



## ANALYSIS

Title.	PART II
1. Short Title.	
<b>PART I</b>	<b>MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT</b>
<b>NATIVE ANTIQUITIES</b>	
2. Interpretation.	11. Land owned by descendants of Natives to be Native freehold land.
3. Minister may acquire Native antiquities.	12. Seditious offences.
4. Native antiquities to be offered for sale before exportation.	13. Section 241A of principal Act amended.
5. Power to detain Native antiquities attempted to be exported.	14. Additional offences for which persons may be arrested without warrant.
6. Exporting Native antiquities without permission.	15. Section 344 of principal Act amended.
7. Power to remove antiquities in certain cases.	16. Amendment of orders after title ascertained.
8. Right to copy of antiquities intended to be exported.	17. Defining high water mark.
9. Minister to decide what articles come under this Part.	18. Provisions as to certain applications for adoption.
10. Regulations.	19. Validating lease of Aitutaki Aerodrome to the Crown.
	Schedules.

1950, No. 92

AN ACT to Amend the Cook Islands Act, 1915.

Title.

[1st December, 1950

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. 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).

Short Title.

See Reprint  
of Statutes,  
Vol. II, p. 658

## PART I

## NATIVE ANTIQUITIES

Interpretation.

**2.** 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.

Minister may acquire Native antiquities.

**3.** The Minister may acquire on behalf of His Majesty for the benefit of the people of the Cook Islands such Native antiquities as he deems expedient, and may provide for the safe custody of the same.

Native antiquities to be offered for sale before exportation.

**4.** It shall not be lawful to remove from the Cook Islands any Native antiquities without first offering the same for sale to the Minister on behalf of His Majesty for the benefit of the people of the Cook Islands.

Power to detain Native antiquities attempted to be exported.

**5.** 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.

Exporting Native antiquities without permission.

**6.** (1) Every person who, without the express permission in writing of the Minister, exports from the Cook Islands any Native antiquities commits an offence, and shall be liable to a fine not exceeding one hundred pounds.

(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 twenty-four 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 His Majesty for the benefit of the people of the Cook Islands:

Provided that the Minister may, after inquiry, cancel the forfeiture if he thinks fit.

Power to remove antiquities in certain cases.

**7.** 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 four hereof from removing those Native antiquities from the Cook Islands, if he has previously obtained the permission in writing of the Minister.

8. (1) On any application for permission to export any Native antiquities the Minister 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 Minister directs.

Right to copy of antiquities intended to be exported.

(2) Every such copy shall be the property of His Majesty for the benefit of the people of the Cook Islands.

9. 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 Minister, whose decision thereon shall be final.

Minister to decide what articles come under this Part.

10. The Governor-General may, from time to time, by Order in Council, make regulations for all or any of the following purposes:—

Regulations.

(a) Prescribing the duties and powers of constables and officers of Customs in enforcing the provisions of this Part of this Act:

(b) Prescribing penalties for the breach of any such regulation:

(c) Prescribing anything required for the more effectual carrying out of the provisions of this Part of this Act.

## PART II

### MISCELLANEOUS AMENDMENTS OF PRINCIPAL ACT

11. (1) Section two of the principal Act is hereby amended as follows:—

Land owned by descendants of Natives to be Native freehold land.

(a) By inserting in the definition of the term “ Native freehold land ”, after the words “ owned by a Native ”, the words “ or a descendant of a Native ”:

(b) By repealing the proviso to that definition.

(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 the First Schedule to this Act are hereby amended in the manner indicated in that Schedule.

Seditious  
offences.

