



ANALYSIS

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1988, No. 159

An Act to make better provision for the conduct of relations between New Zealand and foreign states generally

[29 November 1988

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

1. Short Title and commencement—(1) This Act may be cited as the External Relations Act 1988.

(2) This Act shall come into force on the 1st day of December 1988.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Head of mission” means a person who is appointed by the Governor-General to be—

(a) High Commissioner for New Zealand in any Commonwealth country; or

(b) Ambassador of New Zealand to any state that is not a Commonwealth country; or

(c) Head of mission for New Zealand at any international organisation; or

(d) Head of mission for New Zealand (not being a high commissioner or ambassador) to any state:

“Head of post” means a person who is not a head of mission but is appointed by the Governor-General to be the head of a New Zealand government office in any state:

“Ministry” means the Ministry of External Relations and Trade:

“Secretary” means the Secretary of External Relations and Trade:

“State” means any state, country, or territory; but does not include New Zealand:

“State services” has the meaning given to it by section 2 (1) of the State Sector Act 1988.

3. Secretary of External Relations and Trade—The chief executive of the Ministry shall be known as the Secretary of External Relations and Trade.

Cf. 1983, No. 128, s. 6

4. Appointment of head of mission or head of post—

(1) The Governor-General may from time to time appoint or reappoint any person as a head of mission or head of post.

(2) The procedure put in place by the Secretary pursuant to section 65 of the State Sector Act 1988 shall not apply to any appointment or reappointment of a head of mission or head of post.

Cf. 1983, No. 128, s. 10A; 1988, No. 34, s. 7

5. Removal from office—The Governor-General may from time to time remove any head of mission or head of post from office.

Cf. 1983, No. 128, s. 10B; 1988, No. 34, s. 7

6. 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

(b) Any other officer or employee of the Ministry; or

(c) Any other person, being an officer or employee of the State services or of the New Zealand Trade Development Board (as established by the New

Zealand Trade Development Board Act 1988), who is on secondment to the Ministry.

(2) The Secretary may reassign—

(a) To service in New Zealand; or

(b) To other service overseas,—

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.

Cf. 1983, No. 128, s. 10c; 1988, No. 34, s. 7

7. Conditions of service overseas—The Secretary shall determine the allowances and other conditions of service applicable to—

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

(b) Any person assigned or reassigned under section 6 of this Act to service overseas.

Cf. 1983, No. 128, s. 10d; 1988, No. 34, s. 7

8. Code of conduct—The Secretary 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 6 of this Act to service overseas.

Cf. 1983, No. 128, s. 10e; 1988, No. 34, s. 7

9. 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:

(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.

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

Cf. 1983, No. 128, s. 10F; 1988, No. 34, s. 7

10. Locally engaged staff— 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.

Cf. 1983, No. 128, s. 10G; 1988, No. 34, s. 7

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

(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.

Cf. 1983, No. 128, s. 10H; 1988, No. 34, s. 7

12. Persons assigned overseas who are servicemen— No person shall cease to be a serviceman (within the meaning of section 2 of the Defence Act 1971) for the purposes of that Act or the Armed Forces Discipline Act 1971 merely because that person is assigned or reassigned overseas under section 6 of this Act.

Cf. 1983, No. 128, s. 19

13. Prerogative of Crown not affected— Nothing in this Act extinguishes any power or authority that, if this Act had not been passed, would be exercisable by virtue of the prerogative of the Crown.

Cf. 1983, No. 128, s. 25

14. Consequential amendments, repeals, and savings— (1) The enactments specified in the Schedule to this Act are hereby amended in the manner indicated in that Schedule.

(2) The following enactments are hereby repealed:

(a) The Foreign Affairs Act 1983:

(b) The Foreign Affairs Amendment Act 1988.

(3) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that—

- (a) The repeal, by subsection (2) of this section, of the Foreign Affairs Act 1983 does not affect the amendments made by sections 30 and 32 (1) of that Act or the effect of the declaration contained in section 25 (2) of that Act or the validity of anything validated by section 32 (6) of that Act:
- (b) The repeal, by subsection (2) of this section, of the Foreign Affairs Amendment Act 1988 does not affect the amendments made by sections 10 to 12 of that Act.

15. Transitional provisions—(1) Every determination made pursuant to section 10D or section 10G or section 10H of the Foreign Affairs Act 1983 and in force immediately before the commencement of this Act shall continue in force as if it had been made under this Act.

(2) Every person who, at the commencement of this Act, holds any position pursuant to section 10A or section 10c or section 10G of the Foreign Affairs Act 1983 or pursuant to section 14 of the Foreign Affairs Amendment Act 1988 shall continue to hold that position as if that person had been appointed under this Act.

(3) After the commencement of this Act, all proceedings that were pending by or against the Ministry of Foreign Affairs immediately before the commencement of this Act may be carried on, completed, or enforced by or against the Ministry of External Relations and Trade.

