

Examined and certified by:



Clerk of the Parliament

In the name and on behalf of His Majesty King Charles III, I hereby assent to this Act
this 20th day of May, 2024




King's Representative

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An Act to amend the Cook Islands Immigration Act 2021 to ensure that the Cook Islands can manage immigration in a way that meets its international obligations.

The Parliament of the Cook Islands enacts as follows—

- 1 **Title**
This Act is the Cook Islands Immigration Amendment Act (No 2) 2024.
- 2 **Commencement**
This Act comes into force on a date appointed by the King's Representative by Order in Executive Council.
- 3 **Principal Act**
This Act amends the Cook Islands Immigration Act 2021.

Part 1 Amendments to principal Act

- 4 **Section 3 replaced (Purpose)**
Replace section 3 with:
- “3 **Purpose**
The purpose of this Act is to manage immigration to the Cook Islands in a way that—
- “(a) balances the national interest, as determined by the Crown, and the rights of individuals; and
- “(b) meets the international obligations of the Cook Islands.”
- 5 **Section 38 amended (Eligibility for grant of permanent residence by certificate)**
- (1) Replace section 38(2) with:
- “(2) A person is eligible for the grant of permanent residence under a category described in subsection (1) only if—
- “(a) the person satisfies the criteria prescribed by the regulations; and
- “(b) for each category described in subsection (1)(a) or (b), the person—
- “(i) is a New Zealand citizen and has lived continuously in the Cook Islands for at least 5 years; or
- “(ii) is not a New Zealand citizen and has lived continuously in the Cook Islands for at least 10 years.
- “(2A) The regulations may set out the circumstances in which a person is considered to have lived continuously in the Cook Islands.”
- (2) In section 38(3)(b), after “under”, insert “this section and”.
- 6 **Section 227 amended (Regulations)**
- (1) In section 227(3)(b), replace “.” with “; and”.
- (2) After section 227(3)(b), insert:
- “(c) in relation to different classes of persons, including persons of different nationalities.”
- (3) After section 227(3), insert:
- “(3A) Without limiting subsection (3)(c), regulations under subsection (1) may provide for persons of 1 or more nationalities to be treated on a preferential basis in order to—
- “(a) meet the international obligations of the Cook Islands; or
- “(b) otherwise give effect to the purpose of this Act.

7 New cross-heading above section 250A inserted

Before section 250A, insert:

“Provisions relating to Cook Islands Immigration Amendment Act 2024”

8 Heading to section 250A replaced

Replace the heading to section 250A with:

“250A Fees generally”

9 Heading to section 250B replaced

Replace the heading to section 250B with:

“250B Fee for attendance of immigration officers and designated officers”

10 Heading to section 250C replaced

Replace the heading to section 250C with:

“250C Validation of requirement to pay costs”

11 New sections 250D to 250H and cross-heading inserted

After section 250C, insert:

“Provisions relating to Cook Islands Immigration Amendment Act (No 2) 2024

“250D Definitions for sections 250E to 250G

In sections 250E to 250H,—

2022 regulations means the Cook Islands Immigration Regulations 2022

2023 regulations means the Cook Islands Immigration Regulations 2023

commencement means the date on which the Cook Islands Immigration Amendment Act (No 2) 2024 comes into force.

“250E 2022 and 2023 regulations treated as made under Act as amended

The 2022 regulations and the 2023 regulations must each be treated as if the amendments made by sections 4 and 6 of the Cook Islands Immigration Amendment Act (No 2) 2024 were in force when the regulations were made.

“250F Expressions of interest lodged before commencement

“(1) This section applies if,—

“(a) before commencement, a person lodges an expression of interest under regulation 8 or 18 of the 2023 regulations; and

“(b) on commencement, a decision is yet to be made on whether to invite the person to apply for permanent residence.

“(2) The 2023 regulations as in force immediately before commencement continue to apply in relation to the expression of interest.

“250G Applications for permanent residence made before commencement

“(1) This section applies if,—

“(a) before commencement, a person applies for permanent residence under regulation 10 or 20 of the 2023 regulations; and

“(b) on commencement, a decision is yet to be made on whether to grant the application.

“(2) The 2023 regulations as in force immediately before commencement continue to apply in relation to the application.

“250H Validity of things done in reliance on regulations not affected by Court decision

- “(1) This section applies to any action taken, decision made, or other thing done in reliance on or in connection with old regulation 8(2)(d), including—
- “(a) any expression of interest lodged under regulation 8 before commencement;
 - “(b) any decision on whether to invite the person who lodged that expression of interest to apply for permanent residence;
 - “(c) any application for permanent residence made as the result of that invitation (if any);
 - “(d) any decision on whether to grant that application.
- “(2) The validity of the action, decision, or other thing is not affected by the decision of the Court in *Friends of Fiji Inc v Attorney-General* HC Rarotonga Misc No. 737/2022, 7 March 2024.
- “(3) In this section, **old regulation 8(2)(d)** means regulation 8(2)(d) of the 2023 regulations as in force immediately before commencement.”

Part 2

Related amendments to regulations

12 Principal regulations

This Part amends the Cook Islands Immigration Regulations 2023.

13 Regulation 3 amended (Interpretation)

- (1) In regulation 3, definition of **acceptable standard of health**, delete “Act means the Cook Islands Immigration Act 2021”.
- (2) In regulation 3, insert in its appropriate alphabetical order:
 - “**Act** means the Cook Islands Immigration Act 2021”
- (3) In regulation 3, delete the definition of **lived continuously in the Cook Islands**.

14 New regulation 3A inserted (When person is considered to live continuously in Cook Islands)

After regulation 3, insert:

“3A When person is considered to live continuously in Cook Islands

- “(1) For the purposes of the Act and these regulations, a person **lives continuously in the Cook Islands** for a period of 1 or more years if,—
 - “(a) during the period, the person spends at least 9 months of every year in the Cook Islands; and
 - “(b) the period occurs immediately before the person lodges or makes the relevant expression of interest or application.
- “(2) The person must be treated as living in the Cook Islands if the person is—
 - “(a) overseas as a result of a medical referral; or
 - “(b) studying at an educational institution outside the Cook Islands, so long as the person’s home is in the Cook Islands.”

- 15 Regulation 8 amended (Expression of interest for grant of permanent residence in own right)**
Replace regulation 8(2)(d) with:
“(d) enclose evidence, if required by the principal immigration officer, that the person satisfies section 38(2)(b) of the Act.”
- 16 Regulation 12 amended (Criteria for grant of permanent residence in own right)**
After regulation 12(1)(e), insert:
“(ea) comply with section 38(2)(b) of the Act; and”
- 17 Regulation 18 amended (Expression of interest for grant of permanent residence on spouse ground)**
Replace regulation 18(2)(d) with:
“(d) enclose evidence, if required by the principal immigration officer, that the person satisfies section 38(2)(b) of the Act.”
- 18 Regulation 22 amended (Criteria for assessing applications for permanent residence on spouse ground)**
After regulation 22(1)(d), insert:
“(da) comply with section 38(2)(b) of the Act; and”

This Act is administered by the Ministry of Foreign Affairs and Immigration.

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