

COOK ISLANDS AMENDMENT BILL

EXPLANATORY NOTE

This Bill amends the Cook Islands Act 1915 and its amendments.

Clause 1 relates to the Short Title.

Clause 2 is intended to make it clear that an appeal will lie to a Judge of the High Court from any decision of two Justices of the Peace for the Cook Islands other than Niue or of two Justices of the Peace for Niue. The amendment is made retrospective to the commencement of section 108A of the principal Act, which provided for the appointment of Justices and conferred on any two Justices sitting together the jurisdiction of Commissioners of the High Court.

Clause 3: Section 123 of the principal Act empowers the High Court to appoint commissioners to take evidence of witnesses in civil or criminal proceedings, whether in the Cook Islands or elsewhere. This clause provides that commissioners appointed to take evidence in New Zealand shall in New Zealand have the powers of a Commission of Inquiry under the Commissions of Inquiry Act 1908. This will confer on commissioners such powers as the power to compel the attendance of witnesses, to compel the production of documents, and to administer oaths.

Clause 4 re-enacts in an amended form section 208 of the principal Act relating to the offence of incest. The new section is based on section 130 of the Crimes Act 1961. The new provisions take into account illegitimate relationships, and make it a defence for the party charged to prove that he or she was unaware of the relationship between the parties.

Clause 5 repeals section 251 of the principal Act, relating to the offence of furious driving. Matters covered by the section are now provided for by Ordinance.

Clause 6 repeals section 264 of the principal Act, relating to attempts to commit offences, and substitutes new sections 264, 264A, and 264B.

The new *section 264* defines what will constitute an attempt to commit an offence in the same way as is provided in section 72 of the Crimes Act 1961, and re-enacts the existing provisions as to the punishment for attempts, except where a different punishment for an attempt is prescribed by other enactments. Ordinances made in the past providing a punishment different from that prescribed by section 264 of the principal Act are validated in this respect.

Section 264A, which is based on section 337 of the Crimes Act 1961, provides that if an attempt is proved where an offence is charged the accused may be convicted of the attempt.

Section 264B, which is based on section 338 of the Crimes Act 1961, provides that if the full offence is proved where an attempt is charged the accused may be convicted of the attempt. In such a case he may not subsequently be charged with the offence.

Clause 7: The effect of this clause is that the conditions as to imprisonment in the Cook Islands are to be prescribed by Ordinance instead of by regulations made under the principal Act.

Clause 8 abolishes the penalty of exile, which at present may be passed on offenders who are not Natives born in the Cook Islands.

Clause 9: Section 314B (5A) of the principal Act provides that where any person has been granted a free pardon by the Governor-General, that person shall be deemed never to have committed the offence. But the Resident Commissioner also has power to pardon an offender in certain circumstances, and the effect of this clause is to provide that in such cases the grant of a free pardon will have the same effect as one granted by the Governor-General.

Clause 10 provides that where the High Court awards compensation for land taken for any public purpose the Court may direct that the compensation, or any part of it, be paid into the Native Land Court for distribution to the persons entitled thereto.

Clause 11 empowers the Native Land Court of the Cook Islands to make orders laying out a right of way over any Native land, European land, and Crown land for the purpose of providing access or additional or improved access to any Native land.

Clause 12 re-enacts in an amended form section 492 of the principal Act, which authorises the Native Land Court to grant leave to any lessee of Native land or other person owing money in respect of any alienation of Native land to pay the money into the Court for distribution to the persons entitled.

The new section provides that, in the case of alienations confirmed after the passing of this Bill, the person owing the money will be entitled, unless the Court otherwise orders, to pay the money into Court for distribution to the persons entitled. In the case of alienations confirmed earlier, the Court may grant leave as at present. Except where the payment is made by the Crown, the person paying the money into Court must also pay a commission of 5 per cent in the case of alienations confirmed after the passing of the Bill, and of 2½ per cent in the case of earlier alienations. The Court may reduce these rates in particular cases.

Clause 13: The effect of this clause is that a maintenance order made in respect of a child is to continue in force until the child attains the age of 16 years instead of 12 years as at present. This amendment is consequential on the provisions of section 12 of the Cook Islands Amendment Act 1962 increasing the age of children in respect of whom a maintenance order may be made. The amendment is to extend to maintenance orders in force at the date of the passing of the Bill.

Clause 14: At present the only power to make orders of adoption in the Cook Islands is that of the Native Land Court under Part XV of the principal Act in respect of children who are Natives or the descendants of Natives and in favour of Native adopting parents. This clause inserts a new Part XXA in the principal Act (comprising new sections 573A to 573G), and empowers the High Court to make orders of adoption in respect of children, whether Native or European, in favour of adopting parents where either or both of them are European or in favour of a European applying alone.

