

ANALYSIS

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An Act to constitute the Ministry of Marine Resources

(27 December 1984)

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 Ministry of Marine Resources Act 1984.

(2) This Act shall come into force on a date to be appointed by the Queen's Representative, by Order in Executive Council.

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

"Minister" means the Minister of Marine Resources;

"Ministry" means the Ministry of Marine Resources constituted under this Act;

"Secretary" means the Secretary of Marine Resources appointed under this Act.

Price: .60c

3. Ministry of Marine Resources – (1) There shall be a Department of State to be known as the Ministry of Marine Resources.

(2) The Department shall, under the control of the Minister, be charged with the administration of the Acts specified in the First Schedule to this Act and with such other functions as may be lawfully conferred on it.

4. Principal objectives and functions of the Ministry – (1) The principal objectives of the Ministry shall be–

- (a) To seek and promote a rational approach to the development, exploitation, management, and conservation of all living and non-living resources that are found in waters under Cook Islands jurisdiction, and to exploit such resources in a manner that will ensure maximum benefits accruing to the people of the Cook Islands; and
- (b) To increase self-sufficiency in fish and protein production at the household and national levels; and
- (c) To rapidly expand development in areas offering the greatest potential for export or import substitution or both: and
- (d) To assess and introduce cost-effective fisheries technology appropriate to the Cook Islands and to ensure that such technological innovations are primarily geared to assist subsistence, artisanal, and full-time fishermen; and
- (e) To develop the exploitable marine resources in the Outer Islands that offer opportunities for self-employment, thereby raising the standard of living and slowing down emigration; and
- (f) To work in close co-operation with all those in Government and in the private sector that are involved or will be involved in the development of marine resources of the Cook Islands.

(2) The principal functions of the Ministry shall be –

- (a) To provide technical, administrative, advisory, and scientific back-up to all development projects involving the marine resources of the Cook Islands; and
- (b) To advise the Government in specific areas with regard to the exploitation, management, and conservation of marine resources; and
- (c) To monitor and assess all on-going and planned development of marine resources; and
- (d) To prepare negotiating briefs of a technical nature with regard to foreign fishing access agreements and to assist in other areas as required; and

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- (e) To implement a statistics compilation program as a basis for development planning.

5. Secretary of Marine Resources - There shall from time to time be appointed under the Public Service Act 1975 a Secretary of Marine Resources who shall be the administrative head of the Ministry.

6. Appointment of other officers and employees - (1) There may from time to time be appointed under the Public-Service Act 1955 such other officers and employees of the Ministry as may be necessary.

(2) Every officer of the Ministry of or above the rank of Assistant Fisheries Officer appointed under this section shall be deemed to be a Fisheries Officer for the purposes of the Fisheries Act 1984.

7. Temporary appointment of Secretary, officers, and employees - Pending the appointment of Secretary, officers, and employees pursuant to the terms of this Act, there may be appointed under the Public Service Act 1975 such persons as may be necessary upon such terms as the Public Service Commissioner thinks fit to administer the Ministry and the provisions of this Act.

8. Officers to act under direction of the secretary – All officers and employees of the Ministry shall act under the direction of the Secretary in the exercise and performance of the powers, duties, and functions conferred or imposed on them by any enactment the administration of which the Ministry or the Secretary is charged by this Act or any other enactment.

9. Delegation of powers by Minister – (1) The Minister may from time to time, by writing under his hand, either generally or particularly, delegate to the Secretary all or any of the powers which are conferred on him as Minister of Marine Resources by any enactment, including powers delegated to him under any enactment but not including the power to delegate under this section or the power to consent to a delegation under section 10 of this Act.

(2) Subject to any general or special directions given or conditions attached by the Minister, the Secretary may exercise any powers delegated to him as aforesaid in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Where the Secretary purports to act pursuant to any delegation under this section, he shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Minister.

(5) Unless and until any such delegation is revoked, it shall continue in force according to its tenor. In the event of the Minister by whom any such delegation has been

made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Minister and, in the event of the Secretary to whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made to the person for the time being holding office as Secretary or, if there is no Secretary in office or if the Secretary is absent from duty, to the person for the time being directed under the Public Service Act 1975 to act in the place of the Secretary.

10. Delegation of powers by the Secretary – (1) The Secretary may from time to time, by writing under his hand, either generally or particularly, delegate to such officer or officers or employee or employees of the Ministry as he thinks fit all or any of the powers exercisable by him under any enactment including any powers delegated to him under any enactment, but not including this present power of delegation:

Provided that the Secretary shall not delegate any power delegated to him by the Minister without the written consent of the Minister or any power delegated to him under the Public Service Act 1975 without the written consent of the Public Service Commissioner.

