



## ANALYSIS

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1968, No. 9

An Act to establish an Authority to encourage the development of and administer the tourist industry and to define the functions and powers of the Authority

(17 October 1968)

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 Tourist Authority Act 1968.

2. Interpretation - In this Act unless the context otherwise requires -

"Accommodation premises" means and includes motels, boarding houses, and all land, buildings and premises used to provide board and/or lodging for tourists and the travelling public;

"Authority" means the Tourist Authority established under this Act;

"Minister" means the Minister in charge of Tourism:

Price 40¢

"Restaurant" means and includes any shop or premises in or on which meals or food is prepared for consumption by members of the public in or on such shop or premises irrespective of whether any charge is made or payment given for such meals or food:

"Tourist" means and includes any visitor to the Cook Islands.

3. Tourist Authority - (1) There is hereby established for the purposes of this Act an Authority to be called the Tourist Authority.

(2) The Authority shall consist of not more than five members who shall be appointed by the High Commissioner on the recommendation of the Minister, one of whom shall be appointed as Chairman of the Authority.

(3) No person shall be deemed to be employed in the service of Her Majesty for the purpose of the Public Service Act 1965 by reason of his being a member of the Authority.

(4) The Authority shall be a body corporate with perpetual succession and a common seal and shall be capable of acquiring holding and disposing of real and personal property, of suing and being sued and of doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.

(5) The powers of the Authority shall not be affected by any vacancy in its membership.

4. Term of office of members - (1) Except as otherwise provided in this Act every member shall hold office for a term of five years but may from time to time be re-appointed.

(2) With respect to the first members of the Authority the following provisions shall apply -

(a) Two of the members shall retire from office three years from the date of their appointment:

(b) The members so to retire shall be determined by agreement between the members to whom this section applies or failing such agreement shall be determined by lot.

(3) Notwithstanding anything in this Act every member whose office is terminated by effluxion of time shall continue to hold office until his successor comes into office.

5. Extraordinary vacancies - (1) Any member of the Authority may resign his office at any time by written notice given to the High Commissioner.

(2) Any member may at any time be removed from office by the High Commissioner for disability bankruptcy neglect of duty or misconduct proved to the satisfaction of the High Commissioner.

(3) If any member dies or resigns his office by written notice given to the High Commissioner or is removed from office the vacancy shall be deemed to be an extraordinary vacancy.

(4) In the case of an extraordinary vacancy, the High Commissioner may appoint any person to fill the vacancy.

(5) Any member appointed to fill an extraordinary vacancy shall hold office only for the unexpired portion of the term of office of his predecessor.

(6) The powers of the Authority shall not be affected by the fact that at any time there may be less than five members in office.

6. Deputies of members - (1) In any case in which the Minister is satisfied that the Chairman or any other member of the Authority is incapacitated by illness absence or other sufficient cause from performing the duties of his office, the Minister may appoint a deputy to act for the Chairman or other member during his incapacity. In the case of the Chairman the deputy may or may not be one of the other members; and if the deputy of the Chairman is one of the other members some other person may be appointed by the Minister to act as the deputy of that member.

(2) Any deputy appointed under this section shall while he acts as such be deemed to be a member of the Authority and the deputy Chairman shall have all the powers of the Chairman.

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

7. Meetings of members - (1) The first meeting of the members shall be held on a day to be appointed by the Chairman.

(2) Subsequent meetings shall be held at such times and places as the members or the Chairman may from time to time appoint.

(3) The Chairman or any three members may at any time call a special meeting of the members.

(4) At all meetings three members shall form a quorum.

(5) The Chairman shall preside at all meetings at which he is present. In the absence of the Chairman from any meeting, the members present shall appoint one of their number to be Chairman of that meeting.

(6) At any meeting the Chairman shall have a deliberative vote and in the case of an equality of votes shall also have a casting vote.

(7) All questions arising at any meeting shall be decided by a majority of the valid votes of members recorded thereon.

(8) The Minister shall have the right to attend any meeting of members.

(9) Subject to the provisions of this Act and of any regulations made thereunder the members may regulate their procedure in such manner as they think fit.

