of the Constitution of the Cook Islands (herein referred to as "the Constitution").

2. Jurisdiction of Divisions of the High Court - The Constitution is amended by adding after Article 48(4) the following subclause -

"(5) The High Court may exercise its jurisdiction at any place within or outside of the Cook Islands and on such dates and at such times as the Chief Justice may from time to time determine."

3. Judges of the High Court - (1) The Constitution is amended by repealing paragraphs (a) and (b) of Article 49(3) and substituting the following paragraphs -

"(a) He holds or has held office as a Judge of the High Court of New Zealand or the New Zealand Maori Land Court or an

equivalent office in any part of the Commonwealth or in a designated country; or

- (b) He has been in practice as a barrister or solicitor for a period, or periods, amounting in the aggregate to not less than 7 years in one or more of either, -
- (i) Cook Islands;
 - (ii) New Zealand;
 - (iii) a part of the Commonwealth;
 - (iv) a designated country."

(2) Article 49 is further amended by adding after subclause (4), the following subclause -

"(5) Judges of the High Court, other than the Chief Justice, shall take seniority according to the respective dates of their appointment as judges, whether of the High Court or the Court of Appeal or of the High Court of New Zealand or of any superior court in any place outside the Cook Islands or New Zealand."

4. Acting Judge of the High Court - The Constitution is amended by omitting from Article 51(1) the words "Minister of Justice" and substituting the words "Attorney General."

5. Appointment of Judges - The Constitution is amended by repealing paragraph (b) of Article 52 and substituting the following paragraph -

"(b) The other Judges of the High Court shall be appointed by the Queen's Representative acting on the recommendation of the Executive Council made on the advice of the Chief Justice and the Attorney General."

6. Masters of the High Court - The Constitution is amended by inserting after Article 55, the following Article -

"55A. Masters of the High Court - (1) The Chief Justice may, after consultation with the Solicitor General and a senior practitioner appointed by the Law Society for the purpose, appoint Masters of the High Court.

- (2) An enactment shall prescribe, -
- (a) the qualifications of persons to be appointed Masters;
 - (b) the manner in which Masters are appointed;
 - (c) the terms and conditions of their appointment;

- (d) the jurisdiction and powers to be exercised by a Master; and
- (d) conditions for the review of, or appeals against, decisions of Masters by a Judge of the High Court.”

7. Court of Appeal - The Constitution is amended by repealing Articles 56 to 61, and substituting the following Articles -

“Court of Appeal

56. Court of Appeal established - (1) There shall be a Court of Appeal of the Cook Islands, which shall be a superior Court of record.

(2) Subject to Articles 57 and 58, the Judges of the Court of Appeal shall be -

- (a) the Chief Justice and other Judges of the High Court; and
- (b) such other persons, possessing the qualifications prescribed by subclause (3) of this Article, as may from time to time be appointed by the Queen's Representative acting on the recommendation of the Executive Council made on the advice of the Chief Justice and the Attorney General.

(3) No person shall be qualified for appointment as a Judge of the Court of Appeal under paragraph (b) of subclause (2) of this Article, unless that person is qualified under Article 49 to be appointed as a Judge of the High Court.

(4) A Judge of the Court of Appeal appointed under subclause (2)(b) of this Article shall be appointed President of the Court of Appeal by the Queen's Representative acting upon the recommendation of the Executive Council made on the advice of the Chief Justice and the Attorney General.

(5) The Chief Justice, if present, shall preside at a sitting of the Court of Appeal but otherwise, the President shall preside or in his or her absence, the senior Judge.

(6) Judges of the Court of Appeal shall take seniority according to the respective dates of their first appointment as Judges, whether of the High Court or of the Court of Appeal or of the High Court of New Zealand or of any superior court in any place outside the Cook Islands or New Zealand.

57. Number of Judges - (1) Any 3 Judges of the Court of Appeal may exercise all the powers of the Court.

(2) The judgment of the Court of Appeal shall be in accordance with the opinion of the majority of the Judges present.

(3) Notwithstanding subclause (1) of this Article, an Act may prescribe powers of the Court that may be exercised by the President, a Judge of the Court of Appeal or the Registrar on its behalf.