(2) Subject to any general or special directions given or conditions attached by the Secretary, the officer or employee to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specified officer or employee or to officers or employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Secretary.

(6) Any such delegation shall, until revoked, continue in force according to its tenor, notwithstanding the fact that the Secretary by whom it was made may have ceased to hold office, and shall continue to have effect as if made by the successor in office of that Secretary.

11. Powers of the Minister - (1) For the purpose of enabling the Ministry to carry out its functions, the Minister may –

- (a) Devise, promote, authorise, and carry out research, experiments, and other investigations in respect of fish and other living marine resources, methods of catching or harvesting fish and other living marine resources, methods of preserving, processing, and storing fish, fish products and other living

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marine resources, equipment (including fishing vessels and fishing gear), used in the harvesting, preserving, processing, and storage of fish and fish products;

- (b) Devise, promote, authorise, and carry out research, experiments, and other investigations in respect of non-living marine resources, methods of exploiting or otherwise harvesting such resources, and of processing and otherwise utilizing such resources for the benefit of the people of the Cook Islands;
- (c) Devise, promote, authorise, and carry out surveys of the living and non-living resources in marine areas under the jurisdiction of the Cook Islands and assessments of the state of those resources;
- (d) Initiate and carry out economic surveys into any aspect of the fishing industry or any other industry that is dependent on the exploitation of living or non-living marine resources;
- (e) Promote and carry out by publicity, training, and extension work and other means, the diffusion or dissemination of information relating to any aspects of fishing and fish preservation, processing, storage, marketing, and distribution for the instruction, guidance and benefit of fishermen and other persons involved in the fishing industry;
- (f) Operate vessels and carry out fishing operations for the purpose of research, survey, demonstration, training, or commercial reward;
- (g) Establish and operate fish preservation, processing, and storage facilities;
- (h) Enter into agreements for the granting of access to foreign fishing vessels, for the establishment of joint venture operations and other matters covered by the Fisheries Act 1994, and for the exploitation or harvesting of other marine resources, whether living or non-living;
- (i) Co-operate with the Director of Conservation in the identification of areas of marine waters suitable for the establishment of marine reserves under the Conservation Act 1975, and in the management of such areas once established;
- (j) Exercise such other powers as are reasonably necessary for the effective performance of the functions of the Ministry.

(2) It is hereby declared that every work which the Minister is authorised to carry out, establish, or undertake under this or any other Act is a public work.

12. Special investigations – (1) The Minister may from time to time, as he thinks fit, cause an investigation pursuant to this section to be made into any matter connected with or affecting any aspect of the fisheries industry, including the production, storage, preservation, processing, marketing and distribution of fish, fish products, and other living marine resources or into any aspect of any industry involved in the exploitation, harvesting, processing, marketing, and distribution of non-living marine resources.

(2) For the purposes of any such investigation, the Minister may, by order in writing signed by him, require any person, partnership, company, or other corporate body carrying on any business relating to or affecting the subject matter of the investigation to produce for the inspection of any person nominated in that behalf by the Minister any papers, books, or documents which are in the possession of the person, partnership, company, or other corporate body, or to set down in writing any facts relating to the subject matter of the investigation which are within the knowledge of the person, partnership, company, or corporate body and to allow copies or extracts from any such papers, books, or documents to be made by the person inspecting them.

(3) Every person commits an offence who fails to comply with any order of the Minister under this section or who deceives or obstructs or attempts to deceive or obstruct any person nominated by the Minister as aforesaid in the conduct of any such investigation, and shall be liable to a fine not exceeding \$200.

(4) All information obtained by the Minister or by any other person by means of any such investigation shall be treated as confidential and be absolutely privileged and may not be used in any civil or criminal proceedings except for the purposes of this Act.

13. Advisory and technical committees – (1) The Minister may from time to time appoint advisory or technical committees, and define the functions of any such committee.

(2) If the Minister so directs, there may be paid, out of money appropriated by Parliament for the purpose, to the members of any such committee remuneration by way of fees, salary, or allowances and travelling allowances and expenses.

14. Annual report – (1) The Secretary shall as soon as practicable after the end of each financial year furnish to the Minister a report on the operations of the Ministry for that year.

(2) A copy of the report shall be laid before Parliament within 28 days after it has been furnished to the Minister if Parliament is then in session, and, if not, shall be laid before Parliament within 28 days after the commencement of the next ensuing session.

15. Regulations - (1) The Queen's Representative may from time to time, by Order in Executive Council, make all such regulations as may be necessary for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the generality of subsection (1) of this section, such regulations may provide for all or any of the following:

- (a) Obtaining any information or particulars that may be required for the effective performance of the functions of the Ministry under this Act;
- (b) Providing for and defining offences against the regulations;
- (c) Prescribing fines not exceeding \$200 for offences against the regulations.

