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1965, No.9

An Act to provide for the administration and
Regulation of the Cook Islands Public Service.

(21 January 1966)

BE IT ENACTED by the Legislative Assembly of the Cook Islands 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 Public Service Act 1965.

(2) This Act shall be deemed to have come into force on the fourth day of August, nineteen hundred and sixtyfive.

2. Interpretation - In this Act unless the context otherwise requires

"The Constitution" means the Constitution of the Cook Islands (as set out in the second schedule to the Cook Islands Constitution Amendment Act 1965 of the Parliament of New Zealand).

"Departmental head" means the departmental head of a Department

"Employee", in relation to the Public Service, means a person employed therein, whether on the permanent staff (including any probationer) or temporarily or as a wage worker.

"Officer", in relation to the Public Service, means an employee of the Public Service other than a probationer or a temporary salaried employee or a wage worker.

"Probationer" means a person serving on probation in terms of Section 12 or Section 29 of this Act.

"Promotion" means advancement from a salary equivalent to or in excess of that laid down as the maximum for holders of the Senior Examination to a higher salary maximum.

"Public Service" means the Public Service as defined in Article 72 of the Constitution.

"Secretary" means the Secretary of the Premier's Department appointed in terms of Article 73 of the Constitution.

"Service Organisation" means the Cook Islands Branch of the New Zealand Public Service Association (Inc.) Island Territories Section.



(2) A copy of this report shall be laid before the Assembly within 28 days after the date on which it is furnished to the Premier if the Assembly is then in Session, and, if not, shall be laid before the Assembly within 28 days after the date of the commencement of the next ensuing Session.

5. Delegation of Powers - (1) The Secretary may from time to time, either generally or particularly, delegate any of his powers to any person or to the holder for the time being of any specified office in the Public Service.

(2) In any case where the Secretary has, pursuant to subsection (1) of this section, delegated any of his powers to any person, that person may, with the prior approval of the Secretary, delegate such of these powers as the Secretary approves to any other person or to the holder for the time being of any specified office in the Public Service.

(3) Subject to any general or special directions given by the Secretary, the person to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by delegation.

(4) Every person purporting to act pursuant to any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(5) Any delegation under this section may be made to a specified person or to persons of a specified class, or to the holder or holders for the time being of a specified office or of specified classes of offices.

(6) Every such delegation shall be revocable in writing at will and no delegation shall prevent the exercise of any power or function by the Secretary.

(7) Any such delegation shall, until it is revoked, continue in force according to its tenor, notwithstanding any change in the holder of the position of Secretary.

6. Investigations and Inquiries - (1) The Secretary shall have the power to conduct investigations or inquiries and for this purpose may specially appoint a person to conduct such an investigation or inquiry and to report the result of the investigation or inquiry to the Secretary. For the purposes of this section the Secretary or the person he appoints shall have the same powers and authority to summon witnesses as are conferred upon Commissions of Inquiry by the Commissions of Inquiry Act 1908.

(2) Payment of any fees or expenses incurred in connection with any such investigation or inquiry shall be authorised by the Secretary out of money appropriated by the Assembly for this purpose.

PART 11

THE PUBLIC SERVICE

7. The Public Service - (1) The provisions of the Act shall apply to all persons employed for the time being in any of the following departments:

Premier's Department
Education Department
Agriculture Department
Co-operatives Department
Health Department
Social Development Department
Radio Department
Justice Department
Public Works Department
Electric Power Supply
Post Office
Survey Department
Police Department
Printing Office
Treasury, Customs and Inland Revenue Department
Meteorological and Ionosphere
(other than New Zealand public servants).

(2) Wherever in any Act in force before the fourth day of August, nineteen hundred and sixty five, it is provided that any appointment to any department in the Public Service may be made by the Governor-General of New Zealand, or by the Resident Commissioner of the Cook Islands appointed under the Cook Islands Act 1945, or by the New Zealand State Services Commission, or by a Minister or by any other person, that appointment shall be made by the Secretary in accordance with this Act:

