



ANALYSIS

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1985, No.5

An Act to establish the Airport Authority and to prescribe its functions, powers and duties.

(26 July 1985)

BE IT ENACTED by the Parliament 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 Airport Authority Act 1985.
- (2) This Act shall come into force on a date to be appointed by the Minister in the Gazette.
2. Interpretation - In this Act, unless the context otherwise requires,-

"Airport Manager" means the Airport Manager appointed pursuant to Section 14.

"Airport" means any defined area of land used or intended or designed to be used either wholly or partly for the landing, departure, movement or servicing of aircraft, and the embarkation and disembarkation of passengers or the loading and unloading of freight, and includes any buildings, installations and equipment on or adjacent to any such area used in connection with the airport or its administration; but does not include any meteorological installations:

"Authority" means the Airport Authority established in accordance with section 3 of this Act:

"Board" means the Board of Directors of the Authority:

"Chairman" means the Chairman of the Board:

"Chicago Convention" means the Convention on International Civil Aviation concluded at Chicago on 7 December 1944 and the international standards and recommended practices and procedures adopted by the International Civil Aviation Organisation in pursuance of Article 37 of the Convention, and includes any amendment of the Convention made in accordance with the provisions of the Convention:

"Director of Civil Aviation" means the person so appointed, pursuant to the Civil Aviation Act 1985:

"Financial year" means the period of 12 months ending on the expiration of the 31st day of March:

"Government" means the Government of the Cook Islands:

"Minister" means the Minister of Civil Aviation:

"Navigation installation" means any building, facility, works, apparatus, equipment or place, which is used wholly or mainly to assist air traffic control or as an aid to air navigation, and includes any land adjacent to any such building, facility, works, apparatus, equipment or place and used wholly or mainly in connection therewith.

PART I

AIRPORT AUTHORITY ESTABLISHED

3. Establishment of the Authority - (1) There is hereby established for the purposes of this Act, a corporation to be called the Airport Authority.

(2) The Authority is a body corporate with perpetual succession and a common seal and shall be capable of entering into contracts, of acquiring, holding, disposing of and leasing real and personal property, of suing and being sued and of doing all such other acts and things as bodies corporate may lawfully do.

4. Board of Directors - (1) There shall be a Board of Directors of the Authority.

(2) The Board shall consist of a Chairman and 2 other directors who shall be appointed by the Minister, acting on the advice of Cabinet, from amongst persons of recognised competence and experience in financial or commercial matters, on such terms and conditions as may be specified in their appointment.

(3) No person, by reason only of being a director or employee of the Authority, shall be deemed to be employed in the Public Service, within the meaning of Public Service Act 1975.

(4) The following persons shall be "ex officio" members of the Board -

- (a) The Director of Civil Aviation;
- (b) The Airport Manager.

5. Deputies of directors - (1) If any director of the Authority is temporarily incapacitated through illness, absence, or other sufficient cause from attending any meeting of the Authority, any person nominated for the purpose by the Minister may attend that meeting as the deputy of such director.

(2) No deputy shall act as Chairman of the Authority.

(3) Any deputy shall, while he acts as such, be deemed to be a member of the Authority.

(4) No appointment of any deputy, and no act done by him as such, and no act done by the Authority while any deputy is acting as such, shall in any proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

6. Meetings of Authority - (1) Every meeting of the Authority shall be presided over by the Chairman. In the absence of the Chairman, the directors present shall appoint one of their number to be the Chairman of that meeting.

(2) The first meeting of the Authority shall be held on a day to be appointed by the Chairman.

(3) Subsequent meetings shall be held on such dates and at such times and places as the Authority from time to time determine.

(4) The Chairman may at any time convene a special meeting of the Authority and shall, on the requisition in writing of any 2 directors stating the business to be transacted, forthwith proceed to convene a special meeting.

(5) At all meetings of the Authority, the quorum necessary for the transaction of business shall be 2 directors.

(6) Every question before a meeting of the Authority shall be determined by a majority of the valid votes of the directors present.

(7) The Chairman at any meeting shall have a deliberative vote and in the case of an equality of votes, shall also have a casting vote.

(8) Subject to the provisions of this Act and of any regulations made hereunder, the Authority may regulate its proceedings in such manner as it thinks fit.

7. Minutes of meetings - (1) The Authority shall cause minutes to be kept, in a book provided for the purpose of all resolutions and proceedings of its meetings.

