

# Cook Islands Amendment Act 1950

Public Act 1950 No 92  
Date of assent 1 December 1950

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**An Act to amend the Cook Islands Act 1915****1 Short Title**

This Act may be cited as the Cook Islands Amendment Act 1950, and shall be read together with and deemed part of the Cook Islands Act 1915 (hereinafter referred to as the principal Act).

**Part 1  
Native Antiquities****2 Interpretation**

In this Part of this Act the expression **Native antiquities** includes Native relics, articles manufactured with ancient Native tools and according to Native methods, and all other articles or things of historical or scientific value or interest and relating to the Cook Islands, but does not include any botanical or mineral collections or specimens.

**3 High Commissioner may acquire Native antiquities**

The High Commissioner may acquire on behalf of Her Majesty for the benefit of the people of the Cook Islands such Native antiquities as he thinks expedient, and may provide for their safe custody.

The original section 3 was amended, as from 7 June 1965, by section 3 Cook Islands Amendment Act 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1).

Section 3 was substituted, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39).

**4 Native antiquities to be offered for sale before exportation**

It shall not be lawful to remove from the Cook Islands any Native antiquities without first offering them for sale to the High Commissioner on behalf of Her Majesty for the benefit of the people of the Cook Islands.

The original section 4 was amended, as from 7 June 1965, by section 3 Cook Islands Amendment Act 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1).

Section 4 was substituted, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39).

**5 Power to detain Native antiquities attempted to be exported**

It shall be the duty of all constables and officers of Customs to seize and detain any Native antiquities attempted to be removed from the Cook Islands contrary to the provisions of this Part of this Act.

**6 Exporting Native antiquities without permission**

- (1) Every person who, without the express permission in writing of the High Commissioner, exports from the Cook Islands any Native antiquities commits an offence, and shall be liable to a fine not exceeding \$200.
- (2) Notice of the intention to export any Native antiquities shall be given by the exporter to the Collector or other proper officer of Customs at least 24 hours before shipment.
- (3) Any Native antiquities entered for export contrary to this Part of this Act shall be deemed to be forfeited, and shall vest in Her Majesty for the benefit of the people of the Cook Islands: Provided that the High Commissioner may, after inquiry, cancel the forfeiture if he thinks fit.

Subsection (1) was amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1) by substituting the words “Niue or, without the consent of the High Commissioner, exports from the Cook Islands other than Niue” for the words “the Cook Islands”.

Subsection (1) was further amended, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39) by substituting the words “the High Commissioner, exports from the Cook Islands” for the words “Minister, exports from Niue or, without the consent of the High Commissioner, exports from the Cook Islands other than Niue”.

The original proviso to subsection (3) was amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1).

The proviso to subsection (3) was substituted, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39).

**7 Power to remove antiquities in certain cases**

Nothing in this Part of this Act shall be deemed to prevent any person who has offered any Native antiquities for sale as provided by section 4 of this Act from removing those Native antiquities from the Cook Islands, if he has previously obtained the permission in writing of the High Commissioner.

The original section 7 was amended, as from 7 June 1965, by section 3 Cook Islands Amendment Act 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1).

Section 7 was substituted, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39).

## **8 Right to copy of antiquities intended to be exported**

- (1) On any application for permission to export any Native antiquities the High Commissioner may, if he thinks fit, make it a condition of the granting of the application that the owner thereof allows them to be copied, by photography, cast, or otherwise, in such manner and by such person as the High Commissioner directs.
- (2) Every such copy shall be the property of Her Majesty for the benefit of the people of the Cook Islands.

Subsection (1) was amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1) by substituting the words “or, as the case may be, the High Commissioner may, if he thinks fit” for the words “may, if he thinks fit”.

Subsection (1) was further amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1) by substituting the words “Minister, or as the case may be, the High Commissioner directs” for the words “Minister directs”.

Subsection (1) was further amended, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39) by substituting the words “the High Commissioner may, if he thinks fit” for the words “the Minister or, as the case may be, the High Commissioner may, if he thinks fit”.

Subsection (1) was further amended, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39) by substituting the words “the High Commissioner directs” for the words “the Minister or, as the case may be, the High Commissioner directs”.

## **9 High Commissioner to decide what articles come under this Part**

In case any dispute arises as to whether any article or thing comes within the scope of this Part of this Act, that dispute shall be determined by the High Commissioner, whose decision thereon shall be final.

Section 9 was amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1) by inserting the words “in the case of an article in Niue, and by the High Commissioner in any other case”.

Section 9 was further amended, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39) by substituting the words “the High

Commissioner” for the words “the Minister in the case of an article in Niue, and by the High Commissioner in any other case”.

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Section 10 was repealed, as from 1 January 1967, by section 2(2) Cook Islands Amendment Act 1966 (1966 No 39).

## Part 2

### Miscellaneous Amendments of Principal

#### Act

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(1) This subsection amended the definition of the term **Native freehold land** in s 2 of the principal Act.

(2) All land which or an undivided share in which on the passing of this Act is beneficially vested in fee simple in a descendant of a Native who has derived his title thereto by intestate succession shall be deemed as from the passing of this Act to be Native freehold land:

Provided that nothing in this subsection shall affect the rights of any person under any alienation, lease, or mortgage or other charge, encumbrance, or disposition in existence on the passing of this Act.

(3) The enactments specified in Schedule 1 to this Act are hereby amended in the manner indicated in that Schedule.

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Section 12 was repealed, as from 27 November 1970, by section 2(2)(c) Cook Islands Amendment Act 1970 (1970 No 56).