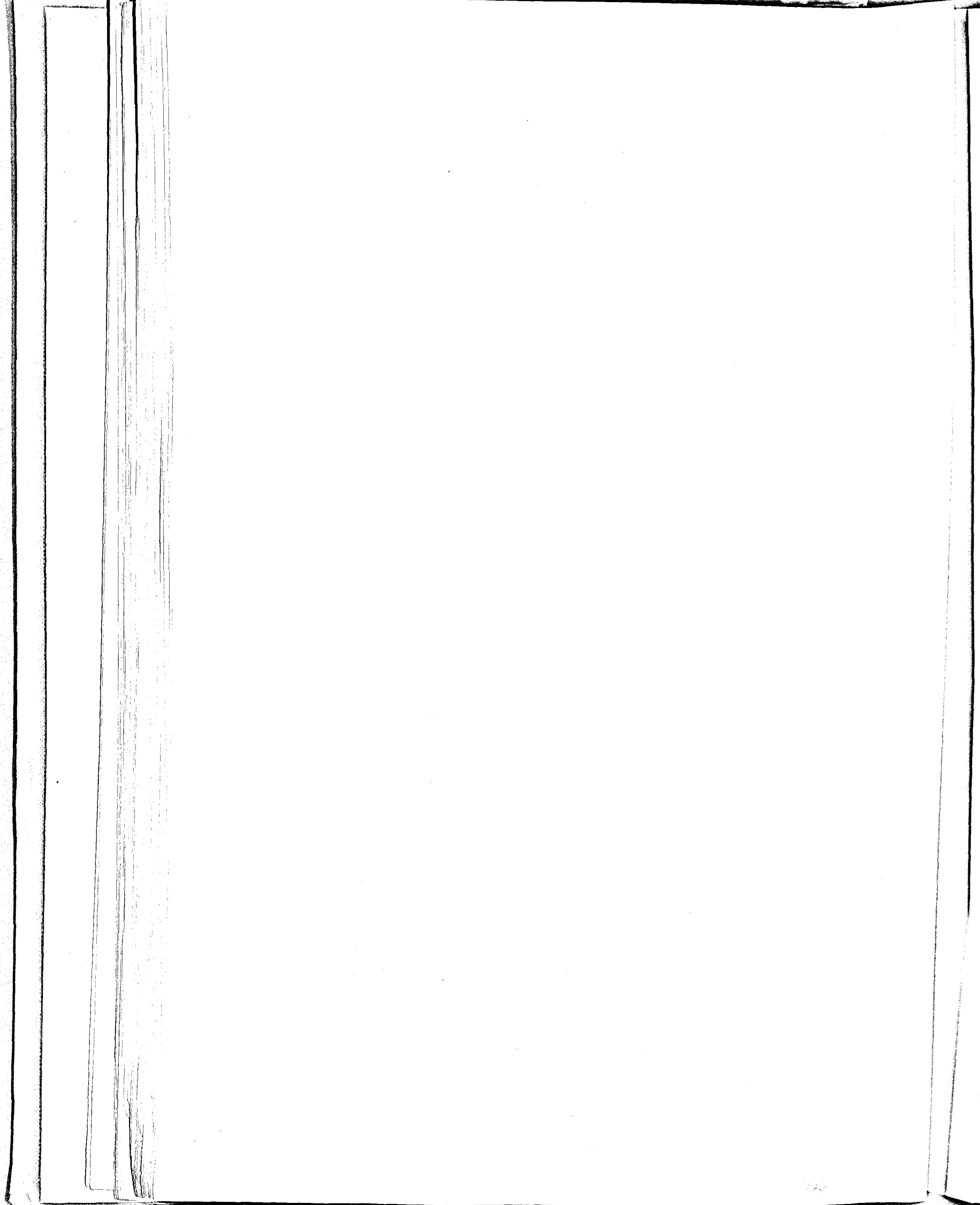
Provided that this subsection shall not derogate in any way from the powers of appointment vested in any person by the Constitution.

8. Functions of Departmental Heads - In addition to any other functions and duties imposed by any other law in force in the Cook Islands the departmental head of every Department of the Public Service shall be responsible to the Minister for the time being in charge of that Department for the administration of the functions of that Department and shall be responsible to the Secretary for the efficient and economical administration of the Department.

9. Appointments to the Public Service - (1) All appointments to the Public Service shall be made by the Secretary who shall, in making appointments to the Public Service, have regard to the need to maintain and develop an efficient career service based on the recruitment of adequately qualified persons. He shall make no appointment to the Public Service unless he is satisfied that such appointment is necessary and that the appointee has clearly more merit for the position to be filled than any officer who is qualified and available for the position; merit to be determined in accordance with section 13 of this Act.

(2) Every appointment of any person to the permanent staff of the Public Service shall be notified by Official Circular or otherwise.

10. Temporary Salaried Employees - (1) The Secretary may engage such temporary salaried employees as may from time to time be required in the public interest, and may dismiss any person so engaged with not less than one week's notice, or, in the case of misconduct, without notice. No action shall lie in any Court in respect of the dismissal of any temporary salaried employee.



13. Appointments to Vacant Positions - (1) All appointments to vacant positions in the Public Service shall be made by the Secretary.

(2) The Secretary shall whenever practicable notify every vacancy or prospective vacancy in a permanent position (including any newly created permanent position) in the Official Circular or in such other manner as he thinks sufficient to enable any employee qualified for appointment to make application therefor.

(3) Notwithstanding anything in subsection (2) of this section, the Secretary may in any case fill any vacancy without having notified the same:

Provided that any appointment so made shall be notified in accordance with subsection (2) of Section 9 of this Act and where a right of appeal exists there shall be an open right of appeal.

(4) In the event of two or more officers being available for the same position, preference shall be given to that officer who, in the opinion of the Secretary, has the most merit for appointment to the position.

(5) For the purposes of this Act, the merit of an officer for promotion shall be determined by:

- (a) Work experience and competence shown in performance of duties previously carried out by him; and
- (b) Personal qualities, characteristics, and attributes relevant to the position to be filled; and
- (c) Relevant educational or other qualifications:

Provided that, where two or more officers who are applicants for a vacancy are adjudged to be equal in merit for promotion having regard to the matters specified in the foregoing provisions of this subsection, regard shall be given to the length of continuous permanent service of each officer.

(6) Every promotion of an officer or probationer shall be notified within the Public Service by notice in the Official Circular or otherwise.

(7) The Secretary may in any case allow any officer to decline any offered promotion or appointment without prejudice to his right to any future promotion or appointment for which he might be qualified.