12. The principal Act is hereby amended by inserting after section one hundred and seventy-seven, the following new section:—

“ 177A. (1) A seditious intention is an intention to excite disaffection against His Majesty, or against the Parliament or Government of New Zealand, or against the Government of the Cook Islands, or to excite such hostility or ill will between different classes of the inhabitants of the Cook Islands as may be injurious to the public welfare, or to incite, encourage, or procure lawlessness, violence, or disorder in the Cook Islands, or to procure otherwise than by lawful means the alteration of any matter affecting the laws, government, or constitution of the Cook Islands:

“ Provided that no one shall be deemed to have a seditious intention only because he intends in good faith—

“(a) To show that His Majesty has been misled or mistaken in his measures; or

“(b) To point out errors or defects in the Parliament or Government of New Zealand or in the Government of the Cook Islands; or to incite the inhabitants of the Cook Islands to attempt to procure by lawful means the alteration of any matter affecting the laws, government, or constitution of the Cook Islands; or

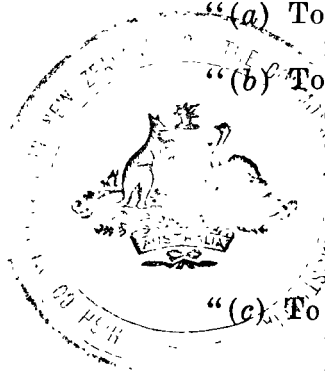
“(c) To point out, with a view to their removal, matters producing or having a tendency to produce hostility or ill will between different classes of the inhabitants of the Cook Islands.

“(2) Seditious words are words expressive of a seditious intention.

“(3) A seditious libel is a libel expressive of a seditious intention.

“(4) A seditious conspiracy is an agreement between two or more persons to carry into execution a seditious intention.

“(5) Every person is liable to two years' imprisonment who speaks any seditious words, or publishes a seditious libel, or is a party to a seditious conspiracy.”



13. Section two hundred and forty-one<sup>A</sup> of the principal Act (as enacted by section two of the Cook Islands Amendment Act (No. 2), 1948) is hereby amended by adding the following subsection as subsection two thereof:—

Section 241A of principal Act amended, 1948, No. 25

“(2) For the purposes of this section the term ‘night’ means the time commencing on the expiration of the first half hour after sunset and concluding at the beginning of the last hour before sunrise.”

14. Section two hundred and eighty-one of the principal Act is hereby amended by inserting in subsection one, after the words “escape from lawful custody”, the words “resisting a constable in the execution of his office, using profane, indecent, or obscene language,”.

Additional offences for which persons may be arrested without warrant.

15. Section three hundred and forty-four of the principal Act is hereby amended by omitting the words “New Zealand”, and substituting the words “the Cook Islands”.

Section 344 of principal Act amended.

16. The principal Act is hereby amended by inserting, after section three hundred and ninety, the following section:—

Amendment of orders after title ascertained.

“390A. (1) Where through any mistake, error, or omission whether of fact or of law however arising, and whether of the party applying to amend or not, the Native Land Court or the Native Appellate Court by its order has in effect done or left undone something which it did not actually intend to do or leave undone, or something which it would not but for that mistake, error, or omission have done or left undone, or where the Native Land Court or the Native Appellate Court has decided any point of law erroneously, the Chief Judge may, upon the application in writing of any person alleging that he is affected by the mistake, error, omission, or erroneous decision in point of law, make such order in the matter for the purpose of remedying the same or the effect of the same respectively as the nature of the case may require; and for any such purpose may, if he deems it necessary or expedient, amend, vary, or cancel any order made by the Native Land Court or the Native Appellate Court, or revoke any decision or intended decision of either of those Courts.

“(2) Any order made by the Chief Judge upon any such proceedings amending, varying, or cancelling any prior order shall be subject to appeal in the same manner as any final order of the Native Land Court, but there shall be no appeal against the refusal to make any such order.

“(3) The Chief Judge may refer any such application to the Native Land Court for inquiry and report, and he may act upon that report or otherwise deal with the application without holding formal sittings or hearing the parties in open Court.

“(4) The Chief Judge may require any applicant to deposit such sum of money within such time as he thinks fit as security for costs, and, unless that deposit is so made, may summarily dismiss the application. The Chief Judge shall have power to allow costs to any person opposing the application.