(2) The minutes shall be signed by the Chairman at the next meeting subsequent to the passing thereof.

(3) A copy of the minutes of every meeting shall be furnished to every director.

8. Remuneration of appointed directors - Every director may be paid out of the funds of the Authority, such remuneration and such travelling expenses and other allowances, as may from time to time be fixed by Cabinet.

9. Disclosure of conflicting interest - (1) Any director who, otherwise than as a director, is directly or indirectly interested in any arrangement or agreement entered into, or proposed to be entered into, by the Authority shall as soon as possible after the relevant facts have come to his notice, disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under this section shall be recorded in the minutes of the meeting of the Board and the director shall not take part after the disclosure in any deliberation or decisions relating to the arrangement or agreement, but shall be counted as

present for the purpose of forming a quorum of the Board for any such deliberation or decision.

PART II

FUNCTIONS AND POWERS OF THE AUTHORITY

10. Functions of the Authority - The functions of the Authority are to establish, improve, maintain, operate and manage airports and, subject to section 11 (2) (d), services and facilities in connection with the operation of any airport or with the operation of aircraft engaged in civil aviation.

11. Powers of the Authority - (1) Subject to this Act and any regulations made hereunder, the Authority shall have all the powers and authorities necessary for the effective performance of its functions as set out in this Act, including, with the approval of the Minister, the power to borrow from the Government or any bank or lending institution, whether local or overseas.

(2) Without limiting the provisions of subsection (1) of this section, the Authority shall have the following powers in respect of an airport brought under its control:-

- (a) to operate or manage any airport as a commercial undertaking and for that purpose may levy such airport charge, due, tax, levy or impost whatsoever arising from the management and operation of any airport, and may similarly increase, decrease or abolish any such due, tax, charge, levy or impost,
- (b) to purchase, lease, rent, or otherwise acquire whether by way of gift or otherwise any land or buildings required for the purpose of establishing or maintaining an airport, or for the purpose of providing office or technical equipment, accommodation or otherwise for the purpose of exercising any of its functions or powers or to sell or otherwise dispose of the same,
- (c) to establish operate, or manage or cause to be established operated or managed areas for the parking of vehicles, terminal buildings, buildings, and installations for the storage of baggage and cargo, restaurants, refreshment rooms, book stalls, booking offices, travel agencies, accommodation facilities and such other services and facilities as may be considered desirable,
- (d) after consultation with the Director of Civil Aviation, and subject at all times to his direction, to establish, improve, maintain and operate navigation, installations, air traffic services, security services, crash-fire facilities, and such other services and facilities as the Authority considers necessary for the purposes of providing for the safe and efficient operation of aircraft engaged in civil aviation or of giving effect to the provisions of the Chicago Convention.
- (e) to add to, alter or reconstruct any airport or any part of an airport,
- (f) to enter into and carry out any arrangement or agreement or contract necessary for the exercise of any power or function conferred upon the Authority by this Act.

12. Policy of Cabinet - In the exercise of its functions and powers the Authority shall have regard to the general policy of Cabinet relating thereto.

13. Compliance with directives - The Authority shall comply with any written direction of the Minister concerning any matter relating to the safe and efficient operation of aircraft engaged in civil aviation at any airport maintained or operated by the Authority or giving effect to the provisions of the Chicago Convention.

14. Airport Manager - (1) The Board shall from time to time appoint an Airport Manager who shall be a person of recognised standing and experience in air transport or the operation of airports.

(2) The Airport Manager shall:-

(a) serve as Chief Executive Officer of the Authority;

(b) be responsible to the Authority for the control and management of the operations of the Authority; and

(c) in carrying out his duties, follow any general or special directions given to him by the Board.

(3) The Airport Manager shall be appointed on such other terms and conditions as may be specified in his appointment.

(4) The Airport Manager may from time to time be reappointed.

(5) The Airport Manager shall devote the whole of his professional services to the Authority and shall not hold any other office, whether remunerated or not.

(6) No person may be appointed under subsection (1) of this section to be the Airport Manager while he is an officer or employee of the Public Service.

15. Power to appoint officers and employees - (1) The Board may appoint and employ at such remuneration and on such terms and conditions as it may determine, such officers and employees as the Board may consider necessary for the due performance of the functions of the Authority.

(2) Salaries, wages or other remuneration shall be paid out of the funds of the Authority.