8. Disqualification of members - (1) A member of the Authority shall not vote or take part in the discussion of any matter before the Authority or before any committee thereof in which he has directly or indirectly a pecuniary interest apart from any interest in common with the public provided that nothing in this section shall apply to any contract of insurance insuring members against personal accident.

(2) Any member who knowingly offends against this section shall be guilty of misconduct and a breach of this Act.

9. Functions of the Authority - The Authority shall have the following functions namely:

- (a) To promote and encourage the tourist industry in the Cook Islands and to promote and increase tourist and other traffic from overseas and within the Cook Islands:
- (b) To license, regulate, and control hotels, accommodation premises, restaurants and tourist and public accommodation of all kinds in the Cook Islands:
- (c) To promote the establishment of hotels and all other forms of accommodation for tourist and public purposes:
- (d) To provide services and amenities for tourists and the public and to promote such service and amenities:
- (e) To regulate and control the use and development of scenic attractions and recreational facilities in the Cook Islands:
- (f) To determine what kinds of hotel, accommodation premises, and restaurant licences should be issued from time to time and to authorise the issue of such licences from time to time in accordance with the provisions of this Act:
- (g) To prescribe standards to be complied with in the provision of hotels, accommodation premises, services and amenities in connection therewith and restaurants (as the case may require) for tourists and the public and for lodgers guests or employees on premises licensed under this Act:
- (h) To hold such inquiries and gather such information as will enable it to determine the requirements of tourists and public as to the provision of services of all kinds and other amenities on premises licensed pursuant to this Act:
- (i) To conduct enquiries into any matters at the request or with the approval of the Minister and to make recommendations to the Minister in respect thereof:
- (j) To do such other acts and things as the Authority may be required or authorised to do by this or any other Act or as may in the opinion of the Authority be necessary or desirable for the purposes of this Act.

10. Powers of the Authority - (1) The Authority shall have all the powers reasonably necessary for the effective performance of its functions.

- (2) The Authority may -
  - (a) Conduct, maintain, and improve all property controlled or administered by it or established or acquired by it under this Act:
  - (b) With the prior approval of the Minister acquire by purchase lease sublease or otherwise any land or interest in land other than the fee simple in such land with or without any building:
  - (c) With the prior approval of the Minister dispose of any land or interest in land other than the fee simple in such land by sale lease sublease or otherwise:
  - (d) With the prior approval of the Minister arrange or contract for the erection or provision of hotel or accommodation premises on any land acquired by the Authority and to sell or lease such land other than the fee simple in such land either with or subject to the erection or provision of such hotel or accommodation premises and to license such hotel or accommodation premises on such terms as the Authority may with the said approval decide either in combination or otherwise with any person or group of persons whether corporate or unincorporate as the Authority may decide:
  - (e) With the prior approval of the Minister responsible for finance subscribe for acquire and hold and dispose of or otherwise deal with rights shares stock debentures or loan capital in any company wherever incorporated carrying on or intending to carry on any business or activity -
    - (i) promoting tourism in the Cook Islands:
    - (ii) providing accommodation for tourists and travelling public whether by means of hotels accommodation premises or in any other manner howsoever; and
    - (iii) concerned directly or indirectly with the needs entertainment or recreation of tourists in any way whatsoever.
  - (f) Subject to the provisions of any enactment applicable to the Authority fix regulate or make such charges as it determines from time to time for the use of any accommodation, services, works, buildings, recreation grounds, equipment, apparatus, attractions, amenities, or facilities, provided maintained controlled or operated by the Authority or any other person or persons whether corporate or unincorporate:
  - (g) Contract for the execution or provision by any person of any work or services authorised by this or any other Act to be executed or provided by the Authority in such manner and on and subject to such terms and conditions as the Authority thinks fit:

- (h) For the purpose of promoting and encouraging tourist traffic in and to the Cook Islands, act in combination or association with any person or body of persons whether incorporated or not and whether in the Cook Islands or elsewhere or any Government department that may be engaged concerned or interested in the promotion of tourist traffic from overseas and within the Cook Islands and contribute to the expenses involved in any such combination or association:
- (i) Determine whether hotel accommodation premises and restaurant licences should be issued from time to time and to authorise the issue of such licences from time to time in accordance with the provisions of this Act with power to renew, review, revoke and re-issue such licences:
- (j) Prescribe standards to be complied with in the provision of hotels accommodation premises services and amenities in connection therewith and restaurants (as the case may be) for the tourists and the public and for lodgers guests or employees on premises and buildings licensed under this Act and at scenic attractions and recreational facilities.
- (2) Subject to the provisions of paragraphs (b), (c), (d) and (e) of subsection (2) of this section and to the provisions of any other enactment applicable to the Authority nothing in subsection (2) shall affect the generality of the provisions of subsection (1) of this section.

11. Standards - (1) The Authority may from time to time prescribe in such manner as it thinks fit standards including minimum standards to be complied with in the provision of hotels, accommodation premises, restaurants, accommodation services and other amenities for tourists and the travelling public and for lodgers guests and employees of hotels, accommodation premises and restaurants licensed or in respect of which a licence is in force pursuant to this Act.

(2) Standards may be prescribed under this section generally and different standards may be prescribed in respect of different premises or in respect of premises on different islands or different places or classes of places or in different circumstances.

12. Authority to have regard to directions of Government - In the exercise of its functions and powers the Authority shall have regard to any representations that may be made by the Minister in respect of any function or business of the Authority and shall give effect to any decision of the Government in relation thereto conveyed to the Authority in writing by the Minister.

13. Vesting of property in the Authority - (1) Her Majesty the Queen is hereby empowered to grant transfer assign or lease to the Authority or in the name of the Authority any land or interest in land (other than land comprised in a Public Reserve or the fee simple in any land) and any personal property rights or privileges, vested in or held on behalf of the Crown and used or administered or to be used or administered for the purposes of or in connection with any hotel, accommodation premises, or restaurant subject to any leases rights easements and interests subsisting in respect of the land or property at the date of the grant transfer or assignment.
- (2) Any lease by the Crown pursuant to subsection (1) of this section may be for such term and provide for such rent and other conditions as the Authority with the prior written approval of the Minister shall accept or approve.

14. Authority may refer matters for investigation - (1) The Authority may from time to time appoint one or more of its members or any other qualified person to investigate and report to the Authority on such matters as are referred to him or them by the Authority for the purpose of the proper exercise of its powers or functions under this Act.
- (2) Every person commits an offence against this Act who having the custody or possession of any books papers accounts or documents relevant to any matter to be investigated under this section refuses or fails to allow to have access thereto any person investigating the matter under this section or who obstructs any such person in the making of the investigation.

15. Remuneration and travelling allowances of members of the Authority - The members of the Authority shall be paid out of the Cook Islands Government Account such remuneration and travelling allowances as shall be fixed from time to time by the High Commissioner on the recommendation of the Minister.

#### LICENCES

16. Hotels, accommodation premises, and restaurants to be licensed - Except pursuant to a licence issued under this Act no land building or premises shall be used to provide board lodging accommodation or meals to or for any holidaymaker tourist or any member of the travelling public where any charge payment or consideration of any kind is made or given or to be made or given for supplying such board lodging accommodation or meals, provided this section shall not apply to the provision of board lodging or accommodation for any person who is following an occupation requiring residence in the Cook Islands and also is not a holidaymaker tourist or traveller.

17. Authority to issue licences - (1) The Authority is hereby authorised to issue licences for the use of any land building or premises to provide board lodging accommodation or meals to or for any tourist or the public or any member thereof upon such conditions as the Authority shall decide with power to renew, review, revoke or re-issue such licences as the Authority shall decide.

(2) Each licence shall be for such period as the Authority shall decide but shall be subject to review each twelve months and shall not be assigned or transferred without the prior consent of the Authority and then only on such terms as the Authority shall decide.

- (3) (a) If the Authority shall at any time be of opinion that it is desirable or necessary when considering the issue, renewal, review, revocation or re-issue of a licence it may hold a public sitting of which notice shall be given:
- (b) At the public sitting the Authority may hold such inquiry as it thinks fit and shall afford all interested persons an opportunity to give evidence or make representations.