58. Judges not to sit on appeals from own decision - A Judge of the Court of Appeal shall not sit on the hearing of an appeal from any decision made by him or by a Court on which he sat as a member.

59. Hearings and determination of Court of Appeal - (1) The Court of Appeal may exercise its jurisdiction at any place within or outside of the Cook Islands and on such dates and at such times as the President, after consultation with the Chief Justice, may from time to time determine.

(2) Except as provided in subclause (3) of this Article, the determination of the Court of Appeal shall be final.

(3) There shall be a right of appeal to Her Majesty the Queen in Council, with the leave of the Court of Appeal, or, if such leave is refused, with the leave of Her Majesty the Queen in Council, from judgments of the Court of Appeal in such cases and subject to such conditions as are prescribed by Act.

60. Jurisdiction of Court of Appeal - (1) Subject to the provisions of this Constitution, and as may be prescribed by Act, the Court of Appeal shall have jurisdiction to hear and determine, -

- (a) any appeal from a judgment of the High Court; and
- (b) any cause or matter removed by the High Court to the Court of Appeal.

(2) Notwithstanding anything in subclause (1) of this Article, and any limitations as may be prescribed by Act, the Court of Appeal may in any case in which it thinks fit and at any time, grant special leave to appeal to that Court from any judgment of the High Court, subject to such conditions as to security for costs and otherwise as the Court of Appeal thinks fit.

(3) In this Article the term "judgment" includes any judgment, decree, order, writ, declaration, conviction, sentence, or other determination.

61. Transmission of order of Court of Appeal - The determination of the Court of Appeal on any appeal from the High Court shall be transmitted to the Registrar of the High Court by the Registrar of the Court of Appeal under the seal of the Court of Appeal, and judgment shall thereupon be entered by the High Court in conformity with that determination, or such other proceedings by way of a new trial or otherwise shall be taken in the High Court as are required by that determination."

8. Savings and transitional - (1) Every Judge holding office as a Judge of the Court of Appeal immediately before the commencement of this Act shall, on and after the commencement of this Act and without further appointment, continue to hold office as a Judge of the Court of Appeal.

(2) All judgments, decrees, records and acts of the Court of Appeal before the commencement of this Act shall, on and after the commencement of this Act, continue in full force and effect as judgments, decrees, records and acts of the Court of Appeal.

(3) All proceedings pending in the Court of Appeal immediately before the commencement of this Act may, on and after the commencement of this Act, be continued in the Court of Appeal.



Contents

1	Title	1
2	Commencement	1
3	Constitution amended	1
4	Article 76A amended	1

An Act to amend the Constitution.

(24 November 2021)

BE IT ENACTED by the Parliament of the Cook Islands in session assembled in accordance with the provisions of Article 41(1) of the Constitution of the Cook Islands and by the authority of the same as follows—

- 1 Title**
This Act is the Constitution Amendment (No. 29) Act 2021.
- 2 Commencement**
This Act comes into force on the day after the date it is assented to by the Queen's Representative.
- 3 Constitution amended**
This Act amends the Constitution of the Cook Islands (the **Constitution**).
- 4 Article 76A amended**
 - (1) Article 76A of the Constitution is amended by replacing subclause (1) with:

“(1) A person has the status of a permanent resident of the Cook Islands if—

 - (a) the person is not entitled to the immigration status of a Cook Islander under any Act; and
 - (b) the person is adopted by a person who is entitled to the immigration status of a Cook Islander under any Act; and
 - (c) the person is adopted in a manner recognised by the laws of the Cook Islands; and
 - (d) at the time of the adoption, the person is under 18 years; and
 - (e) the adoption is genuine and is not undertaken for the purpose of obtaining permanent residence.

“(1A) Subclause (1B) applies to a person—

- (a) born before the commencement of the Constitution Amendment (No. 29) Act 2021 (the 2021 Amendment Act); and
- (b) who was entitled to permanent residence under subclause (1) as it read immediately before the commencement of the 2021 Amendment Act.

“(1B) A person described in subclause (1A) continues to be entitled to permanent residence.”