



ANALYSIS

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1998, No. 15

An Act to amend the Rarotonga Local Government Act 1997

(28 September 1998)

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 Rarotonga Local Government Amendment Act 1998 and shall be read together with and deemed part of the Rarotonga Local Government Act 1997 (hereinafter referred to as "the principal Act").

2. Interpretation - Section 3 of the principal Act is amended, by -
- (a) deleting in the definition of "Pu Tapere", the word "and" and substituting the word "or";

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- (b) inserting the following definitions –

““Crown servant” has the same meaning it is given in the Electoral Act 1998;

“Elections Administrator” means the Elections Administrator appointed pursuant to section 25B of this Act;

“Electoral Provisions” means sections 27A, 27B, 27C and 27D of this Act;

“Returning Officer” means a Returning Officer appointed by the Elections Administrator pursuant to section 25C of this Act.”

“tapere” means the areas referred to and renamed for the purposes of this Act, as shown in plans S.O 1002A, S.O 1002B, S.O 1002C, S.O 1002D, S.O 1002E, S.O 1741, and more particularly referred to in the First Schedule to this Act.”

3. Taking of office - Section 8 of the principal Act is hereby repealed.

4. Konitara Tutara - Section 9 of the principal Act is amended by –
- (a) inserting at the beginning of subsection (2), the words “Subject to section 32 of this Act.”;
 - (b) deleting from subsection (2) that part of the sentence beginning with “but may” and ending with “Rarotonga.”;
 - (c) repealing subsection (6).

5. Membership of the Kumiti Oire - Section 21 of the principal Act is amended by –

- (a) deleting from subsection (1)(a) the words “shall be” and substituting the word “, as”;
- (b) inserting in subsection (1)(a), after the words “ex-officio member” the words “, without voting powers”;
- (c) inserting in subsection (1)(b) after the words “in the Oire,” the words “to be known as the Mema Kumiti Oire,”
- (d) inserting after subsection (1)(b) the following new paragraph –
 - “(c) where there is a Pu Tapere in the subdistrict, the Pu Tapere as an ex-officio member with the same voting powers as a Mema Kumiti Oire.”
- (e) inserting in subsection (3), before the reference “S.O 1002A”, the reference “S.O 1741.”;

- (f) deleting from subsection (3) the words "subsection (3)" and substituting the words "subsection (2)".

6. Delegation of functions and powers of the Kumiti Oire - The principal Act is amended by inserting after section 22 the following new section -

"22A. Delegation of functions and powers of the Kumiti Oire - (1) The Kumiti Oire may, either generally or particularly, delegate from time to time to the Kumiti Tapere, any of the functions or powers exercisable by the Kumiti Oire under section 22 of this Act.

(2) Subject to any general or special directions given or conditions attached by the Kumiti Oire, the Kumiti Tapere may exercise any powers or functions delegated to the Kumiti Tapere as aforesaid in the same manner and with the same effect as if they had been conferred on the Kumiti Tapere directly by this Act and not by delegation.

(3) Any such delegation shall -

- (a) be revocable at will and no such delegation shall prevent the exercise of any power or function by the Kumiti Oire;
- (b) until revoked, continue in force according to its tenor."

7. Pu Tapere - Section 25 of the principal Act is amended by deleting the following -

- "(a) the Konitara Vaka;
(b)".

8. Kumiti Tapere and Electoral Officers - The principal Act is amended by inserting after Part III, the following new Parts -

"PART IIIA
KUMITI TAPERE

"25A. Kumiti tapere - (1) The residents of a tapere may for the purposes of this Act, establish a committee to be known as the Kumiti Tapere having such functions, duties and powers as are determined by the Kumiti Oire or the tapere.

(2) The Kumiti Tapere shall comprise 3 office bearers who for the time being shall be -

- (a) the Pu Tapere as Chairperson; or
(b) where there is no office of Pu Tapere, a Chairperson to be known as the Akaaere Tapere;

and -

- (c) the Secretary;

(d) the Treasurer;
and any other persons deemed necessary by the tapere to be on the Kumiti Tapere, from time to time.

(3) The members of the Kumiti Tapere shall be known as the Mema Kumiti Tapere.

