

**Version
as at 5 April 2023**



Foreign Affairs Act 1988

Public Act 1988 No 159
Date of assent 29 November 1988
Commencement see section 1(2)

Act name: amended, on 1 July 1993, by section 2(2) of the Foreign Affairs Amendment Act 1993 (1993 No 48).

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Foreign Affairs and Trade.

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An Act to make better provision for the conduct of relations between New Zealand and foreign states generally

1 Short Title and commencement

- (1) This Act may be cited as the Foreign Affairs Act 1988.
- (2) This Act shall come into force on 1 December 1988.

Section 1(1): amended, on 1 July 1993, by section 2(2) of the Foreign Affairs Amendment Act 1993 (1993 No 48).

2 Interpretation

In this Act, unless the context otherwise requires,—

head of mission means a person who is appointed by the Governor-General to be—

- (a) High Commissioner for New Zealand in any Commonwealth country, or in the Cook Islands; or
- (aa) High Commissioner for New Zealand in Niue; or
- (b) Ambassador of New Zealand to any State that is not a Commonwealth country; or
- (c) head of mission for New Zealand at any international organisation; or
- (d) head of mission for New Zealand (not being a high commissioner or ambassador) to any State

head of post means a person who is not a head of mission but is appointed by the Governor-General to be the head of a New Zealand government office in any State

Ministry means the Ministry of Foreign Affairs and Trade

Secretary means the Secretary of Foreign Affairs and Trade

State means any State, country, or territory; but does not include New Zealand

State services has the meaning given to it by section 5 of the Public Service Act 2020.

Section 2 **head of mission** paragraph (a): substituted, on 1 July 1993, by section 3(1) of the Foreign Affairs Amendment Act 1993 (1993 No 48).

Section 2 **head of mission** paragraph (aa): inserted, on 1 July 1993, by section 3(2) of the Foreign Affairs Amendment Act 1993 (1993 No 48).

Section 2 **Ministry**: substituted, on 1 July 1993, by section 3(3) of the Foreign Affairs Amendment Act 1993 (1993 No 48).

Section 2 **Secretary**: substituted, on 1 July 1993, by section 3(4) of the Foreign Affairs Amendment Act 1993 (1993 No 48).

Section 2 **State services**: amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

2AA Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

Section 2AA: inserted, on 5 April 2023, by section 4 of the Foreign Affairs (Consular Loans) Amendment Act 2023 (2023 No 9).

2A Maori name of Ministry of Foreign Affairs and Trade

The name of the Ministry of Foreign Affairs and Trade is, in the Maori language, Manatū Aorere.

Section 2A: inserted, on 1 July 1993, by section 4 of the Foreign Affairs Amendment Act 1993 (1993 No 48).

3 Secretary of Foreign Affairs and Trade

The chief executive of the Ministry shall be known as the Secretary of Foreign Affairs and Trade.

Section 3: substituted, on 1 July 1993, by section 5 of the Foreign Affairs Amendment Act 1993 (1993 No 48).

4 Appointment of head of mission or head of post

(1) The Governor-General may from time to time appoint or reappoint any person as a head of mission or head of post.

(2) The procedure put in place by the Secretary pursuant to clause 5 of Schedule 8 of the Public Service Act 2020 shall not apply to any appointment or reappointment of a head of mission or head of post.

Compare: 1983 No 128 s 10A; 1988 No 34 s 7

Section 4(2): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

5 Removal from office

The Governor-General may from time to time remove any head of mission or head of post from office.

Compare: 1983 No 128 s 10B; 1988 No 34 s 7

6 Overseas assignments

(1) The Secretary may assign to service overseas—

- (a) *[Repealed]*
 - (b) any officer or employee of the Ministry; or
 - (c) any other person, being an officer or employee of the State services or of New Zealand Trade and Enterprise (as established by the New Zealand Trade and Enterprise Act 2003), who is on secondment to the Ministry.
- (2) The Secretary may reassign—
- (a) to service in New Zealand; or
 - (b) to other service overseas,—
- any person who is assigned to service overseas under subsection (1).
- (3) The procedure put in place by the Secretary pursuant to clause 5 of Schedule 8 of the Public Service Act 2020 shall not apply to assignments or reassignments pursuant to this section.

Compare: 1983 No 128 s 10C; 1988 No 34 s 7

Section 6(1)(a): repealed, on 25 January 2005, by section 19(1) of the State Sector Amendment Act (No 2) 2004 (2004 No 114).

Section 6(1)(b): amended, on 25 January 2005, by section 19(1) of the State Sector Amendment Act (No 2) 2004 (2004 No 114).

Section 6(1)(c): amended, on 1 July 2003, by section 84 of the New Zealand Trade and Enterprise Act 2003 (2003 No 27).