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Section 13 was repealed, as from 25 October 1957, by section 90(2) Cook Islands Amendment Act 1957 (1957 No 103).

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Section 14 was repealed, as from 27 November 1970, by section 2(2)(c) Cook Islands Amendment Act 1970 (1970 No 56).

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Section 18 was repealed, as from 25 October 1957, by section 91(2) Cook Islands Amendment Act 1957 (1957 No 103).

**19 Validating lease of Aitutaki Aerodrome to the Crown**

Whereas the land described in the Schedule 2 to this Act (in this section referred to as the said land) and commonly known as the Aitutaki Aerodrome is Native freehold land: And whereas the said land is at the passing of this Act in the occupation of the Crown upon the terms of an oral agreement to lease entered into by representatives of the Native owners as lessors and on behalf of the Crown as lessees:

And whereas no written lease of the said land has been signed and, having regard to the large number of Native owners having an interest in the said land, it is not practicable for a written lease thereof to be signed by all the Natives having an interest therein: And whereas it is expedient that the oral agreement to lease be validated as if it had been reduced to writing and signed by all persons having an interest in the said land: Be it therefore enacted as follows:

The land described in the Schedule 2 to this Act shall be deemed to be and to have at all times been validly and effectually leased by the owners thereof for themselves, their heirs, and successors to the Minister of Foreign Affairs for and in the name of Her Majesty (in this section referred to as the Crown) upon and subject to the following terms:

- (a) The lease shall be deemed to have been granted on the 9th day of September 1942:
- (b) The lease shall be for a term of 30 years from the said date with a perpetual right of renewal for further successive period of 30 years each:
- (c) The annual rent payable to the persons entitled during the first term of the lease shall be \$1 for every acre of the said land:
- (d) If the Crown desires to obtain a renewal of the lease pursuant to paragraph (b) hereof, the Crown shall not later than 6 months before the expiration of the first term or, as the case may be, the subsisting renewal term of the lease, obtain at the expense of the Crown a revaluation of the said land for the purpose of assessing the annual rent to be paid during the term of the renewal lease:

- (e) Subject to the next succeeding paragraph, the annual rent to be paid during the currency of each renewal term of the lease shall be 5 percent of the unimproved value of the said land as determined on the revaluation made pursuant to the last preceding paragraph, but shall not be less than \$1 for every acre of the said land:
- (f) In the event of any dispute between the Crown and any person entitled to a share of the annual rent as to the unimproved value of the said land for the purposes of ascertaining the rent payable during the currency of any renewal of the said lease, the High Court shall, on the application of the High Commissioner or of any person so entitled made not later than 6 months after the commencement of the renewal term, determine the unimproved value of the said land for the purposes of the renewal term:
- (g) The Crown shall be entitled at any time to remove all or any improvements effected on the said land during the currency of the lease or of any renewal thereof, and shall be under no liability whatsoever to pay compensation in respect of any improvements so removed.

Paragraph (f) was amended, as from 1 April 1959, by section 95(3) Cook Islands Amendment Act 1957 (1957 No 103). See regulation 2 Cook Islands Amendment Act Commencement Order 1959 (SR 1959/62).

Paragraph (f) was further amended, as from 7 June 1965, by section 3(2) Cook Islands Amendment Act 1965 (1965 No 1) by substituting the words “the High Commissioner” for the words “the Minister or of the Resident Commissioner of the Cook Islands”.

The words “Minister of Island Affairs” were substituted, as from 31 October 1968, for the words “Minister of Island Territories” pursuant to section 8(2) Maori and Island Affairs Department Act 1968 (1968 No 14). These words were in turn substituted, as from 8 November 1974, by the words “Minister of Foreign Affairs” pursuant to section 2(4)(a) Cook Islands Amendment Act 1974 (1974 No 80).

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## Schedule 1

Section 11(3)

### Consequential Amendments

This Schedule was amended, as from 25 October 1953, by section 12(2) Cook Islands Amendment Act 1963 (1963 No 132) by omitting so much as relates to s 492 of the principal Act.

This Schedule was further amended, as from 25 November 1982, by section 2(2) Cook Islands Amendment Act 1982 (1982 No 65) by omitting so much as relates to s 139 of the principal Act and to s 39 Cook Islands Amendment Act 1946 (1946 No 30).

## Schedule 2

Section 19

### Description of Land Included in Lease

Lands Leased for Aerodrome and Purposes Ancillary Thereto at Vaitupa, Aitutaki, as More Particularly Appearing in Plan Number 47 Signed by the Resident Commissioner of Rarotonga and Deposited in the Office of the Registrar of the High Court of the Cook Islands at Rarotonga

Section No	Area			Coloured
	A	R	P	
64	6	1	10	Green
63	6	0	2	Blue
8B	7	2	37	Yellow
8A	10	1	26	Green
62	13	0	34	Blue
61	13	0	28	Yellow
60	9	1	7	Green
59	7	1	33	Blue
58	8	0	34	Yellow
57	4	2	31	Green
56	5	3	23	Blue
7	11	1	12	Yellow
7	0	0	7	Yellow



Section No	Area			Coloured
55	28	3	25	Green
54	12	1	7	Blue
54	3	0	12	Blue
53	5	1	27	Yellow
53	2	3	33	Yellow
53	2	2	36	Yellow
52	7	0	14	Green
52	3	3	32	Green
52	0	1	14	Green
49	6	0	32	Blue
49	2	3	39	Blue
42	1	2	29	Green
41	14	2	31	Yellow
39	1	0	19	Green
39	0	0	2	Green
Total	197	0	36	