18. Circumstances in which licences may be authorised - In determining whether the issue of any licence under this Act is necessary or desirable the Authority shall have regard to -

- (a) The desirability of increasing the amount and improving the standard of accommodation for the travelling public tourists and holidaymakers; and
- (b) The convenience of persons who will be entering upon or staying on the land or in the building or premises with which the Authority is concerned.

19. Officers and employees - (1) The Authority shall appoint a general manager who shall be the chief executive officer of the Authority.

(2) The Authority may from time to time appoint such other officers and employees including acting or temporary or casual officers and employees as it thinks necessary for the efficient exercise of its functions and powers.

(3) Any person in the service of the Crown may be appointed to be an officer or employee of the Authority but no such person shall be entitled to hold office concurrently as an officer or employee of the Authority and as a servant of the Crown except -

- (a) In the case of a person subject to the Public Service Act 1965 with the consent of the Secretary of the Premier's Department; and
- (b) In any other case with the consent of the Minister of the Crown to whose control he is subject.

(4) Subject to the provision of this Act the Authority may with the prior approval of the Minister responsible for finance pay to its officers and employees such salaries and allowances as it thinks fit and may at any time remove any officer or employee from his office or employment.

20. Delegation of Powers of Authority - (1) The Authority may from time to time appoint a Committee or Committees consisting of two or more persons being members or officers of the Authority and may from time to time delegate to any such Committee any of the powers or functions of the Authority including the power of delegation conferred by this section.

(2) The Authority may from time to time delegate any of its powers to any member officer or employee of the Authority including the power of delegation conferred by this section.

(3) Subject to any general or special directions given or conditions imposed by the Authority or Committee or person to whom any powers are delegated as aforesaid the Committee or person to whom any powers are so delegated may exercise these powers in the same manner and with the same effect as if they had been conferred directly by this Act and not by delegation.

(4) Every Committee or 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 delegation under this section may be made to a specified person or to persons of a specified class or may be made to the holder for the time being of a specified office or appointment or to the holders of offices or appointments of a specified class.

(6) Any delegation under this section may be revoked at any time.

(7) The delegation of any power by the Authority or by any Committee or person shall not prevent the exercise of that power by the Authority or as the case may require by that Committee or person.

21. Breach of Act or regulations - Every person who commits or attempts to commit or is concerned in committing or attempting to commit a breach or violation of the provisions of this Act or of any regulations made under this Act for which no special penalty is provided is liable for every offence to a fine not exceeding one hundred dollars and if the breach or violation is a continuing one to a further fine not exceeding twenty dollars for every day or part of a day during which the offence continues.

22. Application of fees - All fees and other moneys paid under this Act shall be paid into the Cook Islands Government Account and all expenses incurred in respect of the administration of this Act and regulations thereunder shall be paid out of moneys to be from time to time appropriated by the Legislative Assembly.

23. Regulations - (1) The High Commissioner may from time to time make all such regulations as may in his opinion be necessary or expedient for giving effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power hereinbefore conferred it is hereby declared that regulations may be made under this section for all or any of the following purposes:

- (a) Prescribing and regulating procedure for making applications under this Act and for inquiries reports notices objections or other matters arising out of such applications and the granting of any licences under this Act:
  - (b) Prescribing forms and documents required under this Act:
  - (c) Prescribing any standards minimum or otherwise the Authority is empowered to fix under this Act:
  - (d) Prescribing fees payable in respect of this Act:
  - (e) Prescribing fines not exceeding one hundred dollars in any case for failure to comply with the provisions of any regulations under this Act or with any condition to which any licence issued under this Act is subject and if the offence is a continuing one to a further fine not exceeding twenty dollars for every day or part of a day during which the offence continues.
- (3) All such regulations shall be laid before the Legislative Assembly within twenty-eight days after the date of the making thereof if the Legislative Assembly is then in session, and, if not shall be laid before the Legislative Assembly within twenty-eight days after the date of the commencement of the next ensuing session.
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