Section 6(3): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

7 Conditions of service overseas

The Secretary shall determine the allowances and other conditions of service applicable to—

- (a) any head of mission or head of post; or
- (b) any person assigned or reassigned under section 6 to service overseas.

Compare: 1983 No 128 s 10D; 1988 No 34 s 7

8 Code of conduct

The Secretary may from time to time promulgate a code of conduct for members of the staff of overseas missions and overseas posts, including—

- (a) heads of mission and heads of post; and
- (b) persons assigned or reassigned under section 6 to service overseas.

Compare: 1983 No 128 s 10E; 1988 No 34 s 7

9 Application of Government Superannuation Fund Act 1956 to persons serving overseas

- (1) For the purposes of the Government Superannuation Fund Act 1956,—
- (a) every overseas mission and overseas post is hereby declared to be, and every overseas mission, overseas post, former overseas mission, and for-

mer overseas post is hereby deemed to have been, part of the Government service:

- (b) a person shall be deemed neither to be, nor to have been, employed in the Government service during any period during which that person is or was serving overseas unless, immediately before the commencement of that period, that person was permanently employed in the Government service.

- (2) For the purposes of subsection (1), **Government service** has the same meaning as in the Government Superannuation Fund Act 1956.

Compare: 1983 No 128 s 10F; 1988 No 34 s 7

10 Locally engaged staff

Any head of mission or head of post may, on conditions determined by the Secretary, employ persons as members of the local staff of the overseas mission or overseas post concerned.

Compare: 1983 No 128 s 10G; 1988 No 34 s 7

11 Superannuation schemes for locally engaged staff

- (1) The Secretary may, with the concurrence of the Minister of Finance, determine the superannuation rights of persons employed under section 10.
- (2) All contributions, retiring allowances, annuities, and other amounts payable by the Government of New Zealand pursuant to any determination under subsection (1) shall be paid out of public money without further appropriation than this section.

Section 11(2): amended (with effect on 1 July 1989), on 26 July 1989, by section 86(1) of the Public Finance Act 1989 (1989 No 44).

12 Persons assigned overseas who are servicemen

No person shall cease to be a serviceman (within the meaning of section 2 of the Defence Act 1971) for the purposes of that Act or the Armed Forces Discipline Act 1971 merely because that person is assigned or reassigned overseas under section 6.

Compare: 1983 No 128 s 19

12A Consular loans

- (1) The Minister of Foreign Affairs, on behalf of the Crown, may lend money to—
 - (a) a New Zealand citizen who is outside New Zealand:
 - (b) a permanent resident who is outside New Zealand:
 - (c) an individual who is assisting a person referred to in paragraph (a) or (b) (an **assisting party**).
- (2) The Minister may lend money under subsection (1) if the Minister is satisfied that—

- (a) a person referred to in subsection (1)(a) or (b) is in distress; and
 - (b) exceptional circumstances exist; and
 - (c) lending money would provide short-term assistance consistent with New Zealand's consular functions.
- (3) The Minister may lend money under subsection (1) on any terms and conditions that the Minister sees fit.
- (4) If the Minister lends money under subsection (1), the amount payable by the borrower is recoverable in a court of competent jurisdiction as a debt due to the Crown.
- (5) In this section,—
- borrower** means a person or an assisting party who—
- (a) received a loan under subsection (1); and
 - (b) has not fully repaid the amount payable under the loan
- permanent resident** has the same meaning as in section 4 of the Immigration Act 2009.

Section 12A: inserted, on 5 April 2023, by section 5 of the Foreign Affairs (Consular Loans) Amendment Act 2023 (2023 No 9).

13 Prerogative of Crown not affected

Nothing in this Act extinguishes any power or authority that, if this Act had not been passed, would be exercisable by virtue of the prerogative of the Crown.

Compare: 1983 No 128 s 25

14 Consequential amendments, repeals, and savings

- (1) The enactments specified in Schedule 2 are hereby amended in the manner indicated in that schedule.
- (2) The following enactments are hereby repealed:
- (a) the Foreign Affairs Act 1983:
 - (b) the Foreign Affairs Amendment Act 1988.
- (3) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that—
- (a) the repeal, by subsection (2), of the Foreign Affairs Act 1983 does not affect the amendments made by sections 30 and 32(1) of that Act or the effect of the declaration contained in section 25(2) of that Act or the validity of anything validated by section 32(6) of that Act:
 - (b) the repeal, by subsection (2), of the Foreign Affairs Amendment Act 1988 does not affect the amendments made by sections 10 to 12 of that Act.

Section 14(1): amended, on 5 April 2023, by section 7 of the Foreign Affairs (Consular Loans) Amendment Act 2023 (2023 No 9).

