



## ANALYSIS

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1984, No. 3

An Act to consolidate and amend certain enactments relating to the Civil List (12 September 1984)

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 Civil List Act 1984.

(2) Part II of the Act shall be deemed to have come into force on the 1st day of August 1984.

2. Grants for Civil Purposes. - The several sums specified in this Act shall be paid out of the Cook Islands Government Account and, except as expressly provided by this Act, without further appropriation than this section.

3. Interpretation - In this Act and any regulations made hereunder unless the context otherwise requires:

"Clerk" means the Clerk of Parliament or where he is absent or that office is vacant, includes the Clerk Assistant or other person for the time being performing the duties of the Clerk with the approval of the Speaker;

"Deputy Leader of the opposition" means that member appointed to that position by the Leader of the opposition;

"Full time office holder" means an office holder who for the whole of the time he holds office;

- (a) devotes the total normal duration of working time to the duties of his office; and
- (b) has no direct or indirect connection with any trade or business from which he would otherwise receive payment, profit or benefit.

and "full time" shall be construed accordingly;

"Leader of the opposition" means that member who-

- (a) commands the confidence of the majority of those members of a recognised political party opposed to the Government and having not less than five members in Parliament; and
- (b) was a candidate for that party when he was elected.

"Member" means a member of Parliament and includes the Prime Minister and other office holders;

"Office holder" means any person who receives an office salary pursuant to section 10 of this Act;

"Official State Function" means a function for which an official invitation has been tendered by the Government or Head of State of the host country;

"Outer Islands" means any island of the Cook Islands other than Rarotonga;

"Part time office holder" means an office holder who is not a full time office holder.

#### PART I

#### SALARY, ALLOWANCE, TERMS OF APPOINTMENT AND TAX EXEMPTION FOR THE QUEEN'S REPRESENTATIVE

4. Salary and allowance of the Queen's Representative - (1) There shall be paid to the Queen's Representative:

- (a) A salary of \$20,000.00 a year; and
- (b) An expense allowance, at a rate to be fixed from time to time by Order in Council.

(2) Any Order in Council made under subsection (1)(b) of this section shall come into force on a date to be specified therein, whether on or before the making of the Order.

(3) The salary and allowance of the Queen's Representative shall-

(a) Commence to be payable on the earliest of the following dates;

- (i) The date on which he assumes the duties of the office; or
- (ii) The date on which he embarks or emplanes for the Cook Islands to assume the duties of his office; or
- (iii) The date on which, in the case of a person domiciled in the Cook Islands immediately before his appointment he, as a preliminary to his appointment, embarks or emplanes for a destination outside the Cook Islands to be received in audience by the Sovereign; and

(b) Continue to be payable until the date on which he ceases to hold office as Queen's Representative or on which he leaves the Cook Islands with the intention of vacating his office, whichever date is the earlier.

(4) Where the office of Queen's Representative becomes vacant (otherwise than by the death of the person holding that office), there shall, in respect of the period of 3 months commencing with the date on which the vacancy occurs or on which the Queen's Representative leaves the Cook Islands with the intention of vacating his office, whichever is the earlier, be paid to him a sum equal to the salary and allowances of the Queen's Representative for that period of 3 months.

5. Terms of appointment of the Queen's Representative - (1) The terms of appointment of the Queen's Representative may be recorded in an agreement in writing made between the person who is to be appointed and the Government acting through the Minister of Finance.

(2) Without limiting the generality of sub-section (1) of this section, any such agreement may include provisions relating to superannuation, annuities, clothing allowance, staff, travelling arrangements and expenses, leave of absence, transfer expenses, official residence, security, privileges, and exemption.

(3) All payments made or refunds directed from any public fund or account, pursuant to any agreement shall be made without further appropriation than this section.

6. Travelling expenses - There shall be paid to the Queen's Representative all expenditure incurred in respect of -

- (a) the transport of himself and his family to and from the Cook Islands at the commencement and termination of his term of office, and
- (b) travel within or outside the Cook Islands on official business during his term of office in respect of himself, his family and staff."

