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1973-74, No. 42

An Act to constitute the Waterfront Commission

(3 May 1974)

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 Waterfront Industry Act 1973-74.
2. Interpretation - In this Act unless the context otherwise requires -

"Commission" means the Waterfront Commission established by this Act;

"Harbour" includes any harbour, whether natural or artificial, and any haven, estuary, lagoon, dock, pier, jetty and any other place at or in which ships do or can load or unload goods or passengers;

"Harbourmaster" means the Harbourmaster appointed under the provisions of this Act;

"Minister" means the Minister in Charge of the Ministry of Labour and Commerce.

3. Application - This Act shall apply to the Island of Rarotonga only.

Provided that the provisions of this Act may be applied to any other Island by the High Commissioner by Order in Executive Council acting on the recommendation of the Minister.

4. Administration - This Act shall be administered in the Ministry of Labour and Commerce.

#### PART I - WATERFRONT COMMISSION

5. Establishment of Waterfront Commission - There is hereby constituted for the purposes of this Act a Waterfront Commission which shall have all the powers, functions and duties conferred upon it by this Act.

6. Membership of the Commission - The Commission shall consist of the following members:

- (a) The Secretary of Labour and Commerce who shall be Chairman;
- (b) The Harbourmaster, appointed pursuant to Section 12 of this Act; and
- (c) Three other members to be appointed by the Minister to hold office at his pleasure.

7. Remuneration of Members of the Commission - Those Members of the Commission who are not in receipt of salaries payable from the Cook Islands Public Account or by any other agency of Government shall receive such fees and allowances as the Minister may determine.

8. Commission to be body corporate - The Commission shall be deemed a body corporate with perpetual succession 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.

9. Seal of the Commission - (1) There shall be a seal of the Commission which shall be applied to any contract, order, agreement, or any other document of the Commission.

(2) The seal of the Commission shall not be applied to any contract, order, agreement, or any other document of the Commission unless that contract, order, agreement, or other document is signed by the Chairman and two other members.

10. Secretarial Services - The Secretary of Labour and Commerce shall cause to be provided such secretarial services as the Commission may require.

#### PART II - EMPLOYEES

11. General Manager of the Commission - There may from time to time be appointed by the Minister, by notice in the Gazette, a General Manager of the Waterfront Commission who shall have such powers, functions and duties as prescribed by this Act or as the Commission may from time to time deem necessary.

12. Harbourmaster - (1) There shall from time to time be appointed by the Minister, by notice in the Gazette, a Harbourmaster who shall hold office at the pleasure of the Minister and shall have such powers, functions and duties as prescribed by this Act or as the Minister may from time to time deem necessary.

(2) For the purposes of this Act the General Manager of the Commission may be the Harbourmaster.

13. Other Officers of the Commission - (1) There may from time to time be appointed by the Commission such other officers as the Commission deems necessary to assist the General Manager and to carry out the functions and duties prescribed by this Act.

(2) The salaries of any officer appointed under this section shall be determined by the Commission subject to the approval of the Minister.

(3) This section shall not apply to the employment of stevedoring workers which include machinery operators, labourers, tally clerks, watchmen, and other employees who are responsible for the delivery and storage of goods to, or from, any ship, and to, or from, any sheds vested in the control of the Commission.

14. Employment of stevedoring workers - (1) The Commission shall employ such stevedoring workers as it may deem necessary for the purposes of this Act.

(2) The wages and working conditions of such workers shall be as negotiated by the Commission with any Industrial Union of Workers representing the majority of these employees or, if there is no Industrial Union of Workers, at such wages and with such working conditions as the Commission may approve with the consent of the Minister.

#### PART III - PROCEDURE, FUNCTIONS AND POWERS OF COMMISSION

15. Procedure of the Commission - (1) The quorum for any meeting of the Commission shall be three members, of whom one shall be the Chairman or Harbourmaster.

(2) All decisions shall be by majority vote of those present and, in the case of equality of votes, the Chairman shall have a deliberative vote.