15 Transitional provisions

- (1) Every determination made pursuant to section 10D or section 10G or section 10H of the Foreign Affairs Act 1983 and in force immediately before the commencement of this Act shall continue in force as if it had been made under this Act.
- (2) Every person who, at the commencement of this Act, holds any position pursuant to section 10A or section 10C or section 10G of the Foreign Affairs Act 1983 or pursuant to section 14 of the Foreign Affairs Amendment Act 1988 shall continue to hold that position as if that person had been appointed under this Act.
- (3) *[Repealed]*
- (4) *[Repealed]*
- (5) *[Repealed]*
- (6) *[Repealed]*

Section 15(3): repealed, on 1 July 1993, by section 9(5) of the Foreign Affairs Amendment Act 1993 (1993 No 48).

Section 15(4): repealed, on 1 July 1993, by section 9(5) of the Foreign Affairs Amendment Act 1993 (1993 No 48).

Section 15(5): repealed, on 1 July 1993, by section 9(5) of the Foreign Affairs Amendment Act 1993 (1993 No 48).

Section 15(6): repealed, on 1 July 1993, by section 9(5) of the Foreign Affairs Amendment Act 1993 (1993 No 48).

Schedule 1

Transitional, savings, and related provisions

s 2AA

Schedule 1: inserted, on 5 April 2023, by section 6 of the Foreign Affairs (Consular Loans) Amendment Act 2023 (2023 No 9).

Part 1

Provision relating to Foreign Affairs (Consular Loans) Amendment Act 2023

Schedule 1 Part 1: inserted, on 5 April 2023, by section 6 of the Foreign Affairs (Consular Loans) Amendment Act 2023 (2023 No 9).

1 Validation of consular loans

- (1) This clause applies to any lending of money by the Ministry in the period that started on 18 July 2013 and ended on 15 June 2020 for the purpose of providing consular assistance to a person outside New Zealand.
- (2) The lending is and always has been authorised for the purposes of section 65K of the Public Finance Act 1989.
- (3) In this clause, **lend money** has the meaning given in section 2(1) of the Public Finance Act 1989.

Schedule 1 clause 1: inserted, on 5 April 2023, by section 6 of the Foreign Affairs (Consular Loans) Amendment Act 2023 (2023 No 9).

Schedule 2 Enactments amended

s 14(1)

Schedule 2 heading: amended, on 5 April 2023, by section 8 of the Foreign Affairs (Consular Loans) Amendment Act 2023 (2023 No 9).

Citizenship Act 1977 (1977 No 61)

Amendment(s) incorporated in the Act(s).

Civil List Act 1979 (1979 No 33)

Amendment(s) incorporated in the Act(s).

Commonwealth Countries Act 1977 (1977 No 31)

Amendment(s) incorporated in the Act(s).

Constitution Act 1986 (1986 No 114)

Amendment(s) incorporated in the Act(s).

Crimes Act 1961 (1961 No 43) (RS Vol 1, p 635)

Amendment(s) incorporated in the Act(s).

Crimes (Internationally Protected Persons and Hostages) Act 1980 (1980 No 44)

Amendment(s) incorporated in the Act(s).

Electoral Act 1956 (1956 No 107) (RS Vol 19, p 159)

Amendment(s) incorporated in the Act(s).

Export Guarantee Act 1964 (1964 No 50) (RS Vol 16, p 129)

Amendment(s) incorporated in the Act(s).

Films Act 1983 (1983 No 130)

Amendment(s) incorporated in the Act(s).

Government Superannuation Fund Act 1956 (1956 No 47) (RS Vol 21, p 209)

Amendment(s) incorporated in the Act(s).

Immigration Act 1987 (1987 No 74)

Amendment(s) incorporated in the Act(s).

New Zealand Export-Import Corporation Act 1974 (1974 No 2)

Amendment(s) incorporated in the Act(s).

**New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987
(1987 No 86)**

Amendment(s) incorporated in the Act(s).

Ombudsmen Act 1975 (1975 No 9) (RS Vol 21, p 657)

Amendment(s) incorporated in the Act(s).

State Sector Act 1988 (1988 No 20)

Amendment(s) incorporated in the Act(s).

Tokelau Amendment Act 1967 (1967 No 38) (Reprinted 1976, Vol 5, p 4498)

Amendment(s) incorporated in the Act(s).

Tokelau Amendment Act 1974 (1974 No 124) (Reprinted 1976, Vol 5, p 4520)

Amendment(s) incorporated in the Act(s).

Notes

1 *General*

This is a consolidation of the Foreign Affairs Act 1988 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Foreign Affairs (Consular Loans) Amendment Act 2023 (2023 No 9)

Public Service Act 2020 (2020 No 40): section 135

State Sector Amendment Act (No 2) 2004 (2004 No 114): section 19(1)

New Zealand Trade and Enterprises Act 2003 (2003 No 27): section 84

Foreign Affairs Amendment Act 1993 (1993 No 48)

Public Finance Act 1989 (1989 No 44): section 86(1)