



## ANALYSIS

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 1970, No. 6

An Act to provide for the disposition of certain unclaimed moneys

(28 August 1970)

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 - This Act may be cited as the Unclaimed Moneys Act 1970.

2. Interpretation - In this Act, if not inconsistent with the context, -

"Holder" includes -

- (a) Every bank (including the Post Office Savings Bank and any other Savings Bank) carrying on business in the Cook Islands;
- (b) Every person, partnership, company and corporation carrying on business in the Cook Islands;
- (c) The Financial Secretary, in respect of public money to which section 41 and section 42 of the Public Moneys Act 1969 apply; and

- (d) Any village committee, District Council or Island Council, and Societies incorporated under the Industrial and Provident Societies Act 1968, Societies incorporated under the Incorporated Societies Act 1908 and Co-operative Societies incorporated under the Cook Islands Co-operative Societies Regulations 1953:

"Minister" means the Minister responsible for finance:

"Owner" includes the person entitled to any unclaimed moneys, and includes his executors, administrators or assigns, or his or their lawful attorney or agent in the Cook Islands:

"Public Account" means the Cook Islands Government Account referred to in Part V of the Constitution:

"Unclaimed Moneys" includes all principal and interest money, and all unforfeited dividends, bonuses and profits, and sums of money whatsoever owing to any person which on the coming into operation of this Act or at any time thereafter has been in the possession of any holder for a period of six years or upwards after the time when the same has become payable, and in respect whereof no claim has been made by the owner against the holder.

3. Act to bind the Crown - This Act shall bind the Crown.

4. Deemed unclaimed moneys - (1) The following moneys deposited in any bank shall become unclaimed moneys at the times hereafter mentioned (whether or not they have at any time theretofore become payable) namely:

- (a) Moneys deposited so as to bear interest for a fixed term, at the expiration of six years from the date when such fixed term expired;
- (b) Moneys deposited so as to bear interest without any limitation of time, at the expiration of twenty five years from the date when the account was last operated on by the customer;
- (c) Moneys deposited upon current account or otherwise and not bearing interest, at the expiration of six years from the date when the account was last operated on by the customer in the case of a bank other than a Savings Bank, and at the expiration of twenty-five years from such date in the case of a Savings Bank.

(2) The proceeds of any life insurance policy shall become unclaimed moneys on the expiration of six years after the date on which the company first has reason to suppose that the policy has matured by death, or from the date (if any) on which the policy matures otherwise than by death (whichever date is the earlier), whether such death has been legally proved or not, and notwithstanding that by the terms of the policy, the proceeds thereof are not payable except on proof of death, or on proof of age or any other collateral matter.

(3) Any money in any account with any person, partnership company or corporation which has not been operated upon for six years shall be deemed to be unclaimed moneys.

(4) Public moneys to which sections 41 and 42 of the Public Moneys Act 1969 apply shall become unclaimed moneys within the meaning of this Act at the expiration of one year after having become payable to the depositor thereof or other person entitled thereto, or at the expiration of such longer period as the Financial Secretary in any case may direct.

5. Register to be kept - It shall be the duty of every holder on the first day of June in each year, to enter in a register, to be kept by such holder at its head or principal office in the Cook Islands, in the form in the Schedule hereto (or to the effect thereof and with the particulars therein specified,) all unclaimed moneys in the Cook Islands, and from and after the eighth day of June in each year such register shall be open for the inspection of all persons at such head or principal offices during ordinary business hours, on payment of a fee of ten cents:

Provided that on ceasing to carry on business in the Cook Islands a holder shall deposit its register in the custody of the Registrar of the High Court nearest to that place where such register was theretofore kept:

Provided further that any holder may at any time so deposit any book or part of its register in which no entry has been made for a period of not less than six years immediately preceding the date of such deposit.

6. Notification to Minister and persons affected - Not later than the thirtieth day of June in each year, or such later day as the Minister approves in writing, every holder shall furnish to the Minister a copy of every entry made on the first day of that month in the register kept by it pursuant to section 5 of this Act and shall post to every person in respect of whom any such entry was made as the owner of unclaimed money by letter addressed to such person at his last known place of business or abode, a notice specifying the amount of such money and the fact that it is entered in such register as unclaimed money.

7. Offences - If default is made in complying with section 5 or section 6 of this Act, the holder, and every director, manager, secretary or other officer of the holder who knowingly and wilfully authorises and permits the default, shall be liable to a fine of five dollars for every day during which the default continues, with a maximum fine of two hundred dollars.

8. Payment of unclaimed moneys to the Public Account -

(1) All unclaimed moneys which have not been paid by a holder to the owner thereof within three months after the posting to such owner of the notice prescribed by section 6 hereof shall be paid by the holder into the Public Account, and the holder shall thereafter be relieved from all further liability in respect of the moneys so paid.

(2) All moneys payable to the credit of the Public Account in accordance with this section shall be recoverable in any Court of competent jurisdiction as a debt due to the owner.

9. Examination of accounts - (1) The Minister or the Financial Secretary may at any time examine any register kept by a holder pursuant to section 5 of this Act and any account of the holder relating to unclaimed moneys, and may for that purpose require the production before him or any officer of the Treasury of any book, vouchers, or documents relating to such moneys, and if any error is found in such register or accounts or in any copy of an entry in such register furnished to the Financial Secretary or in any notice sent to any person, the Financial Secretary may require the same to be amended.

(2) The Financial Secretary or any officer of the Treasury authorised by him in that behalf shall at all times have full and free access to all books and documents for the purposes of this Act, and for this purpose may make extracts from or copies of any such books or documents.

(3) Every person shall from time to time as required by the Financial Secretary furnish in writing any information or produce any books or documents which may be within his knowledge, or in his possession or control, as the case may be, and which relate to moneys which are or may be unclaimed moneys.

(4) The Financial Secretary and every person authorised by him as aforesaid, shall maintain and aid in maintaining the secrecy of all matters which come to his knowledge in the course of any such inspection as aforesaid and shall not communicate any such matters to any person, except for the purpose of carrying this Act into effect.

(5) Every person who fails to comply with any of the requirements of this section commits an offence, and is liable on conviction to a fine not exceeding two hundred dollars.

10. Payment to claimant - (1) If any claimant makes any demand against the Minister for any money paid to him, the Minister, on being satisfied that the claimant is the owner of the money demanded by him, shall order and direct payment thereof to be made to him and the same shall be statutory expenditure and not require any further specific appropriation.

(2) The Minister may from time to time, either generally or particularly, by writing under his hand delegate to the Financial Secretary the power conferred on the Minister by this section to pay any claimant any money paid into the Public Account under this Act.

(3) Where the Financial Secretary purports to act pursuant to any delegation under this section, he shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.

(4) Every delegation under this section shall be revocable in writing at will, and no such delegation shall prevent the exercise of the power by the Minister.

(5) Every such delegation shall, until it is revoked, continue in force according to its tenor, notwithstanding that the Minister may have ceased to hold office, and shall continue to have effect as if made by his successor in office.

11. Responsibility of Minister - Where any unclaimed moneys paid to any claimant are afterwards claimed by any other person, the Minister or the Financial Secretary shall not be responsible for the payment of the same, but such person may have recourse against the claimant to whom the Minister or the Financial Secretary has paid the unclaimed moneys.

## Section 5

SCHEDULE

Register of unclaimed money held by the.....

(Insert name of holder)

Name, occupation and last known address of owner on books	Total amount due to owner	Description of unclaimed money	Date of last claim

This Act is administered in the Treasury.