



## ANALYSIS

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1968-69, No. 29

An Act to establish a Legislative Service

(5 May 1969)

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

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1. Short Title - This Act may be cited as the Legislative Service Act 1968-69.

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

- "Act" means an Act of the Legislative Assembly and shall include "Ordinance";
- "Cabinet" means the Cabinet of Ministers of the Cook Islands;
- "Chamber" means the place where the Assembly sits in Session for the transaction of business;
- "Clerk" means the Clerk of the Legislative Assembly appointed under Part II of this Act;
- "Committee" means a standing, select or other committee of the Assembly;
- "Delegated Legislation" means any statutory instrument made by the Executive Council or a Minister pursuant to the authority of an Act;
- "Employee of the Public Service" shall have the same meaning as that ascribed to it by the Public Service Act 1965;
- "Enactment" means any Act of the Legislative Assembly of the Cook Islands, any Ordinance, any Act of the Parliament of New Zealand in force in the Cook Islands, and any Order, Proclamation, regulation or rule;
- "Journals" means the formal record or minutes of the proceedings of the Assembly;
- "Legislative Assembly" or "Assembly" means the Legislative Assembly of the Cook Islands constituted pursuant to the terms of Part III of the Constitution and includes a Committee of the Whole Assembly;
- "Legislative Service" or "Service" means the Legislative Service established by this Act;
- "Maori language" means the Maori language as spoken in Rarotonga;
- "Member" means a member of the Legislative Assembly;
- "Minister" means the Minister responsible for the expenditure and estimates of the Legislative Service;
- "Officer" means an officer of the Legislative Service appointed under Part II of this Act and includes a temporary appointee;
- "Public Service" means the Public Service as defined in Article 72 of the Constitution;
- "Public Service Commission" or "Commission" means the Public Service Commission established by the Constitution;
- "Speaker" means the Speaker of the Legislative Assembly;
- "Standing Orders" means the Standing Orders or other rules or practice of the Assembly for the time being in force;

"Statutory Instrument" means any order, regulation, rule, Proclamation, notice, bylaw or other instrument made by the Executive Council or a member of Cabinet pursuant to the authority of an Act and having legislative effect:  
"Stranger" means any person who is not a member or officer of the Assembly.

PART I - ADMINISTRATION

3. The Legislative Service - There is hereby established a Legislative Service which shall comprise such persons in the service of the Assembly as may be appointed under the provisions of this Act.

4. Minister responsible for expenditure and estimates of Legislative Service - Without limiting the Premier's powers to charge any Minister with such responsibility under Article 16 of the Constitution, the Premier shall have control of the expenditure of the Legislative Service and the estimates relating thereto.

5. Control of Legislative Service - Subject to the provisions of this Act the control of the Legislative Service shall be vested in the Speaker.

6. Administration by Clerk in certain circumstances - (1) The powers of administration vested in the Speaker by Section 5 of this Act shall be exercised and discharged by the Clerk during any period in which there is a vacancy in the office of Speaker by virtue of dissolution of the Legislative Assembly or otherwise or while the holder of that office is absent from the Cook Islands or is for any reason unable to perform any function conferred on him by this Act.

(2) Nothing in this section shall preclude the Speaker from performing at any time when he is absent from the Cook Islands any of the functions conferred upon him by this Act.

(3) The fact that the Clerk exercises any power or duty of the Speaker under this Section shall be sufficient evidence of his authority to do so.

7. Deputy Speaker - Except as otherwise provided in any other enactment, the powers conferred on the Speaker by this Act shall not be exercised by the Deputy Speaker.

8. Expenses of administration to be appropriated by Legislative Assembly - There shall be paid out of the moneys from time to time appropriated by the Legislative Assembly for the purpose such sums as are required for the administration of this Act and the payment of salaries, wages, allowances and other entitlements and expenses of the employees of the Service.

9. Accommodation - (1) As far as is practicable the offices of the Legislative Service shall be situated adjacent to the Assembly Chamber.

(2) The accommodation of the Legislative Service shall be determined by the Premier after consultation with the Speaker.