PART IIIB
ELECTORAL OFFICERS

25B. Elections Administrator - (1) There shall be appointed from time to time, by the Minister in accordance with a decision of Cabinet, an Elections Administrator who shall be charged with the duty of administering the Electoral Provisions.

(2) The office of the Elections Administrator may be held concurrently with any other office.

25C. Returning Officer - (1) The Elections Administrator shall, in the event of any election held pursuant to sections 9(1), 21(1)(b) and 27C of this Act, appoint for each Vaka, such number of Returning Officers as he or she deems necessary, for the carrying out of the duties or functions of a Returning Officer under the Electoral Provisions.

(2) In the event that a Returning Officer for any reason, cannot carry out his or her duties under the Electoral Provisions, the Elections Administrator may appoint a substitute for that officer.

(3) Any substitute appointed under subsection (2), while so acting, shall exercise the duties, powers and authority of the officer for whom he or she is acting, and the fact that any substitute so acts shall be sufficient evidence of his or her authority to do so.

(4) Every person appointed under this section shall discharge his or her duties and functions subject to the control of the Elections Administrator, and shall comply with any directions issued by the Elections Administrator from time to time.

(5) With the approval of the Elections Administrator, every Returning Officer may appoint as many polling clerks as he or she deems necessary for the effective taking of the poll at every polling booth."

9. Qualification of electors of the Konitara Tutara and the members of the Kumiti Oire - The principal Act is amended by repealing section 27 and substituting the following new section -

"27. Qualification of electors of the Konitara Tutara and Mema Kumiti Oire - (1) A person shall be qualified to be an elector at an election of the Konitara Tutara and the Mema Kumiti Oire if that person -

(a) is domiciled in the Cook Islands;

- (b) in the election of –
 - (i) the Konitara Tutara, is a resident of the Vaka; or
 - (ii) the Mema Kumiti Oire, is a resident of the subdistrict –
and has continuously been so resident for a period of not less than 30 days prior to that person's application for registration as an elector;
 - (c) is 18 years of age or over;
 - (d) has not been convicted in the Cook Islands or elsewhere of an offence punishable by death or imprisonment for life or for a term exceeding one year, unless that person has undergone the sentence or punishment, and not less than 2 years has elapsed since the completion of that sentence or punishment;
 - (e) is not of unsound mind;
 - (f) has not been declared bankrupt.
- (2) Every person who is qualified as an elector pursuant to subsection (1) of this section shall be entitled to be nominated and elected as a Konitara Tutara, or a Mema Kumiti Oire provided however that as a nominee for a Konitara Tutara, such person shall have been continually resident in the Vaka for not less than 3 months prior to nomination."

10. Conduct of elections - The principal Act is further amended by inserting after section 27, the following new sections –

- "27A. Conduct of Mema Kumiti Oire elections - (1) In respect of every election held pursuant to section 21(1)(b) of this Act, the Returning Officer shall –
- (a) ensure that the date of election as determined by the Queen's Representative by Order in Executive Council is publicised;
 - (b) compile a role of qualified electors for each subdistrict in the Oire as provided in the First Schedule to this Act;
 - (c) call for nominations from persons qualified for election under section 27(2) of this Act;
 - (d) publicise the names of the nominees;
 - (e) make such arrangements as the Elections Administrator may approve for votes to be cast in advance by voters who will be absent from Rarotonga on the date of election;
 - (f) on the day of the election provide in each Vaka, an adequate number of ballot boxes, ballot papers and pencils;

- (g) subject to section 25C(5), appoint polling clerks for each polling booth in the Vaka;
 - (h) count, with the assistance of the polling clerks and under the supervision of a member of the Police, the votes cast;
 - (i) hand all ballot papers to the Elections Administrator for safe keeping;
 - (j) publicise the results and advise the Elections Administrator.
- (2) The polling clerk shall –
- (a) supervise the casting of votes and ensure secrecy of the ballot;
 - (b) as each vote is cast strike the name of the voter from the roll and ensure that each elector votes only once;
 - (c) after every voter has been given an opportunity to vote, convey the ballot box and contents to the Returning Officer;
 - (d) assist the Elections Administrator in the counting of votes as provided in subsection (1) of this section.
- (3) Every voter shall select the candidate for whom he or she wishes to vote on a ballot paper which he or she shall then fold and deposit in the ballot box provided for the purpose.