The new section 573A provides that the High Court may make an order of adoption of a child on the application of the adopting parent or of the adopting parents jointly, whether domiciled in the Cook Islands or not.

Section 573B provides that an adoption order may be applied for by a European husband and his Native wife jointly, a Native husband and his European wife jointly, a European husband and his European wife jointly, or a European alone.

Section 573C provides that an adoption order may be made in respect of any child, Native or European, legitimate or illegitimate, and whether domiciled in the Cook Islands or not.

Section 573D provides that the child to be adopted must be under 21 years of age at the date of the filing of the application, and specifies the other conditions that must be complied with before the Court may make an adoption order.

The new section 573E specifies the consents that must be given before an order of adoption may be made. The consent of the natural parents will be necessary and also the consent of the spouse of the applicant if application is made by a husband or wife alone. The High Court may waive the requirements as to consents in certain cases.

The new section 573F provides that an order of adoption will have the same operation and effect as an order of adoption made in New Zealand under the Adoption Act 1955, and sets out the effect of an adoption order on rights of succession to the estate of a Native or to Native land.

The new section 573G provides that the High Court may annul an order of adoption on the application of an adopting parent or of the adopted child.

Clause 15 amends section 461 of the principal Act relating to the adoption of children by Natives, and will enable a child under 21 years of age to be adopted, as in the case of an adoption under Part XXA (as inserted by *clause 14* of the Bill). At present, an adoption order may be made under that section only where the child is under 15 years of age.

The clause also amends section 465A of the principal Act as to the effect of orders of adoption on interests in Native land. The amendment is consequential on the provisions of section 573F (as inserted by *clause 14* of this Bill), which sets out the effect of an adoption order on rights of succession to the estate of a Native or to Native land.

Clause 16: The effect of this clause is that a medical certificate as to unsoundness of mind in the case of an application in the Island of Niue and a certificate on which an order may be made for the removal from that island to New Zealand of a person of unsound mind may in each case be given by the Chief Medical Officer or by two Medical Officers. At present a certificate by one Medical Officer is sufficient.

Clause 17 enables a person of unsound mind who is to be removed to New Zealand to be taken by air. At present he may be taken only by sea.

Clause 18 authorises the making of loans from the Cook Islands Assembly Account to the Housing Improvement Fund established by section 3 of the Cook Islands Amendment Act 1960, or to such persons or bodies or to any Island Council of such amounts, at such rates of interest or free of interest, and subject to such conditions as to repayment and otherwise, as the Legislative Assembly approves from time to time.

Clause 19 abolishes the European electorate of the Cook Islands. Europeans will continue, as at present, to be eligible for election in any constituency. The clause provides that the present European member, unless he sooner vacates his seat, is to continue in office until the next general election.

Clause 20 inserts new sections 58A to 58E in the Cook Islands Amendment Act 1957 constituting an Executive Committee of Niue, and defining its functions and procedure.

Section 58A constitutes the Executive Committee, which is to consist of the Resident Commissioner and not more than four other members who are to be elected members of the Niue Island Assembly, and are to be elected to the Executive Committee by the Assembly and are to hold office during the pleasure of the Assembly. The section includes provisions as to the filling of vacancies, and the right of elected members to receive remuneration as fixed by Ordinance.

Section 58B provides that the Resident Commissioner may, with the approval of the Minister, and shall if the Minister so directs, delegate to the Executive Committee any of the functions or powers conferred on the Resident Commissioner by any enactment in force in Niue. Any delegation may be subject to any limitations or conditions approved or directed by the Minister.

Section 58C defines the procedure of the Executive Committee. The Resident Commissioner or his Deputy is, as far as practicable, to attend all meetings. If the Resident Commissioner attends he is to preside. In his absence the Deputy Resident Commissioner may attend and preside. If they are both absent, the members present are to appoint a member to preside. The presiding member will not have a deliberative vote, but he may exercise a casting vote. Members are not to vote on or take part in the discussion of any matter on which they may have any direct or indirect pecuniary interest. The quorum for meetings is fixed at three members.

Section 58D prescribes the functions of the Executive Committee. They are—

- (a) To perform and exercise such functions and powers as are conferred on it by any enactment;
- (b) To perform and exercise functions and powers delegated to it by the Resident Commissioner;
- (c) To report and make recommendations on matters referred to it by the Resident Commissioner or the Assembly.

Section 58E provides for the appointment of a Clerk of the Executive Committee.

