



## ANALYSIS

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1968-69, No. 20

An Act to provide for the establishment of airports and airport authorities

(25 March 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 Airports and Airport Authorities Act 1968-69.

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

"Airport" means any area of land or water that may be defined under section 3 of this Act, intended or designed to be used either wholly or partly for the landing, departure, movement, or servicing of aircraft; and includes any other area defined as part of the airport; and also includes any buildings, installations, and equipment on or adjacent to any such area used in connection with the airport or its administration:

"Airport authority" has the meaning assigned to that term in section 3 of this Act:

"Minister" means the Minister in charge of Civil Aviation.

3. Powers to establish airports and airport authorities -

(1) Subject to the provisions of this section, the High Commissioner may, by Order in Executive Council -

- (a) Establish and define the boundaries of any airport, and of any areas in the vicinity of an airport where the use of land or water is to be restricted in accordance with the provisions of section 4 of this Act;
- (b) Specify, by reference to a plan or document deposited in the Land Court or the office of the Chief Surveyor, or by other sufficient means, the nature and the extent of the restrictions which are, in accordance with the provisions of section 4 of this Act, to be placed on the use of land in areas in the vicinity of an airport;
- (c) Take any land, whether or not within the boundaries of an airport, required for the purposes of an airport or in connection therewith: and may vest the title to any such land or to any interest therein in any airport authority, or in any person to hold title on behalf of any airport authority;
- (d) Take any right or interest in land to enable effect to be given to restrictions placed upon the use of that land;
- (e) Empower any Department of State or other agency of the Government of the Cook Islands or of the Government of New Zealand, or any person or association of persons whether corporate or unincorporated, to be an airport authority: and, in accordance with such conditions as the Order may prescribe, to establish, improve, maintain, operate or manage any airport or airports;
- (f) Amend or revoke any Order made pursuant to this section.

(2) Without limiting the generality of the foregoing, an Order conferring or varying the powers of an airport authority may - and, if the airport authority is an unincorporated association of persons, shall - provide for the designation of an airport manager who may enter into and discharge contracts, sue and be sued, and otherwise act on behalf of the airport authority: and the Order may make any further provision which is deemed expedient to protect the interests of persons dealing with the airport authority.

(3) Subject to the terms of any Order made pursuant to this section, and to the conditions prescribed in any such Order, an airport authority may in the exercise of its powers -

- (a) Operate or manage any airport as a commercial undertaking and for that purpose establish, operate or manage, or cause to be established, operated or managed, at such airport, refreshment rooms, bookstalls, booking offices, travel agencies, and such other facilities as may be considered necessary:

- (b) Carry on or cause to be carried on any business or undertaking subsidiary to any power or function conferred on the airport authority;
- (c) Enter into and carry out any agreement necessary for the exercise of any power or function conferred on the airport authority;
- (d) Grant any lease of, or licence to occupy, any land, buildings or installations vested in or controlled by the airport authority for any purpose which will not interfere with the safe operation of the airport;
- (e) Destroy any animal trespassing on any airport and remove any obstruction likely to affect the safe operation of any airport;
- (f) Make in respect of any airport which it operates, subject to the provisions set out in section 6, such bylaws as it thinks fit.

4. Control of land in vicinity of airports - (1) The restrictions placed, by Order made pursuant to section 3 of this Act, on the use of any land in areas in the vicinity of an airport may be made when any land, building, pole, mast or other structure, trees, shrubs, vegetation or foliage on any land, whether erected or growing before or after the making of any such Order, interferes in any way with the use by aircraft of any airport. These restrictions may, -

- (a) Prohibit either absolutely or beyond a height specified the erection or placing or extension of any building, pole, mast or other structure of any kind on the land described;
- (b) Limit the height to which trees, shrubs, vegetation or foliage may be permitted to grow on the land;
- (c) Limit and specify the purposes for which land may be used, and the species and varieties of trees, shrubs, vegetation or foliage which may be grown or permitted to grow on any land.

(2) Where any land, building, pole, mast or other structure, tree, shrub, vegetation or foliage contravenes the restrictions placed by Order upon the use of any land in areas in the vicinity of an airport the Minister shall, either by notice published in the Cook Islands Gazette or by notice served on the owner or occupier of the land and on all other persons known to have any right or interest therein, require the removal or lowering of the land or of the building, pole, mast or other structure or, as the case may be, the removal, topping, or trimming of the tree, shrub, or other vegetation, to ensure compliance with the Order: and, if there is a failure to comply with any such notice, the Minister may take any steps he deems necessary to ensure compliance with the terms of the Order and shall incur no liability in so doing.

5. Compensation - (1) Every person having any right or interest in any land taken for the purposes of an airport, injuriously affected thereby, or suffering any damage from the exercise of any powers given by this Act, shall be entitled to compensation which shall be determined by the High Court in the same manner as in prescribed by section 359 of the Cook Islands Act 1915 in the case of land taken under the provisions of that Act.

(2) In the case of any claim to compensation for restrictions placed upon the use of land, the Court shall, in assessing compensation, take into account not only the loss caused by the restrictions but also the cost of labour reasonably incurred by any owner or occupier in ensuring compliance with the restrictions.

6. Bylaws - (1) Pursuant to section 3 of this Act, an airport authority may make bylaws for all or any of the following purposes -

- (a) The good rule and management of the airport;
- (b) The more effectual carrying out of the functions and powers of the airport authority in respect of the airport;
- (c) Protecting any property used in connection with the airport from damage or injury;
- (d) Prescribing precautions to be taken for the protection of persons of property from accident or damage;
- (e) Regulating traffic, whether pedestrian or vehicular, and the provision and use of parking places for vehicles at the airport;
- (f) Prescribing the times, terms and conditions upon which the public may enter or be in or upon the airport;
- (g) Prescribing charges for the use of the airport or any part thereof for air pageants, sports meetings, and such other matters in respect of which no charge is prescribed by regulations under this Act or under the Civil Aviation Act 1964;
- (h) Prescribing charges in respect of the commercial use of any part of the airport, including the delivery of goods to or from the airport and the provision of services at the airport, in respect of which no charge is prescribed under the Civil Aviation Act 1964;
- (i) Generally for the administration of the 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.

7. Penalty for breach of bylaws - (1) Every person who commits a breach of any bylaw made under this Act is liable to a fine not exceeding fifty dollars and where the breach is a continuing one then to a further fine not exceeding ten dollars for every day or part of a day during which the breach has continued.

(2) The airport authority may, after a conviction for the continuing breach of any bylaw apply to the High Court for an injunction to restrain the further continuance of the breach by the person so convicted.

(3) The continued existence of any work or thing in a state contrary to any bylaw shall be deemed a continuing breach within the meaning of this section.

8. Proof of bylaws - The production of any document purporting to be a printed copy of any bylaw made in whole or in part under the authority of this Act and to have been approved by the Minister shall until the contrary is shown be sufficient evidence of the bylaw having been duly made and that the same duly came into force on the day mentioned in that behalf in that copy of the bylaw.

9. Liability for breach of bylaw not to relieve from other liability - Nothing in this Act or in any bylaw made thereunder shall be deemed to relieve any person from any penalty or action to which he would otherwise be liable in respect of anything done by him in breach of any such bylaw.