



ANALYSIS

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1969, No. 2

An Act to establish a corporation to hold Cook Islands Government property within and outside the Cook Islands

(11 October 1969)

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 Cook Islands Government Property Corporation Act 1969.

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

"Corporation" means the Cook Islands Government Property Corporation established by this Act:

"Licence or authority" means any licence, permit, right, privilege, or authority which can be granted by Her Majesty or by any Government, or by any Court, or by any public or local authority, or by any other person, whether in the Cook Islands or elsewhere; and includes any patent, copyright, trade mark, or registered design:

"Minister" means a Minister of the Crown who is a member of the Cabinet of Ministers of the Cook Islands:

"Property" includes real and personal property, and any estate or interest in any real or personal property, and any debt, and any thing in action, and any licence or authority, and any other right or interest.

3. Cook Islands Government Property Corporation - (1) There is hereby established a corporation, to be called the Cook Islands Government Property Corporation.

(2) The Corporation shall consist of all Ministers of the Crown who are for the time being members of the Cabinet of Ministers of the Cook Islands.

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

4. Powers of Corporation - It shall be lawful for the Corporation -

- (a) To purchase, take on lease, be granted, accept, or acquire in any way any property:
- (b) To accept or acquire in any way any property vested in or held on behalf of Her Majesty the Queen as Head of State of the Cook Islands, whether held in the name of Her Majesty, or the Crown, or the Government of the Cook Islands, or any Minister, or in any other name:
- (c) To hold, improve, manage, develop, alter, extend, equip, furnish, repair, and maintain any property vested in the Corporation:
- (d) To enter into any covenants or agreements in respect of any property vested or to be vested in the Corporation:
- (e) To sell, exchange, convey, transfer, assign, lease, dispose of, turn to account, or otherwise deal with any property vested in the Corporation:
- (f) Generally to exercise any functions or rights and undertake and perform any liabilities in respect of or in connection with any property vested or to be vested in the Corporation which could be exercised, undertaken, or performed by a person owning the property and not being a body corporate:
- (g) To do all such other things as are incidental or conducive to the exercise of the powers of the Corporation.

5. Power to vest Cook Islands Government property in Corporation - Notwithstanding anything to the contrary in any Act, it shall be lawful for any property vested in or held on behalf of Her Majesty the Queen as Head of State of the Cook Islands, whether such property be situate within or outside the Cook Islands and whether held in the name of Her Majesty, or the Crown, or the Government of the Cook Islands, or any Minister, or in any other name, to be transferred, conveyed, or assigned to or otherwise vested in the Corporation, and for any property whether within or outside the Cook Islands which can lawfully be vested in or granted to Her Majesty the Queen as Head of State of the Cook Islands, or any person on behalf of Her Majesty the Queen as Head of State of the Cook Islands, to be vested in or granted to the Corporation.

6. Corporation may exercise powers of legal owner of Government property outside the Cook Islands - (1) Where any property outside the Cook Islands is held by or on behalf of Her Majesty the Queen as Head of State of the Cook Islands, whether held in the name of Her Majesty, or the Crown, or the Government of the Cook Islands, or any Minister, or in any other name other than the name of the Corporation, the Corporation may from time to time, on behalf of Her Majesty and the legal owner of the property, exercise any powers, functions, and rights (including any power of disposal) and undertake and perform any liabilities in respect of or in connection with the property which could be exercised, undertaken, or performed by Her Majesty or the legal owner of the property.

(2) A document purporting to be executed by or on behalf of the Corporation pursuant to this section in relation to any property shall be deemed to have been duly executed on behalf of, and shall bind, Her Majesty and the legal owner of the property.

7. Power to borrow - (1) The Corporation may, for the purpose of obtaining funds to be used in the exercise of any of the powers conferred on it by section 4 or section 6 of this Act, borrow money by way of overdraft or otherwise and issue debentures or other securities or mortgage or charge any of its property and any property in respect of which the Corporation has power under section 6 of this Act to execute a document binding Her Majesty and the legal owner of the property.

(2) The Minister responsible for finance may from time to time on behalf of the Crown give in respect of any advances made to the Corporation any guarantee, indemnity, or security on and subject to such terms and conditions as that Minister thinks fit.

(3) Any money required to be paid by the Minister responsible for finance by virtue of any guarantee, indemnity, or security given by him under subsection (2) of this section shall, without further appropriation than this section, be paid out of the Cook Islands Government Account.

8. Corporation to be a Government Department - (1) The Corporation is hereby declared to be an instrument of the Executive Government of the Cook Islands, and a Government Department within the meaning of the Crown Proceedings Act 1910 of the New Zealand Parliament.

(2) The Corporation shall not be bound by any Act that is not binding on Her Majesty the Queen as Head of State of the Cook Islands, and shall be entitled to all rights, privileges, exemptions, and immunities of Her Majesty the Queen as Head of State of the Cook Islands (including exemptions from taxation and rates).

9. Merger - (1) Where any estate or interest in any property is vested in the Corporation and any other estate or interest in the same property is held by or on behalf of Her Majesty, whether vested in the Corporation or not, there shall be no merger unless the contrary intention is expressed.

(2) Any licence or authority granted by or on behalf of Her Majesty may lawfully be granted to or vested in the Corporation, notwithstanding that the Corporation is an instrument of the Executive Government; and where any such licence or authority is granted to or vested in the Corporation it shall not be deemed to be surrendered or relinquished by reason only of the Corporation being an instrument of the Executive Government.

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

(2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by the Corporation, be either under the common seal of the Corporation or signed on behalf of the Corporation by a Minister or by any person authorised in that behalf by a Minister.

(3) Any contract which, if made between private persons, may be made orally may be similarly made by or on behalf of the Corporation by any person acting under its authority, express or implied.

11. Execution of documents - (1) Every document to which the common seal of the Corporation is affixed shall be signed by a Minister and shall be countersigned by the Secretary of the Premier's Department or by some other person acting for the secretary.

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

12. Execution of documents by attorney - (1) The Corporation may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute documents on its behalf in any place outside the Cook Islands, including documents executed pursuant to section 6 of this Act.

(2) A document executed by such an attorney on behalf of the Corporation shall bind the Corporation, and if executed as a deed shall have the same effect as if it were under the common seal of the Corporation.

13. Evidence of documents - Every document purporting to be a document executed by or on behalf of the Corporation in a manner provided by section 11 or section 12 of this Act shall be received in evidence and be deemed to be so executed in the absence of proof to the contrary.

14. Moneys to be appropriated by Legislative Assembly - All moneys required to be expended to enable effect to be given to the provisions of this Act shall be paid out of moneys to be appropriated by Legislative Assembly for the purpose.

This Act is administered by the Ministers of the Crown.