(3) In the absence of the Chairman from any meeting the members present shall elect one of their number to preside at that meeting.

(4) Except as provided in this section the Commission shall determine its own procedure.

16. Functions of the Commission - The functions of the Commission shall be:

- (a) To administer and control the stevedoring of any ship;
- (b) To administer and control all cargo facilities including storage sheds at any harbour;

- (c) To administer and control all other facilities as may be necessary at any harbour to ensure the safe, speedy and effective receipt and clearance of any goods into, or out of, any harbour;
- (d) To provide for the use of workers at any harbour such amenities as may be necessary for their well-being;
- (e) To establish such security measures as may be necessary;
- (f) To undertake on behalf of any shipowners such agency functions as may be required;
- (g) To undertake such other functions as may be prescribed by any other enactment or as the Minister may from time to time deem necessary.

17. Powers of the Commission - For the purposes of the functions conferred upon it by this Act the Commission shall have the following powers:

- (a) To establish by order under its seal charges for:
  - (i) the services of stevedoring workers;
  - (ii) the use of machinery or other equipment belonging to, or under the control of, the Commission;
  - (iii) the storage of goods in any storage shed vested in the control of the Commission;
  - (iv) the storage of goods on any land vested in the control of the Commission;
  - (v) any other services provided by the Commission.
- (b) To exclude any person or persons from entering any storage sheds in which control is vested in the Commission;
- (c) To enter into any agreement or contract with any person or persons, whether incorporated or not incorporated.

18. Regulations - (1) The High Commissioner, by Order in Executive Council, may from time to time make all such regulations as are deemed necessary or expedient for the purpose of giving full effect to this Act and for the due administration thereof.

(2) All regulations made under this section shall be laid before the Legislative Assembly by the Minister within twenty-eight days of the date of the making thereof if the Assembly is then in session, and, if not, shall be laid before the Assembly within twenty-eight days after the date of the commencement of the next ensuing session.

#### PART IV - FINANCIAL PROVISIONS

19. Funds of the Commission - The funds of the Commission shall consist of:

- (a) all charges payable under this Act;
- (b) twenty-five percent of all fees and charges collected under Sections 5 and 8 of the Rarotonga Harbour Charges and Fees Act 1973-74 which shall be paid by the Secretary of Labour and Commerce to the Commission; and
- (c) all other monies that may become due to the Commission

20. Accounts of the Commission - (1) The General Manager shall cause to be kept proper books of account to record all revenue and expenditure of the Commission.

(2) The funds of the Commission shall be kept at the National Bank of New Zealand Limited at Rarotonga in one or more accounts.

(3) No withdrawal shall be made from any account or accounts of the Commission without the approval of the Chairman and one member, or of the General Manager and one member.

(4) No payment shall be made on behalf of the Commission unless certified by the General Manager or Chairman.

21. Audit - The accounts of the Commission shall be audited annually by the Government Auditors.

#### PART V - MISCELLANEOUS PROVISIONS

22. Vesting of Storage Sheds in the Commission - the Minister may cause any storage sheds at any harbour to be vested in the control of the Commission at such date as he deems fit.

23. Commission to follow Government directions - The Commission shall, when carrying out its functions, follow any directions of Government conveyed to the Commission in writing by the Minister.

24. Annual Report - (1) As soon as practicable after the end of each financial year the Commission shall furnish to the Minister a report on its operations for that year.

(2) A copy of the report shall be laid before the Legislative Assembly within twenty-eight days after it has been furnished to the Minister if the Assembly is then in session, and, if not, shall be laid before the Legislative Assembly within twenty-eight days after the commencement of the next ensuing session.

25. Offences - (1) It shall be an offence to act in contravention of any of the provisions of this Act, and to interfere or attempt to interfere in any way with the operations of the Commission.

(2) Every person who commits an offence against this Section is liable to a fine not exceeding five hundred dollars.

26. Repeal - The Harbour Control Act 1971-72 is hereby repealed.

This Act is administered in the Ministry of Labour and Commerce.