Clause 21 amends section 62 (3) of the Cook Islands Amendment Act 1957, and confers on the Executive Committee authority, where any Ordinance so provides, to approve expenditure in anticipation of the annual Appropriation Ordinance or expenditure in excess of appropriation or without appropriation.

Clause 22 reconstitutes the Niue Island Assembly on a fully elective basis, except for the Resident Commissioner. The Assembly is to consist of the Resident Commissioner and 14 elective members who are to be elected by secret ballot by the electors of the 14 villages named in the clause.

The first general election of members is to be held not later than 15 April 1966, and subsequent general elections are to be held at intervals of not more than three years. The present appointed members are to continue in office until the first general election, and any vacancies occurring before then are to be filled by appointment.

Clause 23 re-enacts in an amended form section 3 of the Cook Islands Amendment Act 1960 relating to the Cook Islands Housing Improvement Fund. The only changes are consequential on the provisions of *clause 18* of this Bill, and provide that the Fund is to include money transferred by way of loan from the Cook Islands Assembly Account, and that money in the Fund may be used for the repayment of such loans and interest thereon.

Hon. Sir Léon Götz

COOK ISLANDS AMENDMENT

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A BILL INTITULED

An Act to amend the Cook Islands Act 1915

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

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1. Short Title—This Act may be cited as the Cook Islands Amendment Act 1963, and shall be read together with and deemed part of the Cook Islands Act 1915* (hereinafter referred to as the principal Act).

2. Appeal from decisions of Justices of the Peace—Section 108A of the principal Act (as inserted by section 86 of the Cook Islands Amendment Act 1957) is hereby amended as from its commencement by inserting in subsection (2), after the words “of this Act”, the words “and any rules of Court made under subsection (2) of that section”.

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3. Taking of evidence by commissioners in New Zealand—Section 123 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Any person before whom any witness or person is to be examined in New Zealand pursuant to an order made under subsection (1) of this section shall, for the purpose of examining that witness or person, have in New Zealand all the powers of a Commission of Inquiry under the Commissions of Inquiry Act 1908, and all the provisions of that Act shall apply as if the examination were an inquiry under that Act.”

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4. Incest—The principal Act is hereby further amended by repealing section 208, and substituting the following section:

“208. (1) Incest means carnal connection between—
 “(a) Parent and child; or
 “(b) Brother and sister, whether of the whole blood or of the half blood, and whether the relationship is traced through lawful wedlock or not; or
 “(c) Grandparent and grandchild—
 where the person charged knows of the relationship between the parties.

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“(2) Every one of or over the age of fifteen years who commits incest is liable to seven years’ imprisonment.

*Reprinted 1958, Vol. 2, p. 851
 Amendments: 1960, No. 32; 1961, No. 15; 1962, No. 40

“(3) In this section the term ‘child’ includes an illegitimate child; and ‘grandchild’ has a corresponding meaning.”

5. Repeal of provisions as to furious driving—Section 251 of the principal Act is hereby repealed.

5 **6. New sections substituted**—(1) The principal Act is hereby amended by repealing section 264, and substituting the following sections:

10 “264. **Attempts to commit offences**—(1) Every one who, having an intent to commit an offence, does or omits an act for the purpose of accomplishing his object, is guilty of an attempt to commit the offence intended, whether in the circumstances it was possible to commit the offence or not.

15 “(2) The question whether an act done or omitted with intent to commit an offence is or is not only preparation for the commission of that offence, and too remote to constitute an attempt to commit it, is a question of law.

20 “(3) An act done or omitted with intent to commit an offence may constitute an attempt if it is immediately or proximately connected with the intended offence, whether or not there was any act unequivocally showing the intent to commit that offence.

25 “(4) Everyone who attempts to commit an offence in respect of which no punishment is expressly prescribed by this or any other Act, or by any Ordinance, regulation, by-law, or other enactment is liable to not more than half the maximum punishment to which he would be liable if he had committed that offence.

30 “264A. **Attempt proved when offence is charged**—Where the commission of the offence charged is not proved, but the evidence establishes an attempt to commit the offence, the accused may be convicted of the attempt.

35 “264B. **Offence proved when attempt is charged**—(1) Where an attempt to commit an offence is charged, but the evidence establishes the commission of the full offence, the accused may be convicted of the attempt.

“(2) After a conviction for that attempt, the accused shall not be liable to be tried again for the offence which he was charged with attempting to commit.”

