



ANALYSIS

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| 1. | Title
Short title | 2. | Consequential amendments
Schedule |
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1999, No. 9

An Act to amend the Ports Authority Act 1994-95 to ensure consistency between its provisions and the provisions of the Cook Islands Investment Corporation Act 1998.

(24 March 1999)

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 - This Act may be cited as the Ports Authority Amendment Act 1999 and shall be read with and deemed part of the Ports Authority Act 1994-95 (the principal Act).
2. Consequential amendments - The provisions of the principal Act set out in the first column of the Schedule are amended in the manner set out in the second column of that Schedule.

This Act is administered by the Ports Authority

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Price \$3.00

Section 2

SCHEDULE

Section 2

By inserting in alphabetical order the following definitions -

"Corporation" means the Cook Islands Investment Corporation established by the Cook Islands Investment Corporation Act 1998;

"Crown" means the Crown in right of the Government of the Cook Islands;

"Financial year" means the period of 12 months ending with the 30th day of June".

Sections 6, 8 and 9

By deleting the word "Minister" and substituting the words "Board of the Corporation".

Section 13

By repealing that section and substituting the following section -

"13. Directions by Corporation - (1) The Board of the Corporation may from time to time give the Authority in writing general directions as to management strategies to be followed by the Authority in the performance of the Authority's objectives, functions and powers and which directions shall be consistent with the Corporation's statement of corporate intent

(2) The Authority shall in the exercise of its functions and powers give effect to any directions given to it by the Corporation under subsection (1) of this section.

(3) A copy of every direction given by the Corporation to the Authority under this section in any financial year shall be included in the annual report of the Authority for that year."

New Section

By inserting after section 13 the following new section -

"13A. Authority's social responsibilities - (1) The Minister may from time to time review the Authority's performance for the purposes only of determining if the Authority is giving effect to the social policies of Government insofar as the functions and powers of the Authority permit it to do so.

(2) Where the Minister with the concurrence of Cabinet requires the Authority to give effect or greater emphasis to Government's social policy in the exercise of its functions and powers and that requirement will result in the Authority's stated return on investment being reduced then the amount of the reduction shall be quantified and included as part of the Crown's debt management responsibilities pursuant to section 24 of the Ministry of Finance and Economic Management Act 1995-96 for the purposes of being appropriated to the Authority under the next Appropriation Act and in the absence of all or part of that reduction not being appropriated and paid to the Authority then any future dividend to be paid by the Authority to the Corporation and by the Corporation to the Crown shall be reduced by the unpaid amount until the unpaid amount of the reduction is recovered by the Authority."

Section 20(2)

By omitting the words "as may be approved by the Minister" and substituting the words "consistent with the Authority's statement of corporate intent".

Section 21

By adding after subsection (2) the following new subsection –

"(3) The Authority shall have the power to pay to the Corporation a dividend calculated in accordance with the principles required by section 67(2)(f) of this Act and as may be stated in the annual report of the Authority in accordance with section 68(3) of this Act."

Sections 62 and 63

By repealing those sections.

Section 64

By omitting the words "subject to the consent of Cabinet" and substituting the words "in consultation with the Board of the Corporation".

Section 65

By omitting the word "Minister" and substituting the words "the Board of the Corporation";

By omitting the words "may with the consent of Cabinet".

Sections 66, 67, 68 and 69

By repealing those sections and substituting the following sections -

"66. Statement of financial position - Within 3 months of the coming into force of this Act, the Board will deliver to the Corporation, in accordance with generally accepted accounting practice, a statement of financial position of the Authority that shall include the estimated value of assets and the estimated value of the Crown's investment in the Authority.

67. Statement of corporate intent - (1) The Board will on behalf of the Authority deliver to the Minister for the purposes of enabling the Minister to make a determination under section 13A of this Act and to the Corporation for approval a statement of corporate intent of the Authority not later than 1 month before the commencement of each financial year, the first statement to be delivered within 21 days of the date of this Act coming into force, or such other period as the Board of the Corporation may allow.

(2) The Authority shall be bound by and adopt in its statement of corporate intent the Corporation's policies including policies as to asset management set out in the Corporation's statement of corporate intent where they affect the Authority and in addition the statement shall specify, in respect of the next financial year and each of the two immediately succeeding financial years, the following information -

- (a) the objectives of the Authority; and
- (b) the nature and scope of the activity to be undertaken; and
- (c) estimates of the current commercial value of the Crown's investment in the Authority, and a statement of the manner in which the value was assessed; and
- (d) the accounting policies; and
- (e) the performance targets and other measures by which the performance of the Authority may be judged in relation to the objectives; and
- (f) a statement of the principles adopted in determining the annual dividend of the Authority together with an estimate of the amount that is to be paid to the Corporation;

- and
- (g) the intention of the Authority regarding the sale and purchase of assets; and
 - (h) the costs to the Authority in recognising Government's social policy in the management and any proposed disposal of assets and what appropriation by Parliament is required; and
 - (i) such other matters as are agreed by the Corporation and the Authority.

(3) The Authority shall not proceed to implement its statement of corporate intent until it is approved by the Board of the Corporation under subsection (1) of this section.

68. Annual report - (1) Within 3 months after the end of each financial year the Board shall deliver to the Corporation a report of the operations of the Authority during the financial year including -

- (a) a statement of financial position;
- (b) a statement of financial performance;
- (c) a statement of cashflows;
- (d) a statement of borrowings;
- (e) a statement of commitments;
- (f) a statement of specific fiscal risks;
- (g) a statement of accounting policies;
- (h) the auditor's report of the statements referred to in paragraphs (a), (b), (c), (d) and (e);
- (i) other statements as are required to be consistent with generally accepted accounting practice.

(2) The annual report under subsection (1) of this section, shall state the information necessary to enable an informed assessment of the operations of the Authority having regard to the matters set out in section 67(2) of this Act including a comparison of the performance of the Authority with the statement of corporate intent.

(3) The annual report under subsection (1) of this section shall state the dividend payable to the Corporation by the Authority for the financial year to which the report relates having due regard to the necessity to maintain adequate reserves and the principles referred to in section 67(2)(f) of this Act and the amount of the dividend payable to the Corporation shall not be more than that amount estimated in the statement of corporate intent except as otherwise agreed to by the Board and the Corporation.

69. Fiscal updates - The Authority shall deliver to the Corporation fiscal update reports of the kind referred to in the Ministry of Finance and Economic Management Act 1995-96."

Section 70

By omitting the word "Minister" wherever it appears and substituting the words "Board of the Corporation".