27B. Conduct of Konitara Tutara elections - (1) In respect of every election held pursuant to section 9(1) of this Act, the Returning Officer shall –

- (a) compile a roll of qualified electors for the Vaka;
- (b) call for nominations of persons qualified for election pursuant to section 27(2) of this Act;
- (c) publicise the names of the nominees;
- (d) make such arrangements as the Elections Administrator may approve for votes to be cast in advance by voters who will be absent from Rarotonga on the date of the election;
- (e) on the day of the election, provide for each Vaka, an adequate number of ballot boxes and ballot papers;
- (f) count under the supervision of a member of the Police, the votes cast;
- (g) hand all ballot papers to the Elections Administrator for safekeeping;
- (h) publicise the results and advise the Elections Administrator.

(2) Every polling clerk appointed pursuant to section 27A(1)(g) shall provide such assistance and have the same functions and duties in relation to a Konitara Tutara election as is provided in section 27A of this Act.

(3) Every voter shall select the Konitara Tutara candidate for whom he or she wishes to vote on a ballot paper which he or she shall then fold and deposit in the ballot box provided for the purpose.

27C. Disputed elections - (1) Where there is any dispute of an election held under sections 27A and 27B of this Act, the following provisions shall apply -

- (a) notification of the dispute together with full details, shall be given to the Elections Administrator within 14 days of the appointments referred to in section 27D(2) of this Act;
- (b) the Elections Administrator shall notify in writing, the member so appointed, of the dispute to his or her election and such member shall, if he or she wishes to reply, reply within 7 days of the notice;
- (c) the Elections Administrator shall determine whether or not the dispute shall be upheld and if upheld, shall declare void the election of the member or members affected and shall cause a new election to be held within 14 days of the declaration, as far as possible in accordance with the Electoral Provisions;
- (d) the Election Administrator's decision shall be final in any dispute raised over any election.

27D. Public notification of filling of vacancies - (1) Within one day of the holding of any election pursuant to sections 9(1), 21(1)(b) and 27C of this Act, the Elections Administrator shall publicise the names of the persons elected.

(2) After completion of the elections, including the election of the Metua Konitara Vaka under section 28 of this Act, the Minister shall forward to the Queen's Representative, a Warrant of Appointment in respect of each elected member, for signing by the Queen's Representative on the advice of the Minister.

(3) In the event that the election of a member appointed under this section is determined void by the Elections Administrator pursuant to section 27C(c) of this Act, then the appointment of that member shall cease from the date of the Election Administrator's decision."

11. Election of the Metua Konitara Vaka - Section 28 of the principal Act is amended by repealing section 28 and substituting the following new section -

“28. Election of the Metua Konitara Vaka - The Mema Kumiti Oire and the Pu Tapere shall, within one day of their appointment as members of the Kumiti Oire, elect from amongst the Mema Kumiti Oire, one person to be the Metua Konitara Vaka for that Oire.”

12. Public servants may become candidates or be elected - Section 30 of the principal Act is amended by deleting the word “public” wherever it occurs, and substituting the word “Crown”.

13. Term of office - Section 32 of the principal Act is amended by deleting from subsection (3), paragraph (a), and substituting the following new paragraph -

“(a) the Elections Administrator declares the member’s election void pursuant to section 27C of this Act;”.

14. Konitara Vaka funds - Section 37 of the principal Act is amended by deleting from subsection (3), the words “Subject to section 39(6) of this Act”.

15. Kumiti Oire funds - Section 38 of the principal Act is amended by deleting from subsection (2) the words “Konitara Vaka” and substituting the words “Financial Secretary”.

16. Estimates - Section 39 of the principal Act is repealed.

17. Audit - The principal Act is amended by inserting after section 38, the following new section -

“39. Audit - (1) Every Konitara Vaka and Kumiti Oire shall cause true and full accounts and records to be kept of all its transactions which the Konitara Vaka or Kumiti Oire is concerned, and the books of account and record shall be kept at the office of the Chief Administration Officer.

(2) The accounts shall be subject to annual audit.”