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10. Public Service Act not to apply - Except in this Act where a contrary provision otherwise requires the Public Service Act 1965 shall not apply to officers of the Legislative Service.

11. Role of the Public Service Commission in respect of the Legislative Service - (1) Except as provided by subsections (2) to (4) of this Section the Public Service Commission shall have no responsibilities nor duties in respect of the Legislative Service.

(2) The Minister may, after consultation with the Speaker, request the Minister responsible for the Public Service to have the Public Service Commission investigate the organisation, methods or procedures of the Legislative Service.

(3) The Commission shall associate itself with the person administering this Act in carrying out any such investigation and shall ensure that in submitting any report under this section a copy is forwarded to the Minister.

(4) The Commission shall, when requested by the Service, -

- (a) arrange travel, bookings and accommodation for the Speaker, members and officers of the Service;
- (b) arrange salary and other payments of the Speaker, and such members of the Assembly and officers of the Service as may be determined after consultation with it;
- (c) furnish advice on and assist with the training of staff.

12. Delegation of Powers - (1) Except where the Standing Orders or any enactment otherwise provides, the Speaker may from time to time, either generally or particularly, delegate any of his powers to the Clerk or other officer of the Legislative Service.

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

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

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

(5) Any such delegation shall, until it is revoked, continue in force according to its tenor, notwithstanding any change in the holder of the position of Speaker.

PART II - OFFICERS OF THE LEGISLATIVE SERVICE

13. Clerk of the Legislative Assembly - (1) The Clerk of the Legislative Assembly shall be appointed by the High Commissioner on the recommendation of the Speaker made after consultation with the Premier. The Premier shall advise the High Commissioner of the recommendation of the Speaker.

(2) The person holding office as Clerk of the Legislative Assembly upon the coming into force of this Act shall be deemed to have been appointed under subsection (1) hereof.

(3) The salary, allowances and other entitlements of the Clerk shall be determined by Order in Executive Council.

14. Clerk-Assistant - (1) There may be a Clerk-Assistant appointed under the provisions of this section.

(2) The Clerk-Assistant shall be appointed by the Premier on the recommendation of the Speaker.

(3) The salary, allowances and other entitlements shall be determined by Cabinet.

15. Editor of Debates - (1) There shall be an Editor of Debates who shall be appointed by the Premier on the recommendation of the Speaker.

(2) The salary, allowances and other entitlements shall be determined by Cabinet.

16. Other officers - (1) There may be appointed by the Premier on the recommendation of the Speaker such interpreters, translators, shorthand reporters, typists, secretaries and clerks as the Speaker in his discretion shall deem necessary to give effect to the provisions of this Act.

(2) The salary, allowances and other entitlements shall be determined by Cabinet.

17. Temporary appointments - Any appointment under sections 14 to 16 may be on a temporary basis.

18. Vacancies may be advertised - At the discretion of the Speaker any vacancy in the Service may be advertised.

19. Evidence of appointment - A copy of the document appointing an officer to the Legislative Service shall be forwarded to him by the Speaker as evidence of his appointment together with the terms and conditions of that appointment.

20. Public Servants appointed to Legislative Service - In the case of the appointment to the Legislative Service of an employee of the Public Service, not being on special leave from the Public Service, his term of office as an officer of the Legislative Service shall be deemed to be continuous service in the Department of the Public Service in which he was employed at the date of that appointment for the purposes of:

- (a) Appointment to, and appeals against any appointment or promotion to a vacant position for which he has applied;
- (b) Entitlement to leave of absence, provided that the entitlement for annual leave shall not exceed three weeks.

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21. Officers of the Legislative Service appointed from outside the Public Service - Subject to any other conditions determined by Cabinet, where any officer of the Legislative Service is appointed from outside the Public Service, his leave entitlements shall be computed as if he were a Public Servant and in the case of a temporary appointee leave entitlement shall be apportioned accordingly.