14. Effective Date of Appointments - (1) Notwithstanding anything to the contrary in any enactment other than this section, the power conferred by this Act to appoint any person to any position in the Public Service shall be deemed to include a power to appoint that person from and including a date to be specified in that behalf in the instrument or minute of appointment, whether or not that date is earlier or later than the date on which the power of appointment is exercised, and salary shall be payable from and including such date (not being earlier than the date so specified in the instrument or minute) as the Secretary may determine.

(2) The provisions of subsection (1) of this section shall apply notwithstanding that any other person previously appointed to the position may on the specified date and for any time thereafter continue to hold and receive the salary for that position though (by reason of absence or other circumstances) not actually performing the duties thereof.

15. Acting Appointments - (1) In the case of absence from duty of any employee (from whatever cause arising) or on the occurrence from any cause of a vacancy in any position in the Public Service (whether by reason of death, resignation, or otherwise) and from time to time while the absence or vacancy continues, all or any of the powers and duties of the employee or pertaining to the position may be exercised and performed by any other employee for the time being directed by the Secretary to exercise and perform them, whether the direction has been given before the absence or vacancy occurs or while it continues.

(2) No such direction and no acts done by any employee acting pursuant to any such direction shall in any proceedings be questioned on the ground that the occasion for the direction had not arisen or had ceased, or on the ground that the employee had not been appointed to any position to which the direction relates.

16. Evidence of Appointments - (1) Any appointment to any office or position in the Public Service shall be made, confirmed or approved in writing by an instrument or minute by the Secretary or by any person to whom the Secretary has delegated power in that behalf in accordance with section 5 of this Act; and, notwithstanding anything to the contrary in any enactment, it shall not be necessary for the Secretary or any such person to execute any formal warrant or other instrument in special form.

(2) A certificate signed by the Secretary that any person named in the certificate was appointed to any office or position in the Public Service from and including a day stated therein shall be sufficient evidence that the person so named was duly so appointed to and continues to hold the office or position unless the contrary is proved.

17. Appointments Subject to Appeal to be Provisional - (1) Every appointment or promotion which is subject to a right of appeal by any officer under section 39 of this Act shall be provisional until all appeals lodged in respect thereof have been duly determined, or, if no appeal is lodged, until the time for the lodging of appeals has expired.

(2) If any appeal against a provisional appointment or promotion is allowed, the Secretary shall cancel the provisional appointment or promotion.

(3) The Secretary may at any time cancel a provisional appointment or promotion, whether or not an appeal against the appointment or promotion has been lodged, if in his opinion the office is not required or can be suitably filled by the transfer without promotion of any other officer, or if he considers that further notification of the position is desirable, or for any other sufficient reason.

TRANSFERS AND TERMINATIONS

18. Redundancy - (1) If the Secretary at any time finds that a greater number of persons is employed in any Department of the Public Service than he considers to be necessary for the efficient working thereof, such persons as are redundant may (if practicable) be transferred to any other Department of the Public Service which in the opinion of the Secretary requires additional assistance; and if any person so found to be redundant cannot be usefully employed in any other Department of the Public Service the Secretary may terminate his employment.

(2) If at any time the Secretary finds that any officer is in receipt of a greater salary than the maximum determined by him to be fairly appropriate to work performed by or assigned to that officer, the case shall be dealt with by the Secretary subject to the following provisions:

(a) If in the opinion of the Secretary the officer is fitted for or capable of performing work of a class equivalent to the amount of his salary, and that class of work is available in the same or another Department, the Secretary may assign that class of work to that officer:

(b) (i) If that class of work is not available, the Secretary may reduce the salary of the officer to the maximum determined by the Secretary to be appropriate to the class of work actually performed by or assigned to the officer:

(ii) Any such determination shall be subject to right of appeal.

(c) If any such reduction of salary is certified by the Secretary to be made on the ground only that no work equivalent to the salary previously received by the officer affected is at the time of the reduction available, and the officer affected elects to continue in the Public Service at that reduced salary, the officer shall remain eligible for promotion as from the grade to which his salary before reduction was incident notwithstanding the reduction, and shall be entitled to employment on the class of work to which his previous salary was appropriate as soon as a vacancy occurs therein in preference to any other officer of the same or a lower grade whose salary has not been reduced.

19. Employees may be Transferred - The Secretary may transfer any employee, whether on promotion or otherwise, from one position in any Department of the Public Service to a position in the same or any other such Department, whether or not the transfer involves a change of location; and, except as otherwise provided in this Act, there shall be no right of appeal against any such transfer.

20. Failure to Comply with a Direction to Transfer - (1) Any employee who fails to comply with a direction of the Secretary requiring him to transfer from one position or locality to another may be forthwith dismissed or reduced in grading by the Secretary unless he justifies the non-compliance in the opinion of the Secretary by adducing some valid and sufficient reason therefor.

(2) There shall be no right of appeal against any dismissal or reduction in grading under this section:

Provided that nothing in this subsection shall affect the right to appeal against transfer conferred by subparagraph (c) of subsection (2) of section 39 of this Act.

21. Notice of Termination of Employment - (1) Every officer shall be deemed to be a three-monthly employee and notwithstanding any other provision in this Act, his employment may be terminated at any time after three months' notice in writing has been given -

(a) By the Secretary to the officer on the ground of redundancy or to effect retirement in accordance with retirement policy: or

(b) By the Officer to the Secretary.