18. Accounts - Section 40 of the principal Act is repealed.

19. First Schedule - The First Schedule of the principal Act is amended by deleting the following -

<u>Takuvaine-Teotue-Tutakimoa</u>	1.	Tutakimoa
	2.	Tauae
	3.	Takuvaine”

and substituting the following –

- “Takuvaine-Tutakimoa-Teotue**
1. Takuvaine-Ki-Uta and Tauae
 2. Takuvaine-Ki-Tai and Parekura
 3. Tutakimoa and Teotue”

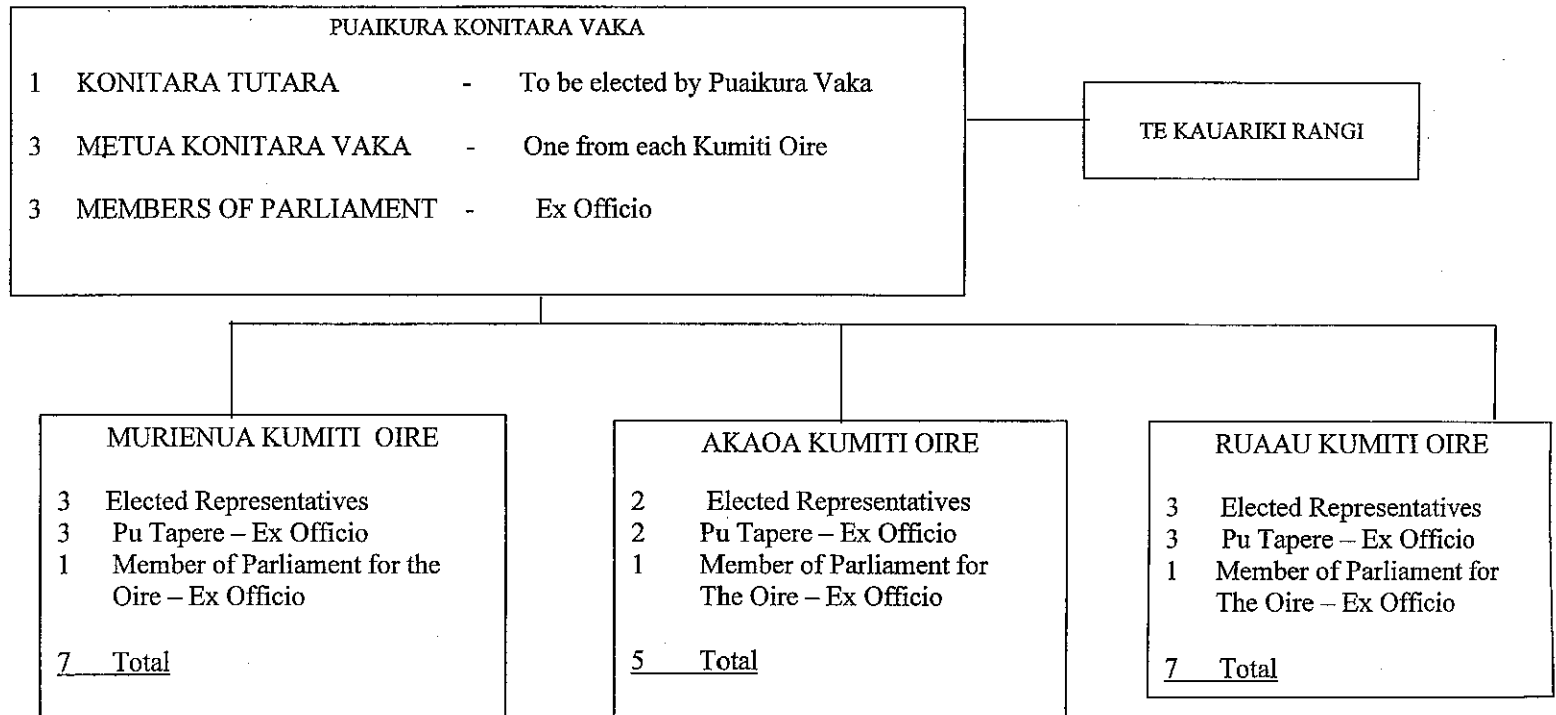
20. Second Schedule - The principal Act is amended by deleting the Second Schedule and substituting the following new Second Schedule.