40 (2) Every Ordinance of the Legislative Assembly of the Cook Islands or of the Niue Island Assembly and every Ordinance or bylaw of an Island Council passed before the date of the passing of this Act (including every Ordinance

enuring under the provisions of subsection (5) of section 38 or subsection (5) of section 51 or subsection (5) of section 69 of the Cook Islands Amendment Act 1957) which would have been valid if this section had been in force when the Ordinance or bylaw was passed is hereby declared to be valid. 5

7. Imprisonment in Cook Islands—Section 274 of the principal Act is hereby amended by omitting the words “and subject to regulations made by the Governor-General in Council in that behalf”, and substituting the words “and subject to any Ordinance passed by the Legislative Assembly of the Cook Islands or by the Niue Island Assembly, as the case may be”. 10

8. Sentence of exile abolished—(1) Section 276 of the principal Act is hereby repealed.

(2) The principal Act is hereby further amended— 15

(a) By omitting from section 165 (as amended by section 6 of the Cook Islands Amendment Act 1956) the words “or to exile from the Cook Islands”:

(b) By omitting from subparagraph (ii) of paragraph (a) of subsection (1) of section 275A (as inserted by section 7 of the Cook Islands Amendment Act 1962), and also from subsection (7) of the said section 275A, the words “and is not under sentence of exile from the Cook Islands”. 20

(3) Section 275A of the principal Act (as inserted as aforesaid) is hereby further amended by repealing paragraphs (a) and (b) of subsection (2), and substituting the following paragraphs: 25

“(a) Be returned to the Cook Islands and released on his arrival there; or 30

“(b) Be returned in custody to the Cook Islands and continue to serve the sentence of imprisonment in some prison in the Cook Islands until a date specified by the Board (being, in the case of a prisoner undergoing a sentence of life imprisonment, such date as the Board thinks fit, and, in the case of any other prisoner, a date not later than three months after his return to the Cook Islands) and be released on the date so specified; or 35

“(c) Be released in New Zealand.” 40

(4) Section 275A of the principal Act (as inserted as aforesaid) is hereby further amended by inserting in subsection (3), after the words “paragraph (a)”, the words “or paragraph (b)”. 45

9. Effect of free pardon—Section 314B of the principal Act (as inserted by section 19 of the Cook Islands Amendment Act 1961) is hereby amended by omitting from subsection (5A) (as inserted by subsection (2) of section 10 of the Cook Islands Amendment Act 1962) the words “by the Governor-General in the exercise of the powers conferred on him in that behalf”, and substituting the words “under this section”.

10. Payment into Native Land Court of compensation for land taken—Section 359 of the principal Act is hereby amended by adding the following subsections:

“(5) In awarding any such compensation the High Court may direct that the compensation, or any part of it, be paid into the Native Land Court for distribution to the persons entitled thereto.

“(6) The receipt of the Registrar of the Native Land Court shall be a sufficient discharge for any money so paid in the same manner as if that money had been then paid to the persons entitled thereto.”

11. Access to Native land—The principal Act is hereby further amended by inserting, after section 409, the following section:

“409A. (1) Notwithstanding anything expressed or implied in any order pertaining to the ownership of Native land, the Native Land Court may by order, at any time and without the consent of any person being required, lay out a right of way over any Native land (whether the title thereto has been investigated or not) for the purpose of providing access to any other Native land in accordance with the provisions of this section.

“(2) Any such order may be made for the purpose of providing additional or improved access to any Native land in respect of which rights of access exist at the time of the making of the order.

“(3) For the purpose of providing access to any Native land, rights of way may, subject to consents being given as hereinafter specified, be laid out—

“(a) Over any European land with the consent in writing of the owner and of every other person having any estate or interest therein; or

“(b) Over any Crown land, with the consent in writing of the Resident Commissioner and of every person having any estate or interest therein.

“(4) Any such order may be a separate order or may be incorporated in any other appropriate order of the Native Land Court.

“(5) Every such order shall have endorsed thereon a plan of the land laid out as a right of way or shall describe that land in a manner sufficient to enable an accurate survey to be made of it, and shall define or limit the persons or classes of persons entitled to the use thereof. 5

“(6) The laying out of a right of way under any such order shall, subject to any limitation contained in the order, confer upon the persons entitled to the use thereof the same rights of user as if it were a public road. 10

“(7) In any such order laying out a right of way or in any variation of that order the Native Land Court may impose conditions as to the formation or fencing of the right of way or as to any other matter that it thinks fit, and may suspend or limit the right to use the right of way until those conditions have been complied with. 15

“(8) The laying out of a right of way over any land shall not affect the ownership of the land comprised therein, or its description as Native land, or Crown land, or European land, as the case may be. 20