(2) The Secretary may forthwith terminate the employment of any officer who gives less than three months' notice under this section.

(3) This section shall not derogate in any manner from any other provisions of this Act conferring power on the Secretary to dismiss officers.

22. Remuneration, Classification and Grading - (1) The permanent staff of the Public Service shall consist of officers and probationers.

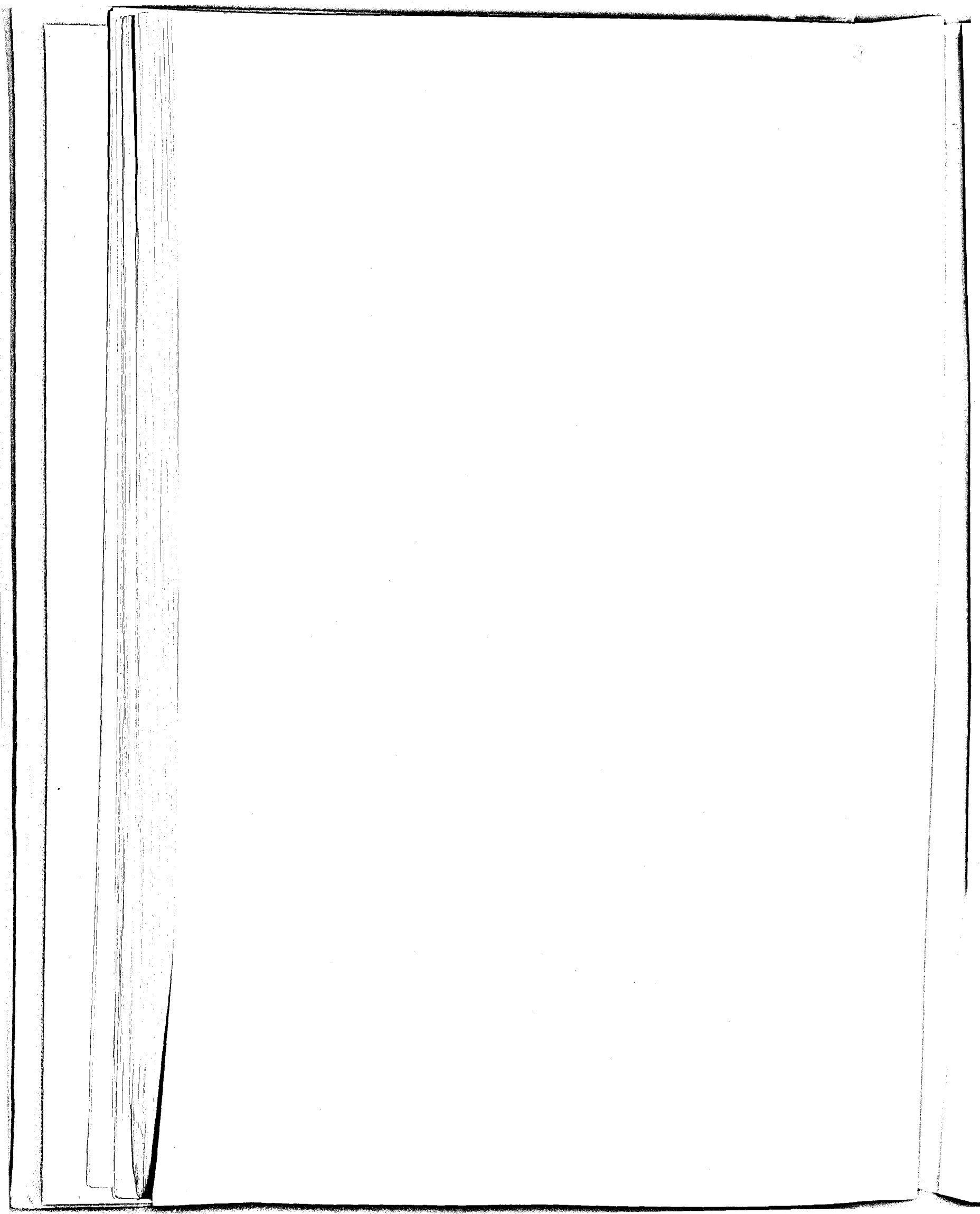
(2) The Secretary may prescribe salary scales attaching to any type of work and, where he deems it necessary, there may be grades within any such salary scales.

(3) The Secretary shall at intervals no longer than five years from the commencement of this Act review salary scales.

(4) The Cook Islands Branch of the New Zealand Public Service Association (Incorporated) Island Territories section shall be the service organisation recognised as representing the views of the employees of the Public Service.

(5) In addition to any other powers conferred upon him by this Act or any other law in force in the Cook Islands the Secretary shall have power to prescribe for the Public Service or any class or classes of employees thereof annual and special leave, public holidays, ordinary hours of work, and the period to be worked before overtime rates become payable; rates of remuneration and conditions in respect of minimum earnings, overtime, travelling time, shift work, night work, and special duty, and in respect of work on Saturdays, Sundays, and public holidays, and at any other time outside the ordinary hours of duty; tool allowances; and the terms and conditions under which working clothing may be issued.