16. Delegation of powers - (1) The Authority may from time to time, either generally or for any particular transaction or class of transactions or for any particular act of administration, control, or management, delegate any power conferred on it by this Act or by any regulation made under this Act on any of its directors, or a committee thereof, or to the Airport Manager.

(2) The Airport Manager may from time to time, with the written consent of the Authority, either generally or for any particular transaction or class of transactions or for any particular act of administration, control, or management delegate any power conferred on him by this Act or by any regulation made hereunder or by delegation from the Authority to any officer or employee, or to officers or employees of a specified class, or to the holder or holders for the time being of a specified office or class of office.

(3) No such delegation shall prevent the exercise by the Authority or the Airport Manager, as the case may be, of any of the powers conferred on it or him by this Act or by any such regulation or by delegation.

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

(5) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding any change in the membership of the Authority or of any committee or in the holder of any office.

17. Leasing powers of the Authority - (1) The Authority may grant a lease of all or any part of any land, premises, or installations vested in it for any purpose that will not interfere with the safe and efficient operation of any airport.

(2) Leases under subsection (1) of this section may be granted by private contract or otherwise to any person for such consideration and on such terms and conditions as the Authority may determine.

Provided that no lessee shall erect or make structural alterations to any building or other installation without first obtaining the approval in writing of the Authority and in no case shall the Authority give its approval if the erection or structural alteration of a building or installation will interfere with the use and enjoyment of the land as an airport.

(3) If at any time during the term of any such lease the property demised or any part thereof is required by the Authority for the purposes of the airport the Authority may terminate the lease as to the whole of the demised property or as to so much thereof as is required as aforesaid.

(4) Any lease under the provisions of this section may contain a provision requiring the Authority to pay to the lessee on the termination of the lease under subsection (3) of this section compensation for improvements effected by the lessee during the term of the lease.

(5) In the exercise of any of the powers conferred by this section, the Authority shall ensure that the granting of any lease or the erection, alteration or removal of any building, installation, equipment, or appurtenances under any lease or the construction of any road or access-way shall not affect the safe and efficient operation of aircraft on or over the airport and, in this respect, shall consult with and have regard to the directions of the Director of Civil Aviation.

(6) The Authority shall not grant a lease for any term exceeding 5 years or such longer term as the Minister is writing may approve

(7) For the purposes of this section "lease" includes any form of tenancy and a licence to occupy or use any land, premises, or installation.

18. Discontinuance of an airport - (1) If in the opinion of the Authority, it is desirable that an airport be permanently closed, it shall submit a report to the Minister.

(2) The Authority shall act in accordance with any directions given to it by Cabinet in relation to the closing of any airport.

19. Liability of directors and employees - No director or officer or employee of the Authority shall be personally liable for any act done or omitted to be done in good faith in the exercise or performance of the functions, powers and duties of the Authority or for any debt or other liability lawfully incurred by the Authority.

PART III

FINANCIAL PROVISIONS

20. Funds and resources - The funds and resources of the Authority shall consist of:

- (a) such sums as may be collected by it of any charge, due, tax, levy or other impost;
- (b) such sums as may be provided by Parliament for the purposes of the Authority;
- (c) any loan granted to the Authority by the Government or any other person with the approval of the Minister;
- (d) any sums or property which may in any manner become payable to or vest in the Authority in respect of the performance of its functions;
- (e) all other money and property lawfully received by the Authority for the purpose of the Authority;
- (f) all accumulations of income derived from any such property or money.

21. Airport Authority account - (1) All money belonging to the Authority shall as soon as practicable after it has come into the hands of an officer or person authorised to receive money on behalf of the Authority be paid into such bank as the Board from time to time appoints to an account to be called the Cook Islands Airport Authority Account.

(2) Subject to subsection (3) no money shall be withdrawn from the bank except by cheque or other negotiable instrument signed by the Airport Manager and counter-signed by the Chairman or a member of the Board.

(3) It shall be lawful for any money to be withdrawn from the bank by cheque or other such instrument signed by the Airport Manager and countersigned by any officer of the Authority whom the Authority, by resolution may approve.

PART IV

MISCELLANEOUS PROVISIONS

22. Accounts and audit - (1) The Authority shall keep full and correct accounts of all money received and expended by it and the accounts shall be audited by the Audit Office which for that purpose may engage the service of the Director of Audit and Enquiries to assist or act on its behalf.