“(9) The Native Land Court may, on the making of an order laying out a right of way, determine the amount of compensation (if any) payable in respect thereof, and shall, if it considers that any compensation should be paid, determine the person or persons by whom the same shall be payable, and the person or persons to whom or for whose benefit the same shall be paid: 25

“Provided that no person shall be entitled to compensation in respect of any right of way, if the Court is satisfied that he has consented to the laying out of that right of way and has agreed that he shall not be entitled to any compensation in respect thereof. 30

“(10) Where any right of way has been laid out or constituted by the Native Land Court, whether by order pursuant to the provisions of this section or by any other order or determination, and the Court is satisfied that the right of way is no longer necessary or that the conditions in respect thereof or any of them should be varied or cancelled, the Court may, on application, vary or cancel that order or determination in so far as it relates to the right of way. 35 40

“(11) No right of way over European land or Crown land shall be varied under the provisions of subsection (10) of this section, save with the consent of the persons whose consent is required under the provisions of subsection (3) of this section.

5 “(12) On the variation or cancellation pursuant to sub-
section (10) of this section of any order in relation to a right
of way, the Native Land Court may make such incidental
provisions in relation to compensation or any other matters
as it considers equitable between the owners of the land
10 comprised in the right of way and any other persons.

“(13) The provisions of subsections (5) and (6) of section
359 of this Act shall apply with respect to any compensation
payable pursuant to this section.”

**12. Payment into Native Land Court of rents and other
15 proceeds of alienations—**(1) The principal Act is hereby
further amended by repealing section 492, and substituting
the following section:

“492. (1) Unless in any case the Court otherwise directs,
all proceeds derived from any alienation of Native land con-
20 firmed by the Court after the commencement of this section
shall be paid into the Native Land Court.

“(2) Upon application made to it by the lessee or any
person owing money to Natives or the descendants of Natives
in respect of any alienation of Native land confirmed by the
25 Court before the commencement of this section, the Court
may, by order, direct that all or any of that money shall be
paid into the Native Land Court, whether the money is
already due or owing or not.

“(3) The receipt of the Registrar of the Native Land
30 Court shall be a sufficient discharge for any money so paid
in the same manner as if that money had been then paid to
the persons entitled thereto.

“(4) All money so paid into the Native Land Court shall
be paid out of Court to the persons entitled thereto, as deter-
35 mined by any order of the Court.

“(5) There shall be paid to the Registrar of the Native
Land Court together with any money paid into the Court
under this section (not being money paid by the Crown) a
commission at the following rates:

40 “(a) In the case of a payment made in respect of an
alienation confirmed after the commencement of
this section, at the rate of five per cent of the
money paid:

“(b) In the case of a payment made in respect of an alienation confirmed before the commencement of this section, at the rate of two and a half per cent of the money paid:

“Provided that the Court, having regard to the amount of money paid, to the number of persons entitled thereto, and to any other relevant matters, may from time to time direct that a lower rate of commission be paid in any specified case.” 5

(2) The First Schedule to the Cook Islands Amendment Act 1950 is hereby amended by repealing so much thereof 10 as relates to section 492 of the principal Act.

13. Duration of maintenance orders—(1) Section 564 of the principal Act is hereby amended by omitting from subsection (3) the words “twelve years”, and substituting the words “sixteen years”. 15

(2) The provisions of this section shall apply with respect to every maintenance order that is made after the date of the passing of this Act and also to every maintenance order that is in force on that date.

14. New Part XXA inserted in principal Act—The 20 principal Act is hereby further amended by inserting, after section 573, the following new Part:

“PART XXA

“ADOPTION OF CHILDREN BY EUROPEANS AND NATIVE SPOUSES OF EUROPEANS 25

“573A. **High Court may make adoption orders**—(1) Without limiting the powers conferred on the Native Land Court by Part XV of this Act, the High Court may make an order for the adoption of a child under the provisions of this Part of this Act. 30

“(2) No such order shall be made except on an application made to the Court by the adopting parent or by the adopting parents jointly, whether domiciled in the Cook Islands or not.

“573B. **Persons who may apply for adoption order**—The 35 following persons may apply to the High Court for an adoption order:

- “(a) A European husband and his Native wife jointly:
- “(b) A Native husband and his European wife jointly:
- “(c) A European husband and his European wife jointly: 40
- “(d) A European alone.

“573c. **Who may be adopted**—Subject to the provisions of this Part of this Act, any child, whether Native or European, and whether legitimate or illegitimate, and whether domiciled in the Cook Islands or not, shall be capable of being adopted under this Part of this Act.