23. Grading of Employees - The Secretary shall place every employee in a grade or on a salary level commensurate with his educational qualifications and responsibilities.







(2) If the Secretary determines that a reprimand or caution or fine of ten pounds or less shall be the penalty then that decision is final and there is no right of appeal by the officer against the penalty.

(3) If the officer is charged he shall by notice in writing be required to state in writing within a reasonable time to be specified in the notice whether he admits or denies the truth of the charge and shall also be required to give to the departmental head or Secretary in writing such explanation as will enable proper consideration to be given to the alleged offence. If a denial of the truth of the charge is not made within the required time, the officer shall be deemed to have admitted the truth thereof.

(4) The departmental head, if he has charged the officer, shall forthwith forward to the Secretary a copy of the charge and any replies thereto, together with his own report on the matter and such other reports as he may have obtained, and the Secretary shall thereupon proceed to consider and determine the matter.

(5) If the Secretary is of the opinion that the charge should be investigated by some other person or persons he may appoint such person or persons; and each person so appointed shall conduct an inquiry into the matter.

(6) Where a charge is made against an officer under this section, any person or persons appointed under subsection (5) of this section shall have the same powers as the Secretary to summon and examine upon oath any witness whose evidence may be deemed necessary or material, and shall, after fully hearing the case, report to the Secretary his opinion thereon, and forward to the Secretary with his report a copy of all evidence received by him.

(7) If the truth of the charge is admitted by the officer concerned, or if the Secretary after consideration of the reports relating to the charge and any reply or explanation furnished by the officer, and after such further investigation or inquiry (if any) as he considers necessary, is satisfied as to the truth of the charge, he may after taking into account the Service record of the officer, impose one or more of the following penalties:-

- (a) Caution and reprimand the officer:
- (b) Order to be deducted by way of penalty from the salary of the officer such sum not exceeding one hundred pounds as the Secretary thinks fit:
- (c) Transfer him to other duties:
- (d) Reduce the rate of salary of the officer (with or without a consequent reduction in grading):
- (e) Dismiss the officer from the Public Service.

(8) As soon as practicable after the conclusion of any investigation or inquiry under this section the Secretary shall, by notice in writing, inform the officer concerned of his decision and of the penalty (if any) imposed by him.

(9) If any charge is established under the provisions of this section, and the Secretary is satisfied that any omission or default involved in that finding resulted in ascertained or assessable damage to property of the Government of the Cook Islands, or loss to the Government of the Cook Islands, the Secretary, with the concurrence of the Minister of Finance, may direct the recovery of an amount not exceeding the amount of the said damage or loss in addition to any penalty that may lawfully be imposed under sub-section (7) of this section, and the amount directed to be recovered shall be deducted from the salary or any money payable by the Government of the Cook Islands to the Officer in such manner as the Secretary may direct.

(10) Any officer against whom a charge is made or contemplated under this section may, pending the hearing and determination of the charge, be suspended or transferred to other duties by the Secretary.

(11) Except with the express approval in writing of the Secretary, no person who has been suspended under the foregoing provisions of this section shall be entitled to receive any salary or payment for loss of earnings in respect of the period of suspension if the charge made against him is sustained on inquiry or investigation as hereinbefore provided.

(12) An officer shall not be paid any salary or any amount in respect of loss of earnings in respect of any period of suspension from duty under this section unless the Secretary otherwise directs or he is acquitted of the charge.

(13) At any inquiry or investigation held under this section with respect of any charge made against an officer, the officer shall be entitled to be represented by counsel or an agent.

(14) In any case where, after inquiry or investigation, the charges made against an officer are held not to have been proved, the Secretary may allow the officer the whole or such part as he thinks fit of the legal costs and other expenses actually incurred by the officer.

(15) This section shall not derogate in any manner from the powers and rights conferred by sections (18) and (19) of this Act.

32. Offences by Departmental Head - If in any case the Secretary has grounds to suspect that a departmental head may have committed an offence to which Section 30 of this Act applies, he may notify the departmental head accordingly and institute an inquiry. In any such case the provisions of section 31 of this Act shall apply with the necessary modifications, references in that section to the departmental head being construed, where necessary for the purposes of this section, as references to the Secretary.

33. Unauthorised Absence - (1) Notwithstanding the provisions of sections 30 and 31 of this Act, an employee who absents himself from duty, or who fails to return to duty, and (in either case) continues to be absent without permission for a period of not less than four weeks shall be deemed to have forfeited office:

Provided that notice of the effect of this section shall be sent by post in a letter addressed to the employee at his usual or last known place of abode, and he shall not be deemed to have so forfeited office before the expiration of one week from the date on which the notice is so sent.

(2) If the employee subsequently satisfies the Secretary that there was a valid reason for his absence and for his failure to inform the Secretary earlier of that reason, the Secretary may reinstate the employee; and in such a case the employee shall be deemed not to have forfeited office, but to have been on leave from the Public Service during the period of absence.

PART III - APPEALS

34. Constitution of the Board of Appeal - The Board of Appeal shall comprise three members as provided in Article 76 of the Constitution.

35. Nomination of Members - (1) As required by sub-paragraph (a) of subclause (3) of Article 76 of the Constitution it shall be the responsibility of the Service Organisation to nominate an officer or former officer of the Public Service to serve as a member of the Board of Appeal.