(2) The Authority shall, as soon as practicable after the end of every financial year, cause the accounts of the Authority for that financial year to be balanced and prepare a balance-sheet of the Authority as at the end of the financial year, and such other statements of account as are necessary to show fully the financial position of the Authority and the financial results of its operation during that year.

23. Annual report and accounts to be presented to Parliament - (1) As soon as may be reasonably practicable after the end of each financial year, the Authority shall furnish to the Minister a report of its operations for that financial year, together with a copy of its accounts and balance sheet for that year certified by the Audit Office.

(2) A copy of the report and of the accounts and balance sheet, certified as aforesaid shall be laid before Parliament if then sitting, and, if not, within twenty-eight days after the commencement of the next ensuing session.

24. Exemption from taxation - The Authority shall be exempt from all taxes duty levies and fees whatsoever.

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

26. Contracts of Authority - (1) Any contract which, if made between private persons must be by deed shall, if made by the Authority be in writing under the common seal of the Authority.

(2) Any contract which, if made between private persons will be in writing signed by the parties to be charged therewith shall, if made by the Authority be under the common seal of the Authority.

(3) Any contract which if made between private persons, may be made orally may be similarly made by or on behalf of the Authority by the Chairman or by any member of the Authority authorised in that behalf by the Chairman.

27. Execution of documents - (1) Every document to which the common seal of the Authority is affixed shall be signed by the Chairman of the Authority or in his absence his appointed deputy and shall be counter-signed by either a member or the Airport Manager.

(2) Any document which if executed by a private person, would not be required to be executed as a deed may be signed on behalf of the Authority by the Chairman or by any member of the Authority authorised in that behalf by the Chairman.

28. Government Departments may provide services - The Crown acting through any Government Department, may from time to time, at the request of the Authority execute any work or enter into contracts or arrangements for the execution or provision by the Department for the Authority of any work or service, or for the supply to the Authority of any goods, stores, or equipment, on and subject to such terms and conditions as may be agreed upon.

29. Authority may co-opt specialist advice - (1) The Authority may invite any person or any officer of the Public Service or a representative of any body, who, in the opinion of the Authority has expert knowledge concerning the functions of the Authority which is likely to be of assistance to the Authority to attend any meeting of the Authority and to take part in the proceedings.

(2) Any person attending a meeting under this section may, if invited, take part in any discussion at the meeting but shall not have any voting rights.

30. Repeals and revocations - (1) The Airport and Airport Authorities Act 1968/69 is hereby repealed.

(2) The Airport Authorities Order 1981 is hereby revoked.

31. Transitional - The Airport Authority shall assume all rights and obligations which may devolve upon it consequent upon the transfer to it of any property.

(2) The enactments contained in the Schedule shall continue in force as if promulgated as by-laws under this Act.

32. By-laws - The Authority may make such by-laws as may be necessary or expedient for giving full effect to this Act and for the due administration thereof.

(2) Without limiting the general power conferred by subsection (1) of this section, by-laws may be made for any of the following purposes:-

- (a) Prescribing charges, levies, taxes or dues in respect of the commercial use of any airport, or any part of an airport, including charges for the delivery of goods to or from an airport or the storage or the provisions of services and facilities at an airport.
- (b) Protecting persons using an airport from injury;
- (c) Protecting any property on or used in connection with an airport from damage or injury;
- (d) Prohibiting or controlling access to an airport or any part thereof;
- (e) Regulating security at any airport, including passenger and baggage screening, the search of passengers, baggage, cargo, aircraft, airports and navigation installations;
- (f) Controlling traffic, whether pedestrian or vehicular, and the provisions and use of parking places for vehicles at any airport;
- (g) Prescribing charges for the use of parking spaces for vehicles;
- (h) Generally for the administration of any airport, or for the control of trading activities thereon or for the management of any business ancillary thereto that may be carried on pursuant to this Act.

(3) Any by-laws under this section may provide for the imposition of penalties not exceeding imprisonment for a term of 3 years or a fine not exceeding \$2000 or both.

33. Regulations - The Queen's Representative may by Order in Executive Council prescribe all matters that are necessary for carrying out or giving effect to this Act.

This Act is administered by the Airport Authority.

SCHEDULE

The Civil Aviation Charges Regulations	1973
The Civil Aviation Charges Regulations	1973
Amendment (No.2) 1981	