“(5) Any order of amendment, variation, or cancellation shall take effect (subject to appeal) as from the making thereof; but no such amendment, variation, or cancellation of any order made by the Chief Judge hereunder shall take away or affect any right or interest acquired for value and in good faith under any instrument of alienation executed before the making of the order of amendment, variation, or cancellation, but the instrument may be perfected and confirmed as if no such order had been made by the Chief Judge. Any such alienation shall thereafter enure for the benefit of the person eventually found by the Chief Judge's order to be entitled to the share or interest affected, and all unpaid or accruing purchase money, rent, royalties, or other proceeds of the alienation, as well as any compensation payable, shall be recoverable accordingly. Any *bona fide* payment made in faith of the order amended, varied, or cancelled shall not be deemed to be invalid because the order was so amended, varied, or cancelled.

“(6) Where an application has been lodged under this section, the Native Land Court may, for the purpose of protecting the property in dispute, grant an order prohibiting dealings with the share or interest affected by the application pending the result of the application, and any dealings in contravention of the order shall be deemed to be void:

“ Provided that nothing in this subsection shall prevent the confirmation or registration of an alienation effected by an instrument executed before the granting of the order.

“ (7) All consequential amendments required to be made by reason of the Chief Judge’s order in any order, record, or document made, issued, or kept by the Native Land Court may be made by any Judge of the Court.

“ (8) This section shall extend and apply (with the exception hereinafter mentioned) to orders, whether made before or after the commencement of this section, save that in all cases where an order is dated more than five years previously to the receipt of the application under this section the Chief Judge shall first obtain the consent of the Governor-General in Council before making any order hereunder. The Chief Judge shall nevertheless have full power without that consent to dismiss any such application or to refer it to the Native Land Court for inquiry and report.

“ (9) The Chief Judge shall dismiss all applications (if any) which have already formed the subject of proceedings under section thirty-two of the Cook Islands Amendment Act, 1946, unless the Governor-General in Council expressly consents to the Chief Judge exercising jurisdiction under this section in any such matter.

1946, No. 30

“ (10) This section shall not apply to any order made upon investigation of title or partition save with regard to the relative interests defined thereunder, but the provisions of this subsection shall not prevent the making of any necessary consequential amendments with regard to partition orders.”

**17.** Section four hundred and nineteen of the principal Act is hereby amended by adding the following subsection as subsection two thereof:—

Defining high water mark.

“ (2) For the purposes of this section and of section four hundred and twenty-eight of this Act, the term ‘ high water mark ’ means the line of medium high tide between the spring and neap tides.”

**18.** Notwithstanding anything in paragraph (a) of section four hundred and sixty-one of the principal Act, but subject in each case to the provisions of paragraphs (b), (c), and (d) of that section, the Native Land Court may make an order of adoption on

Provisions as to certain applications for adoption.

any application for adoption which has been filed with the Registrar at Niue at any time before the passing of this Act but not disposed of at the passing of this Act, or which is filed with the said Registrar before the expiration of six months after the passing of this Act, if the Court is satisfied that at the time when the application was filed the child to be adopted was under the age of fifteen years.

Validating  
lease of  
Aitutaki  
Aerodrome to  
the Crown.

**19.** Whereas the land described in the Second Schedule 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 Second Schedule 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 Island Territories for and in the name of His 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 ninth day of September, nineteen hundred and forty-two:
- (b) The lease shall be for a term of thirty years from the said date with a perpetual right of renewal for further successive periods of thirty years each:
- (c) The annual rent payable to the persons entitled during the first term of the lease shall be ten shillings 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 six 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 five per cent 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 ten shillings 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 Minister or of the Resident Commissioner of Rarotonga or of any person so entitled made not later than six 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.
-

Schedules.

## SCHEDULES

Section 11 (3)