(2) Nomination shall be decided upon at a General Meeting of the Service Organisation and forwarded to the Registrar of the High Court.

36. Member not to act in Appeal Affecting himself or his Department - No member of the Board of Appeal shall act on the Board of Appeal in any appeal affecting an officer of the department in which the member is employed, or in any appeal affecting himself.

37. Deputies to Members - (1) In the event of the death or unavoidable absence or resignation or disqualification under section 36 of the member of the Board of Appeal appointed by the High Commissioner on the advice of the Premier, the Secretary may from time to time appoint an officer or former officer of the Public Service to act, for such time as the Secretary shall specify, in the place of the member who has died or has been unavoidably absent or has been disqualified or has resigned. No person appointed under this subsection shall so act after the expiration of six months after the position of member becomes vacant.

(2) In the event of the death or unavoidable absence or resignation or disqualification under section 36 of the member of the Board of Appeal nominated by the Service Organisation, the Service Organisation shall nominate an officer or former officer who shall act in the place of the regular member at the meeting of the Board of Appeal and that officer or former officer shall for the purposes of this Act be deemed to be a duly appointed member of the Board of Appeal for the purpose of the meeting of the Board of Appeal.

(3) No appointment of a deputy member under this section shall in any proceedings be called in question on the grounds that the occasion for the appointment had not arisen or had ceased.

38. Remuneration of Board of Appeal Members - (1) A member of the Board of Appeal who is an officer of the Public Service shall not be granted remuneration in addition to his Public Service salary while he acts as a member of the Appeal Board.

(2) Any former officer of the Public Service who is a member of the Board shall be paid such remuneration for each day or part of a day as is fixed from time to time by the Minister of Finance.

(3) Payment of travelling expenses to members shall be in accordance with the instructions applying to employees of the Public Service.

39. Rights of Appeal - (1) Every officer in receipt of a salary equivalent to or in excess of that laid down as the maximum for holders of the Senior Examination shall have a right of appeal in accordance with this section against the promotion of any officer, or the appointment of any person who is not an officer, to any position on the permanent staff of the Public Service if (in either case) the appointment of the appellant to the position would have involved his promotion:

Provided that no officer shall have any right of appeal in respect of any such promotion or appointment if the promotion or appointment was to a vacancy which had been notified in the Official Circular or otherwise, unless the officer was an applicant for appointment thereto:

Provided also that any such appeal shall be deemed to have lapsed if, before the appeal is determined, the appellant is promoted to an equivalent grade or to a position with the same or higher maximum salary or the promotion or appointment that is the subject of the appeal is cancelled, or if the officer promoted or the person appointed dies, or vacates or renounces or becomes incapable of taking up the position or grade:

- (2) Every officer shall have a right of appeal against:
- (a) Any penalty fixed by the Secretary for offences against the provisions of this Act or any Public Service Regulations or Instructions other than a reprimand or a fine of ten pounds or less.
 - (b) Any determination of guilt, by the Secretary in respect of an offence, under this Act.
 - (c) Any decision of the Secretary of the Premier's Department to transfer the officer from one locality to another within the Cook Islands.

Provided that an appeal under this paragraph (c) shall lie only on the grounds of extraordinary personal hardship and provided also that the fact that an appeal is pending under this paragraph (c) shall not relieve the officer of his obligation to comply with the decision of the Secretary pending decision on the appeal, unless the Chairman of the Board, on application made to him on that behalf, and on being satisfied that a prima facie case of such hardship is established, directs that the officer shall not be so transferred pending the decision of the Board.

- (d) Any other decision in respect of which a right of appeal is expressly conferred by this Act or any other enactment.

40. Notice of Appeal - Notice of appeal under section 39 of this Act and of the grounds for appeal shall be forwarded to the Secretary in writing in time to be received by him within fourteen days after the date on which the decision has been notified to the officer concerned, or within such extended time as the Board of Appeal may in any case allow after good and sufficient reason has been shown in writing by the appellant. An appellant shall be deemed to have complied with the provisions of this section if he establishes to the satisfaction of the Board of Appeal, by the production of corroborative evidence, that the notice of appeal was dispatched to the Secretary in time for it to have been delivered at the office of the Secretary in the normal course of postal delivery on or before the last day fixed for the receipt of the notice:

Provided that an officer stationed on an island of the Cook Islands other than Rarotonga shall be deemed to have complied with the requirements of this section if his notice of appeal is handed to the Resident Agent or Clerk-in-Charge of the island on or before the last day fixed for the receipt of the notice and advice of such receipt is communicated to the Secretary forthwith by telegram.

41. Jurisdiction of Cook Islands Public Service Board of Appeal - (1) The Board of Appeal shall have jurisdiction to hear and determine every such appeal forwarded under section 40, and for this purpose to summon witnesses, including (if necessary) the provisional appointee, and to examine the witnesses on oath or otherwise. On any appeal the Board of Appeal may receive such evidence as it thinks fit, and receive any statement, document, information, or matter which in the opinion of the Board of Appeal may assist it to deal with the matters before it, whether or not the same would be admissible in a Court of law.

(2) In deciding any appeal against an appointment the Board of Appeal may allow or disallow the appeal. Where the appeal is allowed the Secretary shall forthwith appoint the successful appellant to the position.

