



PARLIAMENT OF THE COOK ISLANDS

CONSTITUTION AMENDMENT (NO. 29) BILL 2021

EXPLANATORY NOTE

The purpose of this Bill is to amend Article 76A by replacing sub-article 1 and inserting sub-article (1A and 1B). The preamble to the Bill makes reference to Article 41(1) of the Constitution, being the procedure that is required to be followed in order for the bill to validly be passed by Parliament.

- Clause 1** sets out the Title of the Bill.
- Clause 2** provides that change to the Constitution will come into force on the day after the date it is assented to by the Queen's Representative.
- Clause 3** sets out that the Bill amends the Constitution.
- Clause 4** Repeals the existing Article 76A(1) and inserts a new Article 76A(1), (1A) and (1B).

The new Article 76A (1) provides that if a non-Cook Islander child is adopted by a Cook Islander and that adoption is genuine and done in a manner recognised by Cook Islands law, then that child will receive Permanent Residence status.

Cook Islander is not defined by the Constitution so the Article allows an Act (eg. the Immigration Bill 2020 when it is passed) to define who a Cook Islander is for immigration purposes.

The new Articles 76A(1A) and (1B) are saving clauses for those people who were entitled to receive Permanent Residence, under Article 76A(1), before this change. These people (i.e. those born before this Bill comes into force) will still be entitled to claim Permanent Residence if they were otherwise eligible to claim it prior to this change.

Hon. Mark Brown

Constitution Amendment (No. 29) Bill 2021

Contents

1	Title	1
2	Commencement	1
3	Constitution amended	1
4	Article 76A amended	1

An Act to amend the Constitution.

BE IT ENACTED by the Parliament of the Cook Islands in session assembled in accordance with the provisions of Article 41(1) of the Constitution of the Cook Islands and by the authority of the same as follows—

- 1 Title**
This Act is the Constitution Amendment (No. 29) Act 2021.
- 2 Commencement**
This Act comes into force on the day after the date it is assented to by the Queen's Representative.
- 3 Constitution amended**
This Act amends the Constitution of the Cook Islands (the **Constitution**).
- 4 Article 76A amended**
 - (1) Article 76A of the Constitution is amended by replacing subclause (1) with:
“(1) A person has the status of a permanent resident of the Cook Islands if—
 - (a) the person is not entitled to the immigration status of a Cook Islander under any Act; and
 - (b) the person is adopted by a person who is entitled to the immigration status of a Cook Islander under any Act; and
 - (c) the person is adopted in a manner recognised by the laws of the Cook Islands; and
 - (d) at the time of the adoption, the person is under 18 years; and
 - (e) the adoption is genuine and is not undertaken for the purpose of obtaining permanent residence.

Constitution Amendment (No. 29) Bill 2021

“(1A) Subclause (1B) applies to a person—

- (a) born before the commencement of the Constitution Amendment (No. 29) Act 2021 (the 2021 Amendment Act); and
- (b) who was entitled to permanent residence under subclause (1) as it read immediately before the commencement of the 2021 Amendment Act.

“(1B) A person described in subclause (1A) continues to be entitled to permanent residence.”

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