7. Power to grant exemption from taxation - (1) Notwithstanding anything to the contrary in any Act, but without limiting any exemption under any other Act, the Minister of Finance may from time to time wholly or partly exempt from any public or local tax, duty, rate, levy or fee, any of the following persons;

- (a) The Queen's Representative
- (b) A member of the personal staff of the Queen's Representative, if that person is resident in the Cook Islands solely for the purpose of performing his duties as such member;

(c) The wife and any dependent child or children of the Queen's Representative or of any person to whom paragraph (b) of this subsection applies.

(2) Any exemption granted under subsection (1) of this section may be granted either unconditionally or subject to such conditions as the Minister of Finance thinks fit, and the Minister may at any time revoke any such exemption or revoke vary or add to any such conditions.

(3) Every such exemption shall come into force on such date as may be specified in that behalf by the Minister of Finance. The date so specified may be before or after the date of the granting of the exemption or before or after the commencement of this Act.

(4) If any question arises as to the persons entitled to any such exemption or as to the extent of any such exemption, it shall be determined by the Minister of Finance and his decision shall be final.

(5) The Minister of Finance may direct that such refunds or account be paid from the money of any public body or person as may in the opinion of the Minister be necessary to give effect to any such exemption.

(6) All refunds or payments directed under this section to be made from any public fund or account shall be made without further appropriation than this section.

#### PART II

#### REMUNERATION OF MEMBERS OF PARLIAMENT AND SPEAKER

8. Parliamentary salary - (1) There shall be paid to each member, including a member who is the Speaker, a parliamentary salary of \$12,000 for each year he completes as a member or a proportionate payment for such part of a year completed.

(2) Where public servants receive a cost of living adjustment that adjustment shall apply to parliamentary salaries.

(3) A parliamentary salary shall be payable in respect of the period commencing on the day on which the warrant declaring the member's election is signed by the Chief Electoral Officer pursuant to sections 59 or 33 of the electoral Act 1966 and ending with the earliest of the following days -

- (a) The day upon which the member's seat becomes vacant pursuant to section 7 subsection (1) of the Electoral Act 1966 other than by resignation pursuant to paragraph (d) of that subsection; or
- (b) The day 3 months after the day that the member's seat becomes vacant in accordance with section 7 subsection (4) of the Electoral Act 1966, and the member is:
  - (i) a member immediately before the dissolution of parliament; and
  - (ii) is an unsuccessful candidate at the next following General Election;
- (c) The day 3 months after the day that the member resigns his seat.

(4) Where a member is entitled to be paid both a Parliamentary salary and a retiring allowance under the Legislative Assembly Members' Superannuation Act 1976 that member shall not be paid both but shall be paid the greater of the two and where they are of the same amount shall elect that which shall be paid.

9. Office salary - (1) Subject to subsection (2) of this section, a person appointed to an office set out in the First Schedule to this Act shall be paid, in addition to his parliamentary salary for each complete year that he holds such office, the salary specified in that Schedule or a proportionate payment for such part of a year that he holds such office.

(2) A Minister who holds more than one office shall receive one office salary which shall be the office salary of a Minister.

(3) Where the Prime Minister, Deputy Prime Minister, Chairman of Cabinet or other Minister is suspended pursuant to paragraph (b) subclause (7) of Article 14 of the Constitution no office salary shall be payable in respect of the period of suspension unless:

- (a) his appointment as a Minister is not revoked as a result of the finding of an investigation or inquiry into his conduct; or
- (b) he does not resign as a Minister.

(4) Subject to subsection (5) of this section, the office salary of an office holder shall be payable in respect of the period commencing on the day on which the office holder is appointed to office and ending with the earliest of the following days:

- (a) The day upon which the members seat becomes vacant pursuant to section 7(1) of the Electoral Act 1960 other than by resignation pursuant to paragraph (d) of that subsection; or
- (b) The day upon which the office holder's appointment is revoked; or
- (c) The day 3 months after the day that Office holder resigns his office; or
- (d) The day 3 months after the day that the office holder's seat becomes vacant in accordance with section 7 subsection (4) of the Electoral Act 1966 and the office holder:
  - (i) held office immediately before the dissolution of Parliament, and
  - (ii) is an unsuccessful candidate at the next General Election.