(3) All regulations made under this section shall be laid before Parliament within 28 days after the date of the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within 28 days after the commencement of the next ensuing session.

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16. Consequential amendments - The enactments specified in the Second Schedule to this Act are hereby amended in the manner indicated in that Schedule.

SCHEDULES

FIRST SCHEDULESection 3(2) ENACTMENTS TO BE ADMINISTERED BYTHE MINISTRY OF MARINE RESOURCES

1. The Continental Shelf Act 1964 of the Parliament of New Zealand (1964, No. 28).
2. The Continental Shelf Amendment Act 1977 (1977, No. 17)
3. The Territorial Sea and Exclusive Economic Zone Act 1977 (1977, No. 16).
4. The Fisheries Act 1984 (1984, No.)

Section 16

SECOND SCHEDULEENACTMENTS AMENDED

Enactment Amended	Amendment
The Territorial Sea and Exclusive Economic Zone Act 1977	<p>By repealing the definition of the term "Minister", in section 2, and substituting the following definition:</p> <p>"means the Minister of Marine Resources;"</p> <p>By omitting all other references to the term "Ministry of Agriculture and Fisheries" (as substituted by section 16 of the Ministry of Agriculture and Fisheries Act 1978), and substituting in each case the words "Ministry of Marine Resources".</p>
The Wandering Animals Act 1976	<p>By repealing the definition of the term "Minister" in section 2, and substituting the following definition:</p>

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"Minister' means the Minister of Agriculture:"

By repealing the definition of the term "Secretary" (as substituted by section 16 of the Ministry of Agriculture and Fisheries Act 1978), and substituting the following definition:

"Secretary' means the Secretary of Agriculture:".

By omitting all other references to the term "Ministry of Agriculture, and Fisheries" (as substituted by the said section 16), and substituting in each case a reference to the term "Ministry of Agriculture".

The Animals Act 1975

By repealing the definition of the term "Secretary" in section 2 (as substituted by section 16 of the Ministry of Agriculture and Fisheries Act 1978), and substituting the following definition:

"Secretary' means the Secretary of Agriculture:".

By repealing the definition of the term "Minister" in section 2, and substituting the following definition:

"Minister' means the Minister of Agriculture:".

By omitting from the definition of the term "Inspector" in section 2 (as amended by the said section 16) the words "Section 6 of the Ministry of Agriculture and Fisheries Act 1978" and substituting the words "Section 6 of the Ministry of Agriculture Act 1978."

The Plants Act 1973

By repealing the definition of the term "Secretary" in section 2 (as substituted by section 16 of the Ministry of Agriculture and Fisheries Act 1978), and substituting the following definition:

"Secretary' means the Secretary of Agriculture:".

By omitting from the definition of the term "Inspector" in section 2 (as amended by the

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said section 16) the words "Ministry of Agriculture and Fisheries Act 1978", and substituting the words "Ministry of Agriculture Act 1978".

By repealing the definition of the term "Minister" in section 2, and substituting the following definition:

"'Minister' means the Minister of Agriculture:".

By omitting all other references to the term "Ministry of Agriculture and Fisheries" (as substituted by the said section 16) and substituting in each case the words "Ministry of Agriculture".

The Copra Act 1970

By repealing the definition of the term "Secretary" in section 2, and substituting the following definition:

"'Secretary' means the Secretary of Agriculture:".

By omitting all references to the term "Ministry of Agriculture and Fisheries" (as substituted by section 16 of the Ministry of Agriculture and Fisheries Act 1978), and substituting in each case a reference to the term "Ministry of Agriculture".

The Ministry of Agriculture and Fisheries Act 1978

By omitting from the Title the words "and Fisheries".

By omitting from section 1 the words "and Fisheries".

By omitting from the definitions of the terms "Minister", "Department", and "Secretary" in section 2 the words "and Fisheries".

By omitting from section 3 the words "and Fisheries".

By omitting from section 4(a) the words "horticultural, marine resources and fishing", and substituting the words "and horticultural".

By omitting from section 5 the words "and Fisheries".

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By omitting from section 9(1) the words "and Fisheries".

By omitting from section 11(1) (a) the words "Marine Resources, fish".

By omitting from section 11(1) (h) the words "horticultural or fisheries", and substituting the words "or horticultural".

By omitting from the First Schedule the items numbered 1, 2, 5, 8, 9, and 10.

By repealing the Second Schedule, except the second amendment to the Animals Act 1975, the second amendment to the Plants Act 1973, and the second amendment to the Copra Act 1970.

This Act is administered in the Ministry of Marine Resources

RAROTONGA, COOK ISLANDS:

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