



ANALYSIS

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1968, No. 2

An Act to amend the Local Government Act 1966 and to constitute a District Court

(27 September 1968)

BE IT ENACTED by the Legislative Assembly in Session assembled, and by the authority of the same, as follows:

1. Short Title and commencement - (1) This Act may be cited as the Local Government Amendment Act 1968 and shall be read together with and deemed part of the Local Government Act 1966 (hereinafter referred to as the "principal Act").

(2) This Act shall come into force on the date to be appointed by the High Commissioner by Order in Executive Council.

2. Functions and Powers of District Councils - Section 47 of the principal Act is hereby amended by repealing subsections (5) and (6).

3. Procedure of District Councils - Section 48 of the principal Act is hereby repealed and the following section substituted:

"48. Procedure of District Councils - Subject to the provisions of this Act a District Council may regulate its own procedure."

4. New Part IIA inserted in principal Act - The principal Act is hereby further amended by inserting, after section 48, the following new Part:

" PART IIA

DISTRICT COURT

48A. Constitution of District Court - There is hereby constituted a District Court which shall have jurisdiction to try all proceedings for offences in respect of the Ordinances and Bylaws contained in the Second Schedule to this Act and any further rule, regulation, ordinance or bylaw which the High Commissioner may by Order in Executive Council add to such Second Schedule.

48B. Membership - The District Court shall consist of:-

- (a) A Justice of the Peace, who shall be Chairman; and
- (b) Two persons from the list of eligible persons kept by the Registrar of the High Court pursuant to section 48D hereof.

48C. Eligible persons - (1) The Minister of Justice shall from time to time nominate persons to be trained as persons eligible to sit in the District Court.

(2) On the recommendation of the Advocate-General the Minister of Justice shall appoint a panel of not more than fifteen persons who shall be eligible to sit with a Justice of the Peace in the District Court and who shall be known as eligible persons.

(3) Eligible persons shall be paid such sums by way of salary and allowances as shall be determined by the Minister responsible for finance, and shall be charged to the Cook Islands Government Account.

48D. Registrar of High Court to keep lists - The Registrar of the High Court shall keep, and correct from time to time as the occasion may require -

- (a) A list of Justices of the Peace; and
- (b) A list of eligible persons.

48E. Summoning of District Court - When the District Court is required to sit the Registrar of the High Court shall summon such Justice of the Peace and two eligible persons as may be required giving them as long notice as possible.

48F. Venue of District Court - The District Court shall sit in the village in which the person charged or against whom the complaint is made is resident.

48G. Secretary of District Court - The Secretary of each Village Committee shall act as secretary of the District Court when the Court is sitting in his village and shall keep a proper record of all proceedings thereof.

48H. Institution of proceedings - (1) All proceedings before the District Court shall be instituted and prosecuted by or at the request or on behalf of the Village Committee of the village in which the person charged or against whom the complaint made is resident provided that proceedings may be prosecuted by a Village Committee against a person who is a resident of another village but in such case the Village Committee of the village in which such person is resident shall be informed and shall be allowed to appear in the proceedings before the District Court if it so wishes.

(2) For the purposes of subsection (1) of this section there shall be a village warden appointed by the Village Committee. All proceedings instituted and prosecuted by the Village Committee shall be in the name of the village warden.

48I. Procedure of the District Court - The District Court may regulate its own procedure and may act on such evidence as it thinks fit provided that on the hearing the following provisions shall apply:

- (a) The room in which the District Court sits shall be deemed an open or public Court to which the public generally may have access so far as the same can conveniently contain them.
- (b) The person against whom a complaint or charge is made shall have reasonable notice of the breach alleged and a reasonable opportunity to be heard in his own defence before any fine is imposed.
- (c) If the person against whom a complaint or charge is made does not appear when called, and it is proved that reasonable notice of the breach alleged and a reasonable opportunity to be heard has been given him, the District Court may proceed to hear the complaint or charge in his absence and to adjudicate thereon as fully and effectually as if that person had personally appeared before it.
- (d) Upon being satisfied that a breach of any rule, regulation, ordinance or bylaw has been committed the District Court shall convict the offender and may impose on him a fine not exceeding five dollars.
- (e) No fine shall be imposed by the District Court under paragraph (d) hereof if the person charged elects to be dealt with by the High Court, and the District Court shall make known to the person charged or against whom a complaint is made his right of election.
- (f) No fine may be imposed on any person under this section for any offence in respect of which proceedings have been commenced or taken before the High Court.

48J. Appeal - (1) Any person against whom a complaint or charge is made in the District Court and who is aggrieved by the decision thereof shall have a right of appeal to the High Court.

(2) Notice of appeal from any such decision shall be made within fourteen days after the same has been given.

(3) All appeals under this section shall be by way of rehearing.

48K. Recovery of fines - (1) The amount of any fine imposed by the District Court shall be paid by the offender to the High Court and shall be transmitted to the Village Committee which instituted or prosecuted the proceedings.

(2) Where a person fails to pay any fine duly imposed on him by the District Court the amount of the fine shall be recoverable in the High Court as a debt due to the Village Committee which instituted or prosecuted the proceedings."