

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 22 March 1988.

Hon. Stan Rodger

FOREIGN AFFAIRS AMENDMENT

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A BILL INTITULED

An Act to amend the Foreign Affairs Act 1983

BE IT ENACTED by the Parliament of New Zealand as follows:

- 5 **1. Short Title and commencement**—(1) This Act may be cited as the Foreign Affairs Amendment Act 1988, and shall be read together with and deemed part of the Act heretofore known as the Foreign Affairs and Overseas Service Act 1983 (hereinafter referred to as the principal Act).
- 10 (2) This Act shall come into force on the 1st day of April 1988.

No. 28—3B

Price
incl. GST \$1.90

2. Altering Short Title of principal Act—(1) The principal Act may hereafter be cited as the Foreign Affairs Act 1983.

(2) The Short Title of the principal Act is hereby consequentially amended by omitting the words “and Overseas Service”.

(3) Every reference in any enactment or in any document whatsoever to the principal Act shall hereafter, unless the context otherwise requires, be read as if the words “and Overseas Service” were omitted.

3. Altering Title—The Title to the principal Act is hereby amended by omitting the words “an overseas service for New Zealand, and to provide for the administration of that service and”, and substituting the word “to”.

4. Interpretation—Section 2 of the principal Act is hereby amended by repealing the definitions of the terms “Department of State”, “overseas service”, “Overseas Service Committee”, “Public Service”, and “State services”.

5. Minister of Foreign Affairs—Section 4 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsections:

“(4) Where the Minister enters into a contract with any person pursuant to which that person is to perform any duties, or undertake any tasks or projects, outside New Zealand, that person—

“(a) Is employed by the Government of New Zealand under a contract for services; and

“(b) Is neither a servant nor an agent of the Crown.

“(5) Nothing in subsection (4) of this section applies in relation to a contract entered into with—

“(a) A head of mission or head of post; or

“(b) A person assigned or reassigned under section 10c of this Act to service overseas.”

6. Officers and employees of Ministry—(1) The principal Act is hereby amended by repealing section 8, and substituting the following section:

“8. There shall from time to time be appointed under the State Sector Act 1988 such other officers and employees of the Ministry as are necessary for the effective and efficient performance of the functions of the Ministry.”

(2) The Second Schedule to the principal Act is hereby consequentially repealed.

7. New Part IA inserted—The principal Act is hereby amended by inserting, after Part I, the following Part:

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“PART IA

“SERVICE OVERSEAS

“10A. **Appointment of head of mission or head of post**—(1) The Secretary shall from time to time make recommendations to the Minister concerning the appointment
10 of any person as a head of mission or head of post.

“(2) The Minister shall from time to time recommend to the Governor-General the appointment or reappointment of any person as a head of mission or head of post.

“(3) The procedure put in place by the Secretary pursuant to
15 section 65 of the State Sector Act 1988 shall not apply to recommendations made pursuant to this section or to any appointment of a head of mission or head of post.

“10B. **Removal from office**—The Minister may from time to time remove any head of mission or head of post from office.

20 “10C. **Overseas assignments**—(1) The Secretary may assign to service overseas—

“(a) Any person who occupies a senior executive service position in the Ministry under section 51 of the State Sector Act 1988; or

25 “(b) Any other person, being an officer or employee of the Ministry.

“(2) The Secretary may reassign—

“(a) To service in New Zealand; or

“(b) To other service overseas,—

30 any person who is assigned to service overseas under subsection (1) of this section.

“(3) The procedure put in place by the Secretary pursuant to section 65 of the State Sector Act 1988 shall not apply to assignments or reassignments pursuant to this section.

35 “10D. **Conditions of service overseas**—The Secretary shall determine all supplementary conditions of service applicable to—

“(a) Any head of mission or head of post; or

40 “(b) Any person assigned or reassigned under section 10c of this Act to service overseas.

“10E. **Code of conduct**—The Minister 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 10c of this Act to service overseas. 5

“10F. **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 former overseas post is hereby deemed to have been, part of the Government service: 10

“(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. 15 20

“(2) For the purposes of subsection (1) of this section, ‘Government service’ has the same meaning as in the Government Superannuation Fund Act 1956.