(4) Every reference in any enactment or document passed or made before the commencement of this Act to the Department of External Affairs or to the Ministry of External Affairs or to the Ministry of Foreign Affairs shall, after the commencement of this Act, unless the context otherwise requires, be read as a reference to the Ministry of External Relations and Trade.

(5) Every reference in any enactment or document passed or made before the 23rd day of October 1969 to the Minister of External Affairs, and every reference in any enactment or document passed or made before the commencement of this Act to the Minister of Foreign Affairs, shall, after the commencement of this Act, unless the context otherwise requires, continue to be read as a reference to the Minister of Foreign Affairs.

(6) Every reference in any enactment or document passed or made before the commencement of this Act to the Secretary of External Affairs or to the Secretary of Foreign Affairs shall, after the commencement of this Act, unless the context

otherwise requires, be read as a reference to the Secretary of External Relations and Trade.

Section 14 (1)

SCHEDULE
ENACTMENTS AMENDED

Enactment	Amendment
<p>1956, No. 47—The Government Superannuation Fund Act 1956 (R.S. Vol. 21, p. 209)</p>	<p>By repealing section 22B (as substituted by section 32 (1) of the Foreign Affairs Act 1983), and substituting the following section:</p> <p>“22B. Locally engaged staff of New Zealand High Commission in United Kingdom—(1) In this section, unless the context otherwise requires,—</p> <p>“ ‘High Commissioner’ means the High Commissioner for New Zealand in the United Kingdom:</p> <p>“ ‘Special contributor’ means a contributor to the Fund subject to this section; and includes a person who was, immediately before the commencement of subsection (1) of section 14 of the External Relations Act 1988, a special contributor within the meaning of the former section 22B of this Act (as repealed by that subsection).</p> <p>“(2) Notwithstanding anything to the contrary in section 22 of this Act, every person who, at any time after the commencement of the External Relations Act 1988, is appointed (otherwise than in a temporary capacity) under section 10 of that Act as a member of the local staff of the New Zealand High Commission in London shall become a special contributor upon—</p> <p>“(a) Appointment; or</p> <p>“(b) Attaining the age of 17 years,— whichever is the later.</p> <p>“(3) Any person who—</p> <p>“(a) Is not a contributor to the Fund; and</p> <p>“(b) Was last appointed to assist the High Commissioner under section 8 of the Foreign Affairs Act 1943; and</p> <p>“(c) Has attained the age of 17 years— may, subject to section 22 of this Act, at any time elect to become a special contributor; and upon so electing shall become a special contributor.</p> <p>“(4) Any contributor to the Fund who was last appointed to assist the High Commissioner under section 8 of the Foreign Affairs Act 1943 before the 1st day</p>

SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Enactment	Amendment
<p>1956, No. 47—The Government Superannuation Fund Act 1956 (R.S. Vol. 21, p. 209)—<i>continued</i></p>	<p>of April 1968 may elect to become a special contributor; and upon so electing shall become a special contributor.</p> <p>“(5) A special contributor to the Fund shall be entitled neither—</p> <p>“(a) To give notice under section 28 of this Act; nor</p> <p>“(b) To elect under section 41 of this Act.</p> <p>“(6) Notwithstanding anything to the contrary in section 42 of this Act, there shall be deducted from any refund of contributions and interest (if any) payable pursuant to that section to any special contributor the amount that would be deductible under section 598 of the Income and Corporation Taxes Act 1988 of the Parliament of the United Kingdom (or under any subsequent enactment passed in amendment of, or substitution for, that provision or any such subsequent enactment) if that provision applied to that contributor.</p> <p>“(7) Any special contributor may at any time elect to contribute to the Fund on the basis of 60 percent of that person’s standard rate of contribution.</p> <p>“(8) An election under subsection (7) of this section shall take effect—</p> <p>“(a) On the date the person concerned becomes a special contributor if that person makes that election at the time that person becomes a special contributor; and</p> <p>“(b) Upon such date as the Board in its discretion approves, in every other case.”</p>
<p>1956, No. 107—The Electoral Act 1956 (R.S. Vol. 19, p. 159)</p>	<p>By omitting from section 2 (2A) (as substituted by section 12 (2) of the Foreign Affairs Amendment Act 1988) the words “Foreign Affairs Act 1983”, and substituting the words “External Relations Act 1988”.</p>

SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Enactment	Amendment
<p>1956, No. 107—The Electoral Act 1956 (R.S. Vol. 19, p. 159)— <i>continued</i></p>	<p>By omitting from section 32 (1) (a) (as amended by section 32 (1) of the Foreign Affairs Act 1983, and by section 12 (3) of the Foreign Affairs Amendment Act 1988) the words “Foreign Affairs Act 1983”, and substituting the words “External Relations Act 1988”.</p> <p>By omitting from section 42 (3) (a) (ii) (as substituted by section 12 (4) of the Foreign Affairs Amendment Act 1988) the words “Foreign Affairs Act 1983”, and substituting the words “External Relations Act 1988”.</p>
<p>1961, No. 43—The Crimes Act 1961 (R.S. Vol. 1, p. 635)</p>	<p>By repealing section 8A (1) (as substituted by section 9 of the Foreign Affairs Amendment Act 1988), and substituting the following subsection:</p> <p>“(1) This section applies to every person who is—</p> <p>“(a) A head of mission or head of post within the meaning of the External Relations Act 1988; or</p> <p>“(b) A person who is on overseas service pursuant to section 6 of the External Relations Act 1988; or</p> <p>“(c) A New Zealand citizen ordinarily resident in New Zealand and who is—</p> <p>“(i) A member of the family of a person described in paragraph (a) or paragraph (b) of this subsection; or</p> <p>“(ii) A member of the staff of a New Zealand overseas post or a New Zealand overseas mission, whether or not an officer or employee of the Ministry of External Relations and Trade or a person employed under section 10 of the External Relations Act 1988; or</p> <p>“(iii) An officer or employee of the State services (as defined in</p>

SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1961, No. 43—The Crimes Act 1961 (R.S. Vol. 1, p. 635)— <i>continued</i>	section 2 (1) of the State Sector Act 1988), or of the New Zealand Trade Development Board (as established by the New Zealand Trade Development Board Act 1988), who is serving in a New Zealand overseas post or a New Zealand overseas mission.”
1964, No. 50—The Export Guarantee Act 1964 (R.S. Vol 16, p. 129)	By omitting from the proviso to section 8 (1), and also from sections 12 (2) (c), 13 (1), 14 (1), 15 (3), and 17, the words “Minister of Overseas Trade” wherever they appear, and substituting in each case the words “Minister of External Relations and Trade”.
1967, No. 38—The Tokelau Amendment Act 1967 (Reprinted 1976, Vol. 5, p. 4498)	By repealing paragraph (c) of the definition of the term “Tokelau Public Service” in section 3, and substituting the following paragraph: “(c) Secretary of External Relations and Trade:”.
1974, No. 2—The New Zealand Export-Import Corporation Act 1974	By omitting from section 2 the definition of the term “Minister”, and substituting the following definition: “‘Minister’ means the Minister of External Relations and Trade:”
1974, No. 124—The Tokelau Amendment Act 1974 (Reprinted 1976, Vol. 5, p. 4520)	By omitting from section 2 (3) (b) the words “Secretary of Foreign Affairs”, and substituting the words “Secretary of External Relations and Trade”. By omitting from section 2 (3) (c) the words “Ministry of Foreign Affairs”, and substituting the words “Ministry of External Relations and Trade”.
1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)	By omitting from Part I of the First Schedule the item relating to the Ministry of Foreign Affairs, and substituting the following item: “The Ministry of External Relations and Trade.”

SCHEDULE—*continued*ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1977, No. 31—The Commonwealth Countries Act 1977	<p>By omitting from section 2 (1) (a) the words “Secretary of Foreign Affairs or a Deputy Secretary of Foreign Affairs”, and substituting the words “Secretary of External Relations and Trade”.</p> <p>By omitting from section 2 (4) the words “Secretary of Foreign Affairs or a Deputy Secretary of Foreign Affairs, as the case may be”, and substituting the words “Secretary of External Relations and Trade”.</p>
1977, No. 61—The Citizenship Act 1977	By omitting from section 6 (4) (b) (i) (as substituted by section 10 of the Foreign Affairs Amendment Act 1988) the words “Foreign Affairs Act 1983”, and substituting the words “External Relations Act 1988”.
1979, No. 33—The Civil List Act 1979	By omitting from section 21A (as substituted by section 11 of the Foreign Affairs Amendment Act 1988) the words “Foreign Affairs Act 1983”, and substituting the words “External Relations Act 1988”.
1980, No. 44—The Crimes (Internationally Protected Persons and Hostages) Act 1980	By omitting from section 15 the words “Secretary of Foreign Affairs or any Deputy Secretary of Foreign Affairs”, and substituting the words “Secretary of External Relations and Trade”.
1983, No. 130—The Films Act 1983	By omitting from Part I of the Schedule the item relating to the Ministry of Foreign Affairs, and substituting the following item: “The Ministry of External Relations and Trade.”
1986, No. 114—The Constitution Act 1986	By repealing so much of the First Schedule as relates to the Foreign Affairs Act 1983.
1987, No. 74—The Immigration Act 1987	<p>By repealing paragraph (b) of the definition of the term “visa officer” in section 2 (1), and substituting the following paragraph:</p> <p>“(b) Any head of mission or head of post (within the meaning of the External Relations Act 1988), and any other member of the staff (including locally engaged staff) of a New Zealand overseas mission or New Zealand overseas post who is authorised from time to time by the head of mission or head of post to exercise consular functions:”.</p>

SCHEDULE—*continued*
ENACTMENTS AMENDED—*continued*

Enactment	Amendment
1987, No. 86—The New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987	By repealing section 28.
1988, No. 20—The State Sector Act 1988	By omitting from the First Schedule the item relating to the Ministry of Foreign Affairs.

This Act is administered in the Ministry of External Relations and Trade.