## FIRST SCHEDULE

## CONSEQUENTIAL AMENDMENTS

Title of Enactment.	Number of Section Affected.	Nature of Amendment.
1915, No. 40— The Cook Islands Act, 1915 (Reprint of Statutes, Vol. II, p. 658)	Section 139	By inserting, after the words "interest of a Native", the words "or a descendant of a Native".
	Section 409	By inserting in paragraph (a), after the words "between Natives", the words "or the descendants of Natives"; by inserting in paragraph (c), after the words "between Natives", the words "or the descendants of Natives"; by omitting from paragraph (d) the words "any Native", and substituting the words "any person".
	Section 410	By inserting in subsection (1), after the words "personal property", the words "or of the descendants of Natives in any Native land".
	Section 436	By inserting, after the word "Native" wherever it appears, the words "or descendant of a Native".
	Section 440	By omitting from paragraph (a) the word "Native".
	Section 444	By inserting, after the words "vested in a Native", the words "or descendant of a Native".
	Section 445	By inserting in subsection (1), after the words "by a Native", the words "or descendant of a Native".
	Section 446	By inserting, after the words "by his will", the words "and the persons entitled on the death of a descendant of a Native to succeed to his interest in Native freehold land,".
	Section 447	By inserting, after the words "of a Native", and also after the words "that Native", the words "or descendant of a Native".
	Section 448	By inserting, after the words "death of a Native", the words "or descendant of a Native".
	Section 453	By inserting, after the words "interest of a Native", the words "or descendant of a Native".
	Section 466	By inserting in subsection (2), after the words "a Native", the words "or descendant of a Native".
	Section 468	By inserting, after the words "No Native", the words "or descendant of a Native".
	Section 469	By inserting in subsection (1), after the words "No Native", the words "or descendant of a Native".
	Section 470	By inserting, after the words "No Native", the words "or descendant of a Native".
	Section 472	By inserting, after the words "a Native", and also after the words "that Native" wherever those words appear, the words "or descendant of a Native".
	Section 473	By inserting, after the words "No Native", the words "or descendant of a Native".
	Section 474	By inserting, after the words "by a Native", the words "or descendant of a Native".
	Section 475	By inserting in subsection (1), after the words "by a Native", and also after the words "that Native", the words "or descendant of a Native"; by inserting in subsection (2), after the words "signature of the Native", the words "or descendant of a Native"; by inserting in subsection (3), after the word "Native" wherever it

FIRST SCHEDULE—*continued*CONSEQUENTIAL AMENDMENTS—*continued*

Title of Enactment.	Number of Section Affected.	Nature of Amendment.
1915. No. 40— The Cook Islands Act, 1915— <i>continued</i>	Section 475	appears, the words “or descendant of a Native”; by adding to subsection (4) the words “or descendant of a Native”; by inserting in subsection (5), after the word “Native” wherever it appears, the words “or descendant of a Native”; by inserting in subsection (6), after the words “by a Native”, the words “or descendant of a Native”; by inserting in subsection (7), after the words “by a Native”, and also after the words “that Native”, the words “or descendant of a Native”.
	Section 476	By inserting in subsection (1), after the word “Natives”, the words “or descendants of Natives”; by inserting in that subsection, after the words “a Native”, the words “or descendant of a Native”.
	Section 477	By inserting, after the words “by a Native”, the words “or descendant of a Native”.
	Section 478	By adding to subsection (1) the words “or descendant of a Native”.
	Section 482	By omitting from paragraph (b) of subsection (2), and also from subsection (3), the word “Natives”, and substituting in each case the word “persons”.
	Section 491	By inserting in subsection (1), after the word “Native” where it first appears, the words “or descendant of a Native”.
	Section 492	By inserting in subsection (1), after the word “Natives”, the words “or descendants of Natives”.
	Section 494	By inserting after the words “(other than customary land)”, the words “or if any descendant of a Native being a person under disability is entitled to any interest in Native freehold land”.
	Section 612	By inserting, after the words “A Native”, the words “or descendant of a Native”.
	Section 655	By inserting in subsection (2), after the words “interest of a Native”, the words “or descendant of a Native”.
1945. No. 40— The Statutes Amend- ment Act, 1945	Section 13	By inserting in subsection (3), after the word “Native” where it first appears, the words “or descendant of a Native”; by inserting in subsection (5), after the word “Native” where it first appears, the words “or descendant of a Native”.
1946. No. 30— The Cook Islands Amendment Act, 1946	Section 39	By inserting in subsection (1), after the words “personal property”, the words “or to the interests of descendants of Natives in any Native freehold land”.

## Section 19

## SECOND SCHEDULE

## 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.
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	