



ANALYSIS

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| 1. Short Title | 5. Elector to vote as ordinary voter in designated polling areas |
| 2. Determination of objections | 6. Determination of High Court to be final |
| 3. Consent to nomination | 7. New Part VIA |
| 4. Recount | |

1993-94, No. 13

An Act to amend the Electoral Act 1966

(13 January 1994)

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 Electoral Amendment (No.2) Act 1993-94 and shall be read together with and deemed part of the Electoral Act 1966 (hereinafter referred to as "the principal Act").

2. Determination of objections - Section 17 of the principal Act is amended, by deleting the words - "and every such determination shall be final and conclusive and without appeal, whether to the Court of Appeal of the Cook Islands or to Her Majesty the Queen in Council or otherwise, and shall not be questioned in any way."

3. Consent to nomination - Subsection (4) of section 30 of the principal Act is amended by deleting the words - "whose decision shall be final and conclusive and without appeal, whether to the Court of Appeal of the Cook Islands or to Her Majesty the Queen in Council or otherwise, and shall not be questioned in any way."

4. Recount - Section 60 of the principal Act is amended by deleting subsection (9).

5. Elector to vote as ordinary voter in designated polling areas - Section 73B of the principal Act (as inserted by section 8 of the Electoral Amendment Act 1989) is amended by repealing subsections (3) and (4)

6. Determination of High Court to be final - The principal Act is amended by repealing section 82.

7. New Part VIA - The Principal Act (as amended by this Act) is amended by inserting after Part VI, the following new Part -

**"PART VIA
PROCEEDINGS**

82. Decision of High Court to be final - (1) Every determination or order by the High Court or by a Judge of the High Court in respect of or in connection with any proceedings under sections 17, 30, or 60 of this Act, or in respect of or in connection with an election petition, shall be final and conclusive and without appeal, whether to the Court of Appeal of the Cook Islands or to Her Majesty in Council or otherwise, and except as provided in this section, shall not be questioned in any way.

(2) Notwithstanding the provisions of subsection (1), where any party to any proceedings to which this section applies is dissatisfied with any decision of the High Court or a Judge thereof as being erroneous in any point of law, that party may appeal to the Court of Appeal of the Cook Islands by way of case stated for the opinion of that Court on a question of law only.

(3) In its determination of the appeal the Court of Appeal may confirm, modify or reverse the decision appealed against or any part of that decision.

(4) Notice of appeal shall not operate as a stay of proceedings in respect of the decision to which the appeal relates unless the High Court or the Court of Appeal so orders.

(5) The determination of the Court of Appeal on any appeal to which this section applies shall be final and conclusive and without appeal, whether to Her Majesty in Council or otherwise, and shall not be questioned in any way.

82A. Court of Appeal may refer appeals back for reconsideration - (1) Notwithstanding anything in section 82, the Court of Appeal may in any case, instead of determining the appeal to which section 82 applies, direct the High Court or a Judge thereof to reconsider, either generally or in respect of any specified matter, the whole or any specified part of the matter to which the appeal relates.

(2) In giving any direction under this section the Court of Appeal shall -

- (a) advise the High Court or the Judge of its reasons for so doing; and
- (b) give to the High Court or the Judge such directions as it thinks just as to the rehearing or reconsideration or otherwise of the whole or any part of the matter that is referred back for reconsideration.

(3) In reconsidering any matter referred back to it pursuant to this section, the High Court or the Judge shall have regard to the Court of Appeal's reasons for giving a direction under subsection (1), and the Court of Appeal's directions under subsection (2)."

This Act is administered by the Chief Electoral Officer.