“573d. **Restrictions on making adoption orders**—(1) No adoption order shall be made under this Part of this Act, unless the Court is satisfied that—

10 “(a) The child to be adopted is under the age of twenty-one years at the date of the filing of the application; and

15 “(b) The applicant or, in the case of a joint application, one of the applicants, has attained the age of twenty-five years and is at least twenty-one years older than the child, or is the mother or father of the child; and

“(c) The applicant (if unmarried) is at least thirty years older than the child; and

20 “(d) Where the child is female and the sole applicant is male, the applicant is the father of the child, or there are special circumstances which justify the making of an order; and

“(e) The child, if in the opinion of the Court is above the age of twelve years, consents to the adoption; and

25 “(f) The applicant is a fit and proper person to have the care and custody of the child and of sufficient ability to maintain the child, and the adoption will not be contrary to the welfare and interests of the child.

30 “(2) In order to satisfy itself as to the matters mentioned in paragraph (f) of subsection (1) of this section, the Court shall call for a report thereon by the Resident Commissioner, or by an officer of the Cook Islands Public Service nominated for the purpose by the Resident Commissioner.

35 “(3) No child adopted under this Part of this Act shall in the life-time of an adopting parent and while the order remains in force be adopted by any other person save the husband or wife of that parent.

40 “573e. **Consents to adoptions**—(1) No order shall be made under section 573A of this Act without the consent of the parents or of the surviving parent (if any) of the child, whether that child is legitimate or illegitimate, save that no such consent shall be required from any parent if the Court is satisfied that the child has been deserted by that

parent, or that that parent is for any reason unfit to have the care and custody of the child, or if the Court for any other reason whatsoever considers that the consent of that parent should be dispensed with.

“(2) Every consent given under subsection (1) hereof shall be given in writing and witnessed by one of the persons specified in subsection (1) of section 126 of this Act, and every such witness shall certify that the parent signing the consent fully understands the effect of an order made under section 573A of this Act. 5 10

“(3) Where the application for an order under section 573A of this Act is made by either a husband or a wife alone, no order shall be made without the consent of the spouse of the applicant, save that no such consent shall be required if the Court is satisfied that the spouses are living apart and that their separation is likely to be permanent. 15

“573F. **Effect of order of adoption**—Every order under section 573A of this Act shall have the same operation and effect as an adoption order made under the Adoption Act 1955 has in New Zealand by virtue of subsections (1) and (2) of section 16 of that Act: 20

“Provided that an order for the adoption of a child by a Native or the descendant of a Native shall have in respect of succession to the estate of any Native and to any interest in Native land the same operation and effect as that which is attributed by Native custom to adoption by Native custom. 25

“573G. **Annulment of order of adoption**—Any order made under section 573A of this Act may at any time be annulled by the Court on any ground which the Court thinks sufficient, either on the application of an adopting parent or of the adopted child.” 30

15. Adoption of children by Natives—The principal Act is hereby further amended—

- (a) By omitting from paragraph (a) of subsection (1) of section 461 the words “fifteen years”, and substituting the words “twenty-one years”: 35
- (b) By omitting from subsection (2) of section 461 (which subsection was added by subsection (1) of section 91 of the Cook Islands Amendment Act 1957) the words “fifteen years”, and substituting the words “twenty-one years”: 40

- 5 (c) By inserting in section 465A (as inserted by subsection (1) of section 10 of the Cook Islands Amendment Act 1956), after the words "Cook Islands Amendment Act 1921", the words "or under Part XXA of this Act".

10 **16. Medical certificates as to, and conditions of removal of, persons of unsound mind**—(1) Section 575 of the principal Act (as substituted by subsection (1) of section 12 of the Cook Islands Amendment Act 1956) is hereby amended by omitting from paragraph (a) the words "a Medical Officer", and substituting the words "the Chief Medical Officer or by two Medical Officers".

15 (2) Section 583 of the principal Act (as substituted by subsection (2) of section 12 of the Cook Islands Amendment Act 1956) is hereby amended by omitting from paragraph (a) the words "a Medical Officer", and substituting the words "the Chief Medical Officer or by two Medical Officers".

18 **17. Method of removal to New Zealand of persons of unsound mind**—Section 584 of the principal Act is hereby amended by adding the words "or in any aircraft which is approved by the Chief Medical Officer or two Medical Officers as suitable for the purpose".

