

EMALUS CAMPUS



## ANALYSIS

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1994-95, No. 27

An Act to amend the General Licensing Authority Act 1989

(21 April 1995)

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 General Licensing Authority Amendment Act 1994-95 and shall be read together with and deemed part of the General Licensing Authority Act 1989 (hereinafter referred to as "the principal Act").

(2) This Act shall come into force on the 1st May 1995.

2. General Licensing Authority - The principal Act is amended by repealing section 3, and substituting the following new section -

"3. General Licensing Authority - (1) There is hereby established an Authority to be called the General Licensing Authority.

(2) The Authority shall consist of 7 members, being 3 *ex-officio* members and 4 members appointed by the Minister.

(3) The following persons shall be *ex-officio* members of the Authority -

- (a) the Secretary of the Monetary Board;
- (b) the Building Controller;
- (c) the Chief Executive of the Authority.

(4) The members of the Authority to be appointed by the Minister shall be persons who are officers or employees of the following -

- (a) Cook Islands Tourist Authority;
- (b) Public Health division of the Ministry of Health;
- (c) Crown Law Office;
- (d) Conservation Service.

(5) The Minister shall appoint one member of the Authority as chairperson of the Authority.

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

3. Term of office of members of Authority - Section 5 of the principal Act is amended by inserting before the word "member" in subsections (1) and (2), the word "appointed".

4. Extraordinary vacancies - (1) Subsection (1) Section 6 of the principal Act is amended by inserting before the word "member" in subsection (1), the word "appointed".

(2) Subsection (2) of section 6 is amended by deleting the words "a member" and substituting the words "an appointed member."

5. Functions of the Authority - Subsection (1) of Section 12 of the principal Act is amended by inserting after paragraph (c), the following new paragraphs -

- "(ca) to license persons operating mountain treks, nature walks, reef walks, marae visits and similar activities relating to tourism;
- (cb) to licence persons carrying on business as travel agents or inbound operators."

6. Powers of the Authority - Section 13 of the principal Act is amended by - deleting paragraph (a), and substituting the following new paragraph -

- "(a) to issue licenses to persons carrying on any activity described in paragraphs (a) to (cb) of subsection (1) of section 12;" and
- (b) ~~deleting~~ paragraph (d) and substituting the following new paragraph -
- "(d) recommend and enforce standards to be prescribed in respect of any activity described in paragraphs (a) to (cb) in subsection (1) of section 12."

7. Licenses - The principal Act is amended by repealing Part III and substituting the following new Part.

"PART III  
LICENCES

16. Hotels, accommodation premises, and restaurants to be licensed - No person shall except pursuant to a licence issued under this Act -

- (a) use or permit to be used any land building or premises to provide board lodging accommodation or meals;
- (b) use or permit to be used motor vehicle or boat to provide transport;
- (c) carry on business as a tour operator or guide, or inbound operators, to or for any holiday maker, tourist or any member of the public where any charge payment or consideration of any kind is made or given or to be made or given; 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 who is not a holiday maker, tourist or traveller.

17. Authority to issue licences - (1) The Authority may issue licences to persons -

- (a) for the use of any land, building or premises to provide board lodging accommodation or meals;
  - (b) for the use of any land, building or premises to provide meals;
  - (c) for motor vehicles and boats;
  - (d) for operating travel agencies or inbound operators,
- to or for any tourist or the public or any member thereof upon such conditions as the Authority shall decide with power to renew, 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) If the Authority shall at any time be of the opinion that it is desirable or necessary when considering the issue, renewal, review, revocation or re-issue of a licence the Authority may hold a public sitting of which notice shall be given. 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, transport and services for the public, tourists and holiday makers; 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;
- (c) the desirability of improving the standard of motor vehicles, boats and other transport used, by the public, tourists and holiday makers;
- (d) the desirability of improving the standards of tourist-related services and facilities.

19. 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 such person or persons 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."

8. General penalty - The principal Act is amended by repealing section 28 and substituting the following new section -

"28. Offences and penalty - (1) Every person commits an offence who -

- (a) uses or allows to be used any land building or premises for the purpose of providing -
  - (i) board, lodging, or accommodation; or
  - (ii) meals;
- (b) uses or allows to be used any motor vehicle or boat for the purposes of providing transport;
- (c) carries on business or provides services as a tour guide or operator;
- (d) carries on business as a tourist travel agent or inbound operators to or for any tourist or holiday maker, in return for any charge payment or consideration of any kind, except pursuant to and in accordance with the provisions of this Act and an appropriate licence issued under this Act.

(2) Every person who commits an offence under subsection (1), or against any other provision of this Act for which no penalty is expressly provided, shall be liable on conviction to a fine not exceeding \$5,000 and where the offence is a continuing one, to a further fine not exceeding \$200 for every day during which the offence continues.

(3) Where any offence against this Act has been committed by a corporate body of persons, every person who at the time of the commission of the offence was a director, general manager, secretary, or other similar officer of such body corporate, or was acting or purporting to act in any such capacity, shall also be guilty of such offence unless the person proves that the offence was committed without his consent or knowledge and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in such capacity and in all the circumstances."

9. Transitional - Upon the coming into force of this Act, every person who, immediately prior to such coming into force was a member of the Authority shall be deemed to have vacated office.

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This Act is administered by the General Licensing Authority