“10G. **Locally engaged staff**—Subject to any direction of the Minister in that behalf, 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. 25

“10H. **Superannuation schemes for locally engaged staff**—(1) The Minister may, with the concurrence of the Minister of Finance, determine the superannuation rights of persons employed under section 10G of this Act. 30

“(2) All contributions, retiring allowances, annuities, and other amounts payable by the Government of New Zealand pursuant to any determination under subsection (1) of this section shall be paid out of the Consolidated Account without further appropriation than this section.” 35

8. Repeal of Part II—Part II of the principal Act is hereby repealed.

Amendments to Other Acts

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9. Amendment to Crimes Act 1961—Section 8_A of the Crimes Act 1961 (as inserted by section 30 of the principal Act)

is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) This section applies to every person who is—

5 “(a) A head of mission or head of post within the meaning of the Foreign Affairs Act 1983; or

“(b) A person who is on service overseas pursuant to section 10c of the Foreign Affairs Act 1983; or

“(c) A New Zealand citizen ordinarily resident in New Zealand and either—

10 “(i) A member of the family of a person described in paragraph (a) or paragraph (b) of this subsection; or

15 “(ii) A member of the staff of an overseas post or overseas mission, whether or not an officer or employee of the Ministry of Foreign Affairs or a person employed under section 10G of the Foreign Affairs Act 1983.”

10. Amendment to Citizenship Act 1977—Section 6 of the Citizenship Act 1977 (as amended by section 31 of the principal Act) is hereby amended by repealing subsection (4), and substituting the following subsection:

20 “(4) Notwithstanding section 7 of this Act, a person born outside New Zealand shall be deemed to be a New Zealand citizen otherwise than by descent if that person’s father or
25 mother is then—

“(a) A New Zealand citizen, or a New Zealand citizen by descent, pursuant to this Act; and

“(b) Either—

30 “(i) A head of mission or head of post within the meaning of the Foreign Affairs Act 1983; or

“(ii) A public servant or serviceman (within the meaning of section 2 of the Defence Act 1971) on service overseas.”

11. Amendment to Civil List Act 1979—The Civil List Act 1979 is hereby amended by repealing section 21A (as inserted by section 32 (1) of the principal Act), and substituting the following section:

35 “21A. **Members of overseas service not to be paid under this Part**—Notwithstanding anything in this Act, no
40 payment shall be made under this Part of this Act to any person in respect of any period in respect of which that person receives a salary as a head of mission or head of post within the meaning of the Foreign Affairs Act 1983.”

12. Amendments to Electoral Act 1956—(1) Section 2 (1) of the Electoral Act 1956 is hereby amended by repealing the definition of the term “overseas service” (as inserted by section 32 (1) of the principal Act).

(2) Section 2 of the Electoral Act 1956 is hereby amended by 5
repealing subsection (2A) (as inserted by section 32 (1) of the principal Act), and substituting the following subsection:

“(2A) No person shall, by reason only of being a head of mission or head of post within the meaning of the Foreign Affairs Act 1983, be deemed to be a State servant within the 10
meaning of section 30 (1) of this Act or a public servant, whether or not that person receives any salary, allowances, or expenses.”

(3) Section 32 (1) (a) of the Electoral Act 1956 (as amended by 15
section 32 (1) of the principal Act) is hereby amended by omitting the words “, otherwise than by virtue of being a member of the overseas service”, and substituting the words “, otherwise than by virtue of being a head of mission or head of post within the meaning of the Foreign Affairs Act 1983,”.

(4) Section 42 of the Electoral Act 1956 (as substituted by 20
section 13 (1) of the Electoral Amendment Act 1980) is hereby amended by repealing subsection (3) (as amended by section 32 (1) of the principal Act), and substituting the following subsection:

“(3) Nothing in subsection (1) (a) or (b) of this section applies 25
to—

“(a) A person, being—

“(i) A public servant or serviceman (within the meaning of section 2 of the Defence Act 1971); or

“(ii) A head of mission or head of post within the 30
meaning of the Foreign Affairs Act 1983,—
who is outside New Zealand in the course of that person’s duties; or

“(b) A person who—

“(i) Is accompanying a person described in 35
subparagraph (i) or subparagraph (ii) of paragraph (a) of this subsection who is outside New Zealand in the course of that person’s duties; and

“(ii) Is the spouse or the child or the child of the 40
spouse of the person so described.”

(5) Nothing in this section affects the qualifications as an elector of any person who was a member of the overseas service at the commencement of this Act, and the qualifications as an elector of any such person shall be determined as if this 45
Act had not been passed.

Repeals and Transitional Provision

13. Repeals—The following enactments are hereby repealed, namely:

- (a) Sections 28, 29, and 31 of the principal Act:
- 5 (b) So much of the Third Schedule to the principal Act as relates to the Electoral Act 1956:
- (c) So much of the Third Schedule to the principal Act as relates to the Civil List Act 1979:
- 10 (d) The Foreign Affairs and Overseas Service Amendment Act 1986.

14. Transitional provision in relation to overseas service and locally engaged staff—Every person who, at the commencement of this Act, was a person appointed pursuant to section 14 or section 23 of the principal Act shall continue in
15 the office or employment, but where any such person is employed in a Department of State other than the Ministry, that person shall be responsible to the chief executive of that Department of State and not to the Secretary.