25 **18. Loans from Cook Islands Assembly Account**—(1) Section 15 of the Cook Islands Amendment Act 1957 is hereby amended by adding the following subsection:

30 "(6) There may from time to time be paid from the Cook Islands Assembly Account such amounts by way of loan to the Housing Improvement Fund established by section 3 of the Cook Islands Amendment Act 1960, or to such persons or bodies (whether incorporated or not), or to any Island Council, at such rates of interest or free of interest, and subject to such conditions as to repayment and otherwise, as the Legislative Assembly approves from time to time."

35 (2) Section 15 of the Cook Islands Amendment Act 1957 is hereby further amended by adding to subsection (2) the following paragraph:

"(i) Money received in repayment of any loan made under the authority of subsection (6) of this section or as interest on any such loan."

19. Abolition of European electorate in the Cook Islands—

(1) Section 32 of the Cook Islands Amendment Act 1957 is hereby amended by repealing paragraph (c) of subsection (2).

(2) The person who immediately before the date of the passing of this Act was a member of the Legislative Assembly of the Cook Islands elected under the provisions of paragraph (c) of subsection (2) of section 32 of the Cook Islands Amendment Act 1957 shall, unless he sooner vacates office pursuant to any regulations or Ordinance made under Part I of that Act, continue to be a member of the Legislative Assembly until the date on which the members elected at the first general election of members held after the date of the passing of this Act come into office.

20. New sections inserted—The Cook Islands Amendment Act 1957 is hereby amended by inserting, after section 58, the following new sections:

“58A. Executive Committee—(1) There shall be an Executive Committee of Niue, which shall consist of—

“(a) The Resident Commissioner; and

“(b) Not more than four other members, being elected members of the Island Assembly, to be elected by the Assembly.

“(2) Elected members of the Executive Committee shall hold office during the pleasure of the Island Assembly:

“Provided that any elected member of the Executive Committee shall vacate his office as a member upon ceasing to hold office as a member of the Island Assembly.

“(3) Elected members of the Executive Committee may receive from the Niue Assembly Account such remuneration and allowances as may be prescribed by Ordinance.

“58B. Delegation of Resident Commissioner’s functions and powers to Executive Committee—(1) The Resident Commissioner may, with the prior approval of the Minister, and shall if the Minister so directs, delegate in writing from time to time to the Executive Committee any of the functions or powers conferred on the Resident Commissioner by any enactment for the time being in force in Niue.

“(2) Any such delegation may, with the prior approval of the Minister, and shall if the Minister so directs, be made subject to such limitations or conditions as are specified in the delegation.

“(3) The Resident Commissioner may, with the prior approval of the Minister, and shall if the Minister so directs, revoke any delegation under this section, but that revocation shall not affect in any way anything done under the delegated
5 authority.

“(4) The fact that the Resident Commissioner delegates any function or power to the Executive Committee or revokes any such delegation shall be conclusive evidence of his authority to do so.

10 “58c. **Procedure of the Executive Committee**—(1) The Executive Committee may be summoned at any time by the Resident Commissioner, and shall be so summoned on the written request of two or more of its members.

15 “(2) The Resident Commissioner or the Deputy Resident Commissioner of Niue shall so far as practicable attend at all meetings of the Executive Committee.

“(3) The Resident Commissioner shall preside at every meeting of the Executive Committee that he attends.

20 “(4) In the absence of the Resident Commissioner from any meeting of the Executive Committee, the Deputy Resident Commissioner of Niue may attend and preside at the meeting in his place.

25 “(5) In the absence of both the Resident Commissioner and the Deputy Resident Commissioner from any meeting, the Executive Committee shall elect one of its members present to preside.

30 “(6) A member of the Executive Committee shall not vote on or take part in the discussion of any matter before the Committee in which he has, directly or indirectly, any pecuniary interest apart from any interest in common with the public.

“(7) The presiding member shall not be entitled to a deliberative vote at any meeting, but in the event of an equality of votes he shall be entitled to exercise a casting vote.

35 “(8) Any matter considered by the Executive Committee shall be decided by the majority vote of the members present and voting.

40 “(9) No business except that of adjournment shall be transacted at any meeting of the Executive Committee if fewer than three members are present.

“(10) Subject to the provisions of this section, the Executive Committee shall determine its own procedure.