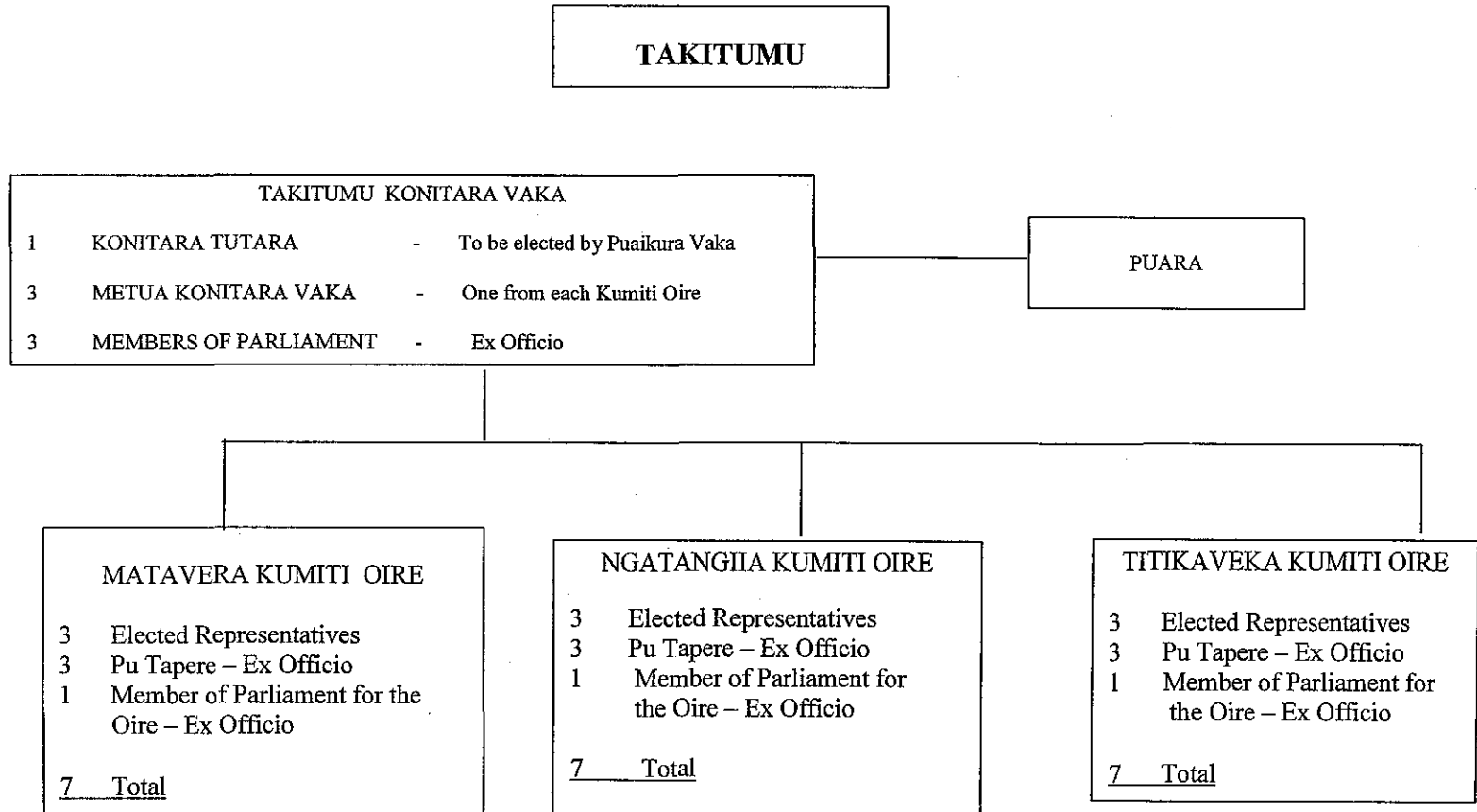
This Act is administered by the Ministry responsible for the Rarotonga Local Government Act 1997

SECOND SCHEDULE

Sections 5,6,7 and 21

PUIKURA





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