(5) The office salary of the Speaker where he is not a member shall be payable in respect of the period commencing on the day on which he is elected and ending with the earliest of the following days:

- (a) the day three months after the day upon which he tenders his resignation;
- (b) the day three months after the day of the first meeting of the next Parliament after the dissolution of any Parliament where he held the office of Speaker immediately before Parliament was dissolved;
- (c) the day three months after the day upon which he ceases to be qualified for election as a member of Parliament pursuant to paragraph (d) of Article 32 of the Constitution;
- (d) the day three months after the day upon which he is removed from office, pursuant to paragraph (e) of Article 32 of the Constitution.

(6) Where a member or the Speaker is entitled to be paid both an office salary and a retiring allowance under the Legislative Assembly Members' Superannuation Act 1976 that member or the Speaker shall not be paid both but shall be paid the greater of the two and where they are of the same amount he shall elect that which shall be paid.

(7) Where public servants receive a cost of living adjustment that adjustment shall apply to office salaries.

10. Allowances expenses and other entitlements - (1) There shall be provided to each member and the Speaker such representation, travel, boarding and transport allowances and other expenses, and housing, entitlements as may be fixed from time to time by Order in Executive Council.

(2) Any Order in Executive Council or part thereof made under subsections (1) of this section shall come into force on a date to be specified therein, whether before or after the making of that Order.

### PART III

#### APPOINTMENT OF OFFICE HOLDERS

11. Deputy Prime Minister - The Queen's Representative on the advice of the Prime Minister may from time to time appoint a Minister to be the Deputy Prime Minister.
12. Functions of Deputy Prime Minister - The Deputy Prime Minister shall perform such functions as shall be prescribed for him by the Prime Minister.
13. Chairman of Cabinet - The Queen's Representative on the advice of the Prime Minister may appoint a Minister to be Chairman of Cabinet.
14. Functions of Chairman of Cabinet - The Chairman of Cabinet shall perform such functions as shall be prescribed for him by the Prime Minister.
15. Leader of the House - The Queen's Representative on the advice of the Prime Minister may appoint a member to be Leader of the House.
16. Functions of Leader of the House - The Leader of the House shall perform such functions as shall be prescribed for him by the Prime Minister.
17. Assistant to a Minister - The Queen's Representative on the advice of the Prime Minister may appoint any member to be an Assistant to a Minister.
18. Functions of Assistant to a Minister - An Assistant to a Minister shall perform such functions as shall be prescribed by the Minister.
19. Term of office - The office of an office holder appointed pursuant to this part of this Act shall be vacated by him if:
- (a) he resigns his office by notice in writing to the Queen's Representative or, in the case of the Leader of the Opposition, to the Speaker, or,
  - (b) he ceases to be a Member of Parliament,
  - (c) his appointment is revoked by the Queen's Representative on the advice of the Prime Minister or, in the case of the Deputy Leader of the Opposition and any opposition whip, by the Leader of the Opposition.

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20. Notice of appointment and vacation of office - Notice of the appointment of any person appointed pursuant to this part of this Act and of the vacation of his office by resignation or otherwise, shall be published in the Gazette forthwith after the appointment or vacation of office, as the case may be.

PART IVMISCELLANEOUS

21. Full time office holders - (1) The offices of Leader of the House, Leader and Deputy Leader of the Opposition may be held either full time or part time and the holder of those offices shall inform the Clerk at the beginning of each session of Parliament accordingly.

(2) Every full time office holder:

- (a) shall resign all directorship except directorships in companies which are not engaged in commercial activity but which deal primarily with family affairs or interests, directorships in connection with philanthropic or charitable undertakings and honorary directorships;
- (b) shall cease to hold any position in any trade union or similar organisation and shall not take any active part in its affairs.

22. Declaration of Interest - (1) Every member and the Speaker shall make an annual declaration disclosing any financial or other interest held by him in any company, partnership or unincorporated body;

(2) The declarations of Ministers and Assistant to Ministers shall be lodged with the Prime Minister;

(3) The declarations of the Speaker and all other members including the Prime Minister shall be lodged with the Clerk;

(4) The contents of any declaration shall only be disclosed in connection with parliamentary business;

(5) Every declaration made pursuant to this section shall be made before the 31st day of January in every year, and shall record the interest of the member as at the 31st day of December of the previous year.