22. Termination of employment - (1) Every officer, not being a temporary appointee as hereinbefore provided or a wage worker appointed under section 37 of this Act, shall be deemed to be a three-monthly employee and his employment may be terminated in the same manner as he was appointed at any time after three months notice in writing has been given, -

(a) by the appointing authority to the officer on the grounds of redundancy or to effect retirement in accordance with retirement policy, or where a serious breach of section 24 of this Act has been confirmed by the Speaker;

or  
(b) by the officer to the appointing authority.

(2) The employment of any officer may be terminated forthwith where the officer gives less than three months' notice under this section.

(3) Any officer may have his employment terminated in the same manner as he was appointed without notice, by the appointing authority if he is convicted of an offence punishable by a term of imprisonment of six months or more.

(4) Any officer being a temporary appointee may, in addition to the provisions of sub-section (3) hereof have his employment terminated in the same manner as he was appointed with not less than one week's notice in writing, by the appointing authority if he -

(a) by word or conduct displays insubordination;

(b) is negligent, careless, indolent, inefficient, or incompetent in the discharge of his duties;

(c) uses intoxicating liquors or drugs to excess or in such manner as to affect adversely the performance of his duties;

(d) is absent from his office or official duties during hours he is required to be on duty without leave or valid excuse;

(e) is found by the Speaker to have committed a breach of Section 24 of this Act.

(5) For the purpose of this Section "appointing authority" shall be the person under whose hand the appointment was made.

(6) Notwithstanding the provisions of subsections (1) and (2) hereof an officer of the Legislative Service appointed to any position in the Public Service, may have his employment terminated with such lesser period of notice as the Speaker, after consultation with the Commission, decides.

PART III - DUTIES AND FUNCTIONS

23. Duties and Functions - The Legislative Service shall be charged with the duties and functions set out in this Part of this Act.

24. Impartiality - (1) In the discharge of their duties and functions the officers of the Legislative Service shall act impartially.

(2) Any member of the Assembly may make a complaint to the Speaker of any breach by any officer of the Service of the requirement of impartiality.

(3) Such complainant shall give full particulars and shall be in writing.

(4) The Speaker shall make such enquiries as to the complaint as he thinks necessary.

(5) If the Speaker, in his discretion, is satisfied that a bona fide complaint exists, he shall caution and reprimand the officer or take such steps as are required by this Act for the dismissal of the officer.

(6) The decision of the Speaker on any complaint under this section shall be final and shall be communicated to the complainant in writing.

25. Servicing - The Legislative Service shall, in addition to any other duties or functions required to be performed under the Standing Orders or any enactment -

- (a) Provide such clerical, secretarial, typing, reporting, interpreting, translating and advisory services to the Assembly and any Committee thereof as the Speaker in his discretion shall deem necessary;
- (b) Give effect to any decision of the Assembly concerning the servicing requirements of the Assembly or any Committee thereof, and have regard to any special request communicated to it by the Chairman of a Select Committee;
- (c) In consultation with the appropriate Minister and subject to any direction of the Assembly, arrange for the broadcasting and tape recording of the proceedings of the Assembly.

26. Procedure - The Legislative Service shall -

- (a) As the need arises and without limiting the powers of the Assembly review the Standing Orders and submit reports to the Standing Select Committee on Standing Orders on any proposals for amendment or reform;
- (b) Advise members when so requested on matters of procedure.

27. Official report of proceedings - (1) Subject to the Standing Orders, the Legislative Service shall arrange the preparation and printing of an official report of the proceedings of the Assembly (which may also be known as "Hansard") in such form and in such manner as the Speaker shall decide.

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(2) The Legislative Service shall as soon as practicable after publication transmit a copy of the official report to the High Commissioner and circulate copies to members.

28. Journals - (1) Subject to the Standing Orders the Clerk shall keep daily minutes (which shall be known as "Journals") of the votes and proceedings of the Assembly and of Committees of the Whole Assembly.

(2) The Journals shall constitute a formal and permanent record of the proceedings in the Assembly.

29. Printing of Acts and Statutory Instruments - (1) The Legislative Service shall be responsible for arranging the printing, reprinting and distribution of Acts and Statutory Instruments in the English and Maori language.

(2) Unless otherwise specified in any other enactment the style, form and numbering of all Acts and Statutory Instruments shall be determined by the Legislative Service.