“58d. **Functions of the Executive Committee**—The functions of the Executive Committee shall be—

45 “(a) To perform and exercise such functions and powers as are conferred on it by any enactment:

“(b) To perform and exercise any functions and powers that are for the time being delegated to it by the Resident Commissioner:

“(c) To report and make recommendations on any matter referred to the Executive Committee from time to time by the Resident Commissioner or the Island Assembly in that behalf. 5

“58E. **Clerk of the Executive Committee**—(1) There shall be appointed under the provisions of Part III of this Act a Clerk of the Executive Committee of Niue, who shall be responsible for arranging the business for, and keeping the minutes of, meetings of the Executive Committee and for performing with respect to the Executive Committee such secretarial and other functions as may be required. 10

“(2) A copy of the minutes relating to each meeting shall be transmitted by the Resident Commissioner to the Minister as soon as practicable after the meeting is held.” 15

21. Revenue and expenditure of Niue Asembly Account—Section 62 of the Cook Islands Amendment Act 1957 is hereby amended— 20

(a) By inserting in subsection (3), after the words “Resident Commissioner”, the words “or, where any Ordinance so provides, the Executive Committee”:

(b) By omitting from subsection (3) the words “he considers”, and substituting the words “he or it considers”. 25

22. New sections substituted—(1) The Cook Islands Amendment Act 1957 is hereby further amended by repealing section 67, and substituting the following sections:

“67. **Niue Island Assembly**—(1) There is hereby established in and for the Island of Niue a Legislative Assembly to be called the Niue Island Assembly. 30

“(2) The Island Assembly shall consist of—

“(a) The Resident Commissioner; and

“(b) Fourteen elected members, one of whom shall be elected by secret ballot under a system of universal suffrage by the electors of each of the villages of Alofi North, Alofi South, Avatele, Hakupu, Hikutavake, Lakepa, Liku, Makefu, Mutalau, Namukulu, Tamakautoga, Toi, Tuapa, and Vaiea, respectively. 35 40

“**(3)** Subject to the provisions of this section and of section 67A of this Act, the qualifications of electors and of candidates, the mode of electing members of the Island Assembly, and the terms and conditions of their membership shall be as prescribed by regulations made under this Part of this Act or, where there are no such regulations or so far as the regulations do not extend, by Ordinance.

“**(4)** The elected members of the Island Assembly shall receive from the Niue Assembly Account or from the Niue General Account or partly from one such account and partly from the other such remuneration as may be prescribed by Ordinance.

“**(5)** The powers of the Island Assembly shall not be affected by any vacancy in the membership thereof.

“67A. Election of members—**(1)** The first election of the elected members of the Island Assembly shall be held not later than the fifteenth day of April, nineteen hundred and sixty-six, on a date to be fixed by the Resident Commissioner and publicly notified by him in such manner as he thinks fit.

(2) The Resident Commissioner may at any time, by public notice given in such manner as he thinks fit, prorogue or dissolve the Island Assembly.

(3) The Resident Commissioner shall dissolve the Island Assembly at the expiration of three years from the date of the last preceding general election, if it has not been sooner dissolved.

(4) There shall be a general election of the elected members of the Island Assembly at such time within three months after every dissolution of the Assembly as the Resident Commissioner appoints, by public notice given in such manner as he thinks fit.”

(2) The appointed members of the Island Assembly in office immediately before the passing of this Act shall, unless they sooner vacate office pursuant to regulations made under Part II of the Cook Islands Amendment Act 1957, continue in office, as if they had been elected thereto pursuant to section 67 of that Act (as substituted by subsection (1) of this section), until the date on which the members elected at the first general election of the Island Assembly come into office.

(3) Where any appointed member of the Island Assembly vacates his office pursuant to any such regulations as aforesaid or dies before the date on which the members elected as aforesaid come into office, the Governor-General

may appoint a qualified person to be a member of the Island Assembly, to hold office, unless he sooner vacates office pursuant to any such regulations as aforesaid or dies, until the date on which the members elected as aforesaid come into office.

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23. Housing Improvement Fund—The Cook Islands Amendment Act 1960 is hereby amended by repealing section 3, and substituting the following section:

“3. (1) There is hereby established in the Cook Islands Assembly Account a fund to be called the Cook Islands Housing Improvement Fund. 10

“(2) The Fund shall consist of—

“(a) All money that may be appropriated by Parliament for the purpose of the Fund;

“(b) All money that may be transferred to the Fund by way of loan pursuant to subsection (6) of section 15 of the Cook Islands Amendment Act 1957 (as added by section 18 of the Cook Islands Amendment Act 1963); 15

“(c) All accumulations of money belonging to the Fund; 20 and

“(d) All other money that may otherwise be lawfully payable into the Fund.

“(3) All principal, interest, purchase money, rent, or other money received in respect of advances made out of the Fund, or otherwise received in respect of expenditure made from the Fund, shall belong to the Fund. 25

“(4) All money in the Fund shall be used exclusively for housing purposes or for the repayment of loans made to the Fund pursuant to subsection (6) of section 15 of the principal Act (as added as aforesaid) or for the payment of interest on such loans.” 30