(3) Where the appeal is against any penalty imposed by the Secretary on any officer under section 29 or section 31 of this Act, or any amount directed to be recovered under Section 31 of this Act, the Board of Appeal may confirm, vary, or annul the penalty or the amount directed to be recovered or substitute therefor any other penalty authorised in the section under which the penalty was imposed.

(4) In any appeal the onus of proof shall rest upon the appellant:

Provided that, in any appeal against the appointment to the Public Service of any person who is not an officer, and in any appeal under the provisions of sub-paragraph (a) or sub-paragraph (b) of subsection (2) of section 39 of this Act, the onus of proof shall rest upon the Secretary.

(5) The proceedings of the Board of Appeal shall not be open to the public.

(6) Any person authorised by the Board of Appeal may attend the hearing.

(7) At the hearing of any appeal the Secretary may be represented by counsel or other advocate.

(8) At the hearing of any appeal the appellant shall be entitled to be present, and may be represented by counsel or by an officer of the Public Service:

Provided that the Board of Appeal shall have jurisdiction to hear any appeal on papers where the Board of Appeal considers such procedure warranted.

(9) Appeals affecting more than one appellant shall not be heard together, unless the Board of Appeal so desires.

(10) In matters not expressly provided for in this Act or in any regulations made or continuing in force thereunder, the procedure of the Board of Appeal shall be such as the Board of Appeal may determine.

(11) Proceedings before the Board of Appeal shall not be held bad for want of form. No appeal shall lie from any decision of the Board of Appeal and, except on the ground of lack of jurisdiction, no proceeding or decision of the Board of Appeal shall be liable to be challenged, reviewed, quashed, or called in question in any Court.

(12) The Board of Appeal shall within the scope of its jurisdiction be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908 and, subject to the provisions of this Act, all the provisions of that Act except sections 11 and 12 (which relate to costs) shall apply accordingly.

(13) An appellant, if his appeal is allowed, shall be entitled to a refund out of money appropriated by the Assembly for the purpose of actual and reasonable personal travelling and accommodation expenses incurred within the Cook Islands in attending the hearing; but, if the appeal is not allowed, the appellant shall not be entitled to a refund of any such expenses unless the Board of Appeal expressly directs that the whole or a portion thereof should be refunded.

(14) If in the opinion of the Board of Appeal any appeal under this section is frivolous or vexatious, or one that should not have been made, the appellant shall not be entitled to a refund of expenses and the Board of Appeal may order him to pay the cost of the appeal in whole or in part, and the sum so ordered to be paid shall be recoverable by deduction from the salary of the appellant.

42. Services for Board of Appeal - The Justice Department shall furnish such secretarial, recording, and clerical services as may be deemed necessary to enable the Board of Appeal to discharge its functions. All evidence recorded in any appeal shall be retained for six months, and may then be disposed of, unless the Board of Appeal in any case otherwise directs.

43. Offence to Attempt to Influence Board of Appeal - (1) Except as provided in subsection (4) of this section, no person shall in any way attempt to influence the Board of Appeal or any member of the Board of Appeal in respect of any appeal.

(2) Any person who acts in contravention of the provisions of this Section commits an offence, and is liable to a fine not exceeding one hundred pounds.

(3) An officer who is convicted for an offence under this section is liable without further charge or other proceedings to immediate dismissal or to such lesser penalty as the Secretary may impose.

(4) Nothing in this section shall be so construed as to prohibit any person from giving information or making representations in respect of any appeal at the request or invitation of the Secretary or the Board of Appeal, or as a witness or as an appellant or the representative of an appellant at a hearing before the Board of Appeal.

PART IV

MISCELLANEOUS PROVISIONS RELATING TO THE PUBLIC SERVICE

44. Medical Examinations - The Secretary may require any applicant for appointment or any employee to submit himself to medical examination at his own expense or otherwise by a medical practitioner nominated by the Secretary.

45. Educational Qualifications - The Secretary may from time to time prescribe and if necessary conduct examinations for the purpose of ascertaining the merit of candidates for appointment and employees for promotion.

46. Employee may be Charged Rent - (1) If arising out of or in connection with his employment any employee is supplied by the Government of the Cook Islands with any house or other premises for the purposes of residence, the Secretary may, if the employee is not entitled to free quarters, direct that a fair and reasonable sum as rent thereof be deducted from the employee's salary, and the amount of that sum shall from time to time be fixed by the Secretary.

47. Bonds - (1) Any employee or prospective employee to whom money is advanced, or on whose behalf expenditure is incurred with the approval of the Secretary in connection with transportation, education, training, or sustenance, or for any other special purpose, may be required as a condition of that advance or expenditure to sign a bond in a form to be determined by the Secretary requiring him to pay to the Government of the Cook Islands the sum therein specified if he makes default in the performance of any condition of the bond:

Provided that the said amount shall be reduced during the currency of the bond by an amount equivalent to the proportion that the service rendered by the employee in accordance with the condition of the bond bears to the full period of service required for the discharge of the bond.

(2) The Secretary may require that such a bond shall also be signed by a parent or guardian, or by some other person approved by the Secretary, as surety; and the parent or guardian or person who signs such a bond shall be jointly and severally liable thereunder.