23. Duties of Members - No member whether or not he is an office holder shall:

- (a) enter into any transaction whereby the private pecuniary interest may come into conflict with his public duty;
- (b) use official information which comes to him as an office holder for his own private profit or for that of his associates;
- (c) put himself, or allow himself to be put in a position to use his official influence in support of any scheme or in furtherance of any contract, in regard to which he has any private interest;
- (d) use his influence to support the candidature of any person for admission to, or promotion within the Public Service;

- (e) accept any kind of favour from persons who are in negotiation with, or seeking to enter into contractual or proprietary or pecuniary relations with Government.
24. Payment only on certificate of Clerk - No payment shall be made of any salary or allowance pursuant to the provisions of this Act for any period except upon the certificate of the Clerk.
25. Public Service Act 1975 not to apply - Nothing in the Public Service Act 1975 or any enactment in substitution thereof shall apply with respect to any payment made under this Act to an employee of the Cook Islands Public Service who is the Speaker or Deputy Speaker.
26. Parliament to be notified of payments under certain provisions of this Act - The details of expenditure of public money under any of the provisions of this Act shall appear in a single tabulated form in the Estimates of Expenditure presented annually to Parliament.
27. Allowances exempted from tax - Notwithstanding anything to the contrary in any Act but without limiting any exemption under any Act all allowances and expenses paid pursuant to the provisions of Section 10 of this Act shall be exempt from any public or local tax, duty, rate, levy or fee.
28. Commission of Inquiry - The Queen's Representative acting on the advice of Cabinet may appoint a Commission of Inquiry under the Commissions of Inquiry Act 1966 comprising persons who are not Members of Parliament or the Speaker to inquire into and make recommendations as it thinks fit as to the adequacy or otherwise of the salaries specified in this Act or any allowances in any Order made pursuant to Section 10 of this Act.
29. Regulations - The Queen's Representative may by Order in Executive Council prescribe all matters that are necessary or convenient for carrying out or giving effect to this Act.
30. Members' Superannuation - - Notwithstanding section 9 of the Legislative Assembly Members' Superannuation Act 1976, sections 8(1) and 9(1) of this Act shall have no application to those persons who at the date of the commencement of this Act are in receipt of a retiring allowance.
31. Repeals - The enactments specified in the Second Schedule to this Act are hereby repealed.

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This Act is administered in the Legislative Service

## Section 9

FIRST SCHEDULEOFFICE SALARY

Prime Minister	\$18,000.00	
Deputy Prime Minister	12,000.00	
Chairman of Cabinet	12,000.00	
Minister	10,000.00	
Leader of the Opposition	10,000.00	full time office holder
Leader of the Opposition	4,000.00	part time office holder
Leader of the House	8,000.00	full time office holder
Leader of the House	4,000.00	part time office holder
Speaker - (being a member)	7,000.00	
Speaker - (not being a member)	17,000.00	
Assistant to a Minister	4,000.00	
Deputy Leader of the Opposition	3,000.00	full time office holder
Deputy Leader of the Opposition	1,000.00	part time office holder
Deputy Speaker	2,500.00	
Whip	2,000.00	

## Section 31

SECOND SCHEDULEENACTMENTS REPEALED

1968	No. 12	The Civil List Act 1968
1968/69	No. 22	The Civil List Amendment Act 1968/69
1969	No. 17	The Civil List Amendment Act 1969
1973	No. 3	The Civil List Amendment Act 1973
1973/74	No. 26	The Civil List Amendment Act 1973/74
1975	No. 11	The Civil List Amendment Act 1975
1977	No. 8	The Civil List Amendment Act 1977
1977	No. 13	The Civil List Amendment (NO.2) Act 1977
1979/80	No. 11	The Civil List Amendment Act 1979/80
1980	No. 20	The Civil List Amendment Act 1980
1981	No. 9	The Civil List Amendment Act 1981
1981/82	No. 22	The Civil List Amendment Act 1981/82

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