

COOK ISLANDS

No.16 of 2005

LEASES RESTRICTIONS AMENDMENT ACT 2005

Examined and certified by:

Clerk of the Parliament

In the name and on behalf of Her Majesty Queen Elizabeth the Second I hereby assent to this Act this 14th day of October 2005.

Sir F. Goodwin, KBE
Queen's Representative

ANALYSIS

Title

1. Short title and commencement
2. Interpretation
3. Functions of Leases Approval Tribunal
4. Repeal
5. Criteria to be applied by Tribunal
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2005, No. 16

An Act to amend the Leases Restrictions Act 1976

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 Leases Restrictions Amendment Act 2005 and shall be read together with and deemed part of the Leases Restrictions Act 1976 ("the principal Act").
- (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 - Section 2 of the principal Act is amended by adding the following definition:

"Minister" means the Minister of Justice.

3. Functions of Leases Approval Tribunal - The Principal Act is amended by repealing section 5 and substituting the following new section -

"5. Functions of Leases Approval Tribunal - The functions of the Tribunal shall be:

(a) To consider applications for approval of leases, assignments of leases, and subleases and to grant its approval in any case where it is satisfied that the criteria set out in the regulations pursuant to section 13 of this Act for such approvals have been satisfied or met;

(b) To consider applications for approval upon criteria set out in the regulations pursuant to section 13 of this Act-

(i) prior to the confirmation of a unit plan pursuant to section 5(d) of the Unit Titles Act 2005; or

(ii) prior to an assignment, sublease, dealing, or transfer of or additions to common property pursuant to sections 10(3), 18, 19(2)(b) and 20(1) and (2) of the Unit Titles Act 2005; or

(iii) prior to a dealing in a stratum estate in leasehold pursuant to section 25 of the Unit Titles Act 2005; or

(iv) prior to the confirmation of a redevelopment plan pursuant to section 46(6)(d) of the Unit Titles Act 2005; or

(v) prior to the cancellation of a unit plan pursuant to section 47(3)(d) of the Unit Titles Act 2005; or

(vi) prior to the settlement of a scheme following destruction or damage pursuant to section 48(1) of the Unit Titles Act 2005; or

(vii) where there is a dealing with an accessory unit or an interest in an accessory unit which includes a principal unit or a corresponding interest in a principal unit pursuant to section 11(2) of the Unit Titles Act 2005.

(c) To make recommendations from time to time to the Minister with regard to the criteria to be applied in granting approvals to leases, assignments of leases and subleases.

(d) To report to the Minister from time to time and when required to do so by the Minister on matters relating to leases, assignments of leases, subleases generally and to dealings pursuant to the Unit Titles Act 2005."

4. Section 6 repealed - Section 6 of the principal Act is repealed.

5. Criteria to be applied by Tribunal - The principal Act is amended by repealing section 11 and substituting the following new section –

“11. Criteria to be applied by Tribunal - In considering any application before it, the Leases Approval Tribunal shall apply the criteria prescribed in regulations made pursuant to section 13 of this Act.”

6. New section 15 inserted - The principal Act is amended by inserting, after section 14, the following new section:

"15. Effect of Unit Titles Act 2005 - Nothing in the Unit Titles Act 2005 shall affect this Act."

7. Transitional - Without limiting the interpretation of the Acts Interpretation Act 1924, it is hereby declared that the repeal of sections 5, 6 and 11 of the principal Act by this Act shall not affect any approval granted or anything whatsoever done under the section so repealed and every such approval so far as it subsists or is in force at the time of the amendment or repeal shall continue and have effect as if it had been made or done under the corresponding provision of this Act.

This Act is administered in the Ministry of Justice