(3) Subject to the Constitution, and under the direction of the Attorney-General, the Legislative Service, in the reprint from time to time of any Act or Statutory Instrument may -

- (a) prepare and arrange for the publication of a composite reprint edition of the Constitution and any Act or Statutory Instrument in such form as the Legislative Service shall consider desirable;
- (b) prepare a separate reprint of the Constitution or any Act or Statutory Instrument ;
- (c) omit formal, enacting or introductory words;
- (d) unless inconsistent with the context, revise and correct obsolete references to Acts and Statutory Instruments and any office, department, board, or any other body whatsoever;
- (e) omit all repealed or revoked provisions and may renumber remaining provisions accordingly;
- (f) make such alterations as may be necessary to conform to current drafting style and practice, and reconcile any contradictions, supply any omissions, and amend any imperfections in the form of any existing Act or Statutory Instrument.

Provided that the substance of any Act or Statutory Instrument shall not be changed.

[Amended Act 1992-93/18]



30. Security of original documents - The originals of all documents to which section 29 refers shall be kept and secured in the offices of the Legislative Service and shall not be released therefrom except in compliance with an order of the High Court or as may be required for printing purposes.

31. Security of Acts upon which assent signified - A copy of every Act upon which the assent of the High Commissioner has been signified pursuant to the Constitution shall be lodged with the Justice Department for permanent retention and safe-keeping by that Department and a copy shall also be secured in the offices of the Legislative Service.

32. Printing and publication of documents - (1) Every Act, law, report, paper, minutes, Journals or votes and proceedings of the Assembly printed or published by or under the authority of this Act, shall, for the purposes of the Legislative Assembly Powers and Privileges Act 1967 be deemed to be so printed or published by order or under the authority of the Assembly.

(2) Every Act and Statutory Instrument and every copy of the official report, Journals or minutes, printed under the authority of this Act shall have printed thereon evidence to the effect that the printing of them is so authorised.

(3) Every Act and Statutory Instrument to which this section applies shall have printed thereon the Department or section of Government in which that Act or Statutory Instrument is administered.

33. Sale of Documents - (1) All Acts, Statutory Instruments, official reports, and such other public documents as the Minister of Finance shall determine, whether in the English or Maori language, shall be available for sale to the general public at the offices of the Legislative Service.

(2) The price charged upon the sale of any document under this section shall be in accordance with a scale of charges submitted by the Service to and approved by the Minister of Finance.

(3) Every document for which a charge is payable shall bear the price printed thereon.

(4) Members of the Legislative Assembly and such other departments, offices, bodies or persons as the Minister of Finance determines shall be exempted from such charges under this section as that Minister decides.

34. Administration of Acts - The Legislative Service shall be charged with the administration of the following Acts:-

- (a) Legislative Assembly Powers and Privileges Act 1967:
- (b) Civil List Act 1968:
- (c) This Act.

35. Library Service - (1) The Legislative Service is hereby authorised to establish, operate and expand a library service for the benefit of members and officers of the Service.

(2) A copy of every document printed or published under the authority of this Act and such of the records of the Assembly as may be of historic or other interest shall be preserved in the library service.

(3) At the discretion of the Speaker the library service may be made available to strangers.

#### PART IV - MISCELLANEOUS

36. Laying of delegated legislation - Every Government Department administering any enactment under which the making of delegated legislation is authorised and where such delegated legislation is required to be laid before the Legislative Assembly, shall as soon as practicable after the making thereof and within the prescribed period, arrange, through its Minister, with the Clerk the laying of same before the Assembly.

37. Wage Workers - (1) Where in the opinion of the Speaker any work required to be done in the Legislative Service does not warrant the employment of salaried staff by reason of its temporary, fluctuating or special nature, the Speaker may authorise the engagement of wage workers by the Legislative Service.

(2) Wage workers engaged under the preceding subsection may be discharged by the Speaker with one week's notice, or without notice as the circumstances require.

38. No compensation for loss of salary - Except as provided by this Act or any other enactment, no employee shall be entitled to any compensation by reason of any reduction in salary, or in consequence of his service being dispensed with.