(3) Every such bond shall be enforceable against the employee or prospective employee and the surety who signs it, notwithstanding anything in this Act or any other enactment or any rule of law.

48. Regulations - (1) The Secretary may from time to time with the approval of the Executive Council, make regulations for all or any of the following purposes :-

- (a) Promoting efficiency and economy in the Public Service:
- (b) Prescribing standards of and conditions relating to office accommodation and physical working conditions:
- (c) Facilitating the recruitment, appointment, classification, and grading of employees:
- (d) Prescribing normal or special hours of attendance or duty, and modes of recording times spent on duty:
- (e) Subject to the provisions of any enactment, safeguarding Government property within the custody of any Department or employee, and preventing the incurring by the Crown of unauthorised liabilities:
- (f) Defining the terms and conditions of occupancy of Government dwellings or residential properties in terms of section 46 of this Act, and fixing the rentals payable for such dwellings or residential properties and matters ancillary thereto:
- (g) Relating to the conduct of employees or of any class thereof, the maintenance of integrity, the control of activities which are or may be detrimental to the performance of official duties, the furnishing of official information, and the maintenance of impartiality in the performance of official duties:
- (h) Prescribing the responsibilities and duties of officers controlling staff:
- (i) Prescribing the nature of personal reports on employees and the times when they are to be made:
- (j) Prescribing the nature and duration of leave of absence that may be granted to employees, and the terms and conditions of such leave:
- (k) Empowering the Secretary to prescribe allowances and make grants, and to prescribe the terms, conditions, and rates or amounts of allowances and grants that may be paid to employees in addition to, or instead of, salary or wages:
- (l) Fixing terms, conditions, rates or amounts that may be paid to any person to recoup expenses incurred or to be incurred by such persons on the instructions or in the service of the Secretary:
- (m) Providing for the training of staff:
- (n) Prescribing examinations or qualifications for the purposes of the appointment, the promotion, the classification, or the grading of employees:

- (o) Prescribing terms and conditions of employment in respect of temporary salaried employees and casual employees paid on an hourly, daily or weekly basis:
- (p) Prescribing conditions of retirement:
- (q) Prescribing the forms of documents to be employed in dealing with staff and employment and appeal matters:
- (r) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Regulations made pursuant to subsection (1) of this section may be made either generally or with respect to any particular case or class of cases.

(3) Regulations made under this section shall come into force on a date to be specified therein in that behalf (whether before or after the date of the approval of the Executive Council making the regulations), and if no such date is specified shall come into force on the date of their notification in the Cook Islands Gazette.

49. Instructions - Subject to this Act and any regulations made or continuing in force thereunder, and without restricting the powers of the Secretary, it is hereby declared that the Secretary may from time to time issue, in the form of a Public Service Manual, instructions which shall be observed by all employees.

50. Notices to Employees - Where any notice has to be given under this Act to any employee, it may be given -

- (a) By delivering it to the employee to whom it has to be given; or
- (b) By sending it to the employee in a letter addressed and posted to him at his usual place of employment or at his last known place of abode; or
- (c) By publishing the notice in the Official Circular.

51. No Compensation for Loss of Salary - Except as provided in this Act or any other enactment, no employee shall be entitled to any compensation by reason of any reduction in salary, or in consequence of his services being dispensed with.

52. Offence to Attempt to Influence Secretary - (1) Every person commits an offence against this Section who directly or indirectly solicits or endeavours either to influence the Secretary to obtain preferment or reward or gain or to influence the Secretary or any other person to whom the Secretary has delegated his powers under section 5 of this Act with respect to decisions on the matters described in the first proviso to subsection (1) of section 5 of this Act.

(2) Every person who commits an offence against this Section is liable to a fine not exceeding one hundred pounds.

(3) Nothing in this section shall apply to any person giving information or advice or making representations to the Secretary in respect of any appointment, promotion or grading at the request of the Secretary.

(4) Nothing in this section shall be construed so as to prevent the secured organisation from making representations to the Secretary on any matter affecting the salaries, wages, or conditions of employment of any employee or class of employee.

(5) Nothing in this section shall apply to any application made by an employee addressed to the Secretary in the manner prescribed by the Secretary for such applications.

53. Repeals, Amendments, and Savings - (1)

(a) Sections 77, 78, 79, 80, 81, 82, 83A, and 84 of the Cook Islands Amendment Act 1957 of the Parliament of New Zealand shall cease to have effect as part of the law of the Cook Islands:

(b) Subsection (1) of section 22, section 30, and subsection (3) of section 31 of the said Cook Islands Amendment Act 1957 are hereby amended by omitting the words "Part III of this Act", where ever they occur and substituting therefor in each case the words "the Public Service Act 1965":

(c) The Cook Islands Public Service Regulations 1964 shall cease to have effect as part of the law of the Cook Islands.

(2) All persons who immediately before the commencement of this Act were employees of the Cook Islands Public Service shall continue to be employees of and to hold the same office and status in that Service as if they had been appointed by the Secretary under the provisions of this Act, and the provisions of this Act shall apply to them accordingly.

(3) All matters and proceedings commenced under any enactment repealed by this section and pending or in progress whether at the commencement of this Act or the date it is assented to by the High Commissioner may be continued or completed under the said enactment as if the enactments repealed by this section continued in force.

Examined and Certified:
