



ANALYSIS

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1978, No. 13

An Act to constitute the Ministry of Agriculture and Fisheries

(27 December 1978)

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 Ministry of Agriculture and Fisheries Act 1978.

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

"Minister" means the Minister of Agriculture and Fisheries:

"Department" means the Ministry of Agriculture and Fisheries constituted under this Act:

"Secretary" means the Secretary for Agriculture and Fisheries appointed under this Act.

3. Ministry of Agriculture and Fisheries - (1) There shall be a Department of State to be known as the Ministry of Agriculture and Fisheries.

(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 functions of the Department - The principal functions of the Department shall be -

(a) To promote and encourage the development of all phases of the agricultural, pastoral, horticultural, marine resources and fishing industries; and

(b) To promote and encourage the growing of bananas, citrus, copra, pineapples and other fruit, market garden and other vegetables and stock and poultry; and

(c) To increase the production of and to promote and encourage the marketing and sale of those products.

5. Secretary for Agriculture and Fisheries - There shall from time to time be appointed under the Public Service Act 1975 a Secretary for Agriculture and Fisheries who shall be the administrative head of the Department.

6. Appointment of other officers and employees - (1) There may from time to time be appointed under the Public Service Act 1975 such other officers and employees of the Department as may be necessary.

(2) Without limiting the provisions of subsection (1) of this section, it is hereby declared that any officer of the Department may be appointed under this section as an Inspector; and, without further authority than this section, every Inspector so appointed shall -

(a) Be deemed to be an Inspector appointed under the Animals Act 1975 and the Plants Act 1973;

(b) Have all such powers and authorities as may be necessary for the enforcement of -

(i) The Plants Act 1973;

(ii) Any provision under the Customs Act 1913 which, for the purpose of preventing the introduction of any disease affecting stock or plant life, prohibits the importation into the Cook Islands of such goods.

7. Existing appointments to determine on passing of this Act - (1) Notwithstanding anything in any other legislation all persons including officers, appointed pursuant to the provisions of the Public Service Act 1975 to the Ministry of Economic Services and Natural Resources shall, upon the passing of this Act cease to hold such appointment or office.

(2) Pending the appointment of Secretary, officers and employees pursuant to the terms of this Act, the Minister may appoint such persons as he thinks fit upon such terms as he thinks fit to administer the department and the provisions of this Act.

8. Officers to act under the direction of the Secretary - (1) All inspectors, registrars, clerks, officers, and employees of the Department 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 of which the Department or the Secretary is charged with the administration by this Act or any other enactment.

(2) The Secretary shall have full power and authority to exercise and perform any power or function which is conferred on the Director of any Division of the Department by any enactment of which the Department or the Secretary is charged with the administration by this Act or any other enactment.

9. Delegation of powers of 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 Agriculture and Fisheries 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 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 Department 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 Commission.

(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 Minister - (1) For the purpose of enabling the Department to carry out its functions, the Minister may -

(a) Devise, promote, and carry out experiments, researches, investigations, and measures in relation to the health, and the diagnosis, prevention and treatment of diseases, of Marine Resources, fish, stock, poultry, bees, and plants, the management of soils, and the production and improvement of livestock, crops, and pastures, and in relation to any other matters affecting the operations of any of the industries which it is the function of the Department to promote and encourage:

(b) Promote and carry out by publicity or other means the diffusion or dissemination of information relating to or affecting any of those industries for the instruction, guidance, and benefit of persons engaged in those industries:

(c) Establish and maintain experimental, research, instructional, and demonstration farms and areas for the purpose of acquiring knowledge and imparting practical instruction and advice in modern practices and management in respect of any of the industries which it is the function of the Department to promote and encourage:

(d) Promote and carry out the testing of agricultural and horticultural seeds, bulbs, and tubers for purity, quality and germination, and the approval by certification or other means of seeds, bulbs, and tubers in respect of their trueness to type and freedom from seed-borne diseases:

(e) Promote and carry out the testing of machinery, appliances, and equipment used in any of the industries which it is the function of the Department to promote and encourage:

(f) Enter into agreements with owners and occupiers of land for the sowing and growing for the Department of agricultural and horticultural seeds from stock seed supplied by the Department for the purpose of multiplying and distributing selected and improved strains of the seed or for the carrying out on the land of co-operative trials relating to crop, pasture, horticultural, and livestock production and improvement:

(g) Devise, promote, and carry out investigations and experiments into the harvesting, storage, and transport of the products of the industries which it is the function of the Department to promote and encourage:

(h) Initiate and carry out economic surveys into any aspect of agricultural, pastoral, horticultural or fisheries production:

(1) Exercise such other powers as are reasonably necessary for the effective performance of the functions of the Department.

(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 within the meaning of the Public Works Act 1974.

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 of the industries which it is the function of the Department to promote and encourage.

(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 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) Any person 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 commits an offence, and shall be liable on summary conviction 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 the Legislative Assembly for the purpose to the members of any such committee remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Budget and the provisions of that Act shall apply accordingly as if the committee were a statutory Board within the meaning of that Act.

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 Department 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 High Commissioner may from time to time by Order in Executive Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power conferred by sub-section (1) of this section, it is hereby declared that regulations may be made under this section for all or any of the following purposes:

(a) Obtaining any information or particulars that may be required for the effective performance of the functions of the Department under this Act:

(b) Providing for and defining offences against such regulations:

(c) Prescribing fines not exceeding \$200 for offences against any such regulation.

(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.

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

17. Repeal - The Ministry of Economic Services and Natural Resources Act 1973/74 is hereby repealed.

FIRST SCHEDULE

3 (2) ENACTMENTS TO BE ADMINISTERED BY THE MINISTRY OF

AGRICULTURE AND FISHERIES

1. Continental Shelf Amendment, 1977 No. 17.
2. Territorial Sea and Exclusive Economic Zone Act, 1977 No. 16.
3. Wandering Animals Act, 1976 No. 24.
4. Animals Act, 1975 No. 21.
5. Trochus Act, 1973 No. 4.
6. Plants Act 1973.
7. Copra Act, 1970.
8. Continental Shelf Act, 1964.
9. The Fishing Ordinance, 1950 No. 1.
10. The Cook Islands Pearl Shell Fisheries Regulations, 1950. Statutory Regulations Serial No. 1950/50.

Cook Islands Pearl Shell Fisheries Regulations, 1950, Amendment No. 1. Statutory Regulations Serial No. 1952/54.

Cook Islands Pearl Shell Fisheries Regulations 1950 Amendment No. 2. Statutory Regulations Serial No. 1957/182.

Cook Islands Pearl Shell Fisheries Regulations 1950 Amendment No. 3. Statutory Regulations Serial No. 1958/103.
11. The Cook Islands Fruit Regulations 1954. Statutory Regulations Serial No. 1954/146 dated 22 September 1954.
12. Regulations under Cook Islands Act 1915 for preventing growth and spread of Noxious Weeds. New Zealand Gazette No. 75, 6 July 1916.
13. Amending Noxious Weeds Regulations 1916. New Zealand Gazette No. 27, 5 May 1927. Amending Noxious Weeds Regulations 1931. New Zealand Gazette No. 83, 12 November 1931.

Amending Noxious Weeds Regulations, 1933. New Zealand Gazette No. 67, 21 September 1933.
14. Regulations dated 29 June 1916 under the Cook Islands Act 1915 for the protection of indigenous and imported birds and to prevent the introduction of Noxious Animals and Birds into the Cook Islands. New Zealand Gazette No. 72 dated 29 June 1916.

SECOND SCHEDULE

16.

ENACTMENTS AMENDED

<u>Enactment Amended</u>	<u>Amendment</u>
Public Service Act, 1975	By omitting from the Schedule the words 'Agriculture, Marine, Scientific and Industrial Research' and substituting the words 'Agriculture and Fisheries'.
Continental Shelf Amendment, 1977	By omitting the words after Section 2 'This Act is administered in the Ministry of Economic Services and Natural Resources' and substituting the words 'This Act is administered in the Ministry of Agriculture and Fisheries'.
Territorial Sea and Exclusive Economic Zone Act, 1977	By omitting from the definition of the term 'Minister' in Section 2 the words 'means the Minister Responsible for Fisheries' and substituting the words 'means the Minister of Agriculture and Fisheries'. By omitting all other references in the Act to the term 'Ministry of Economic Development and Natural Resources' and substituting references to the term 'Ministry of Agriculture and Fisheries'.
Wandering Animals Act, 1976	By omitting from the definition of the term 'Minister' in Section 2 the words 'means the Minister in Charge of Agriculture and Fisheries'. By omitting from Section 2 the words "Secretary" means the person for the time being acting as the Secretary of Economic Services and Natural Resources and substituting the words "Secretary" means the Secretary of Agriculture and Fisheries'. By omitting all other references in the Act to the term 'Department of Agriculture' and substituting references to the term 'Ministry of Agriculture and Fisheries'.
Animals Act, 1975	By omitting from Section 2 the term "Director" and the definition of that term and substituting the term and definition 'Secretary' means the Secretary of Agriculture and Fisheries'.

By omitting all other references in the Act to the term "Director" and substituting the term "Secretary".

By omitting from the definition of the term "Minister" in Section 2 the words 'means the Minister in Charge of the Ministry of Economic Services and Natural Resources' and substituting the words 'means the Minister of Agriculture and Fisheries'.

By omitting from the definition of the term "Inspector" in Section 2 the words 'Section 6 of the Department of Agriculture Act, 1970' and substituting the words 'Section 6 of the Ministry of Agriculture and Fisheries Act, 1978'.

By omitting all other references in the Act to the term 'Department of Agriculture' and substituting the term 'Ministry of Agriculture and Fisheries'.

Trochus Act, 1975

By omitting from the definition of the term "Minister" in Section 2 the words 'means the Minister in Charge of Marine Resources' and substituting the words 'means the Minister of Agriculture and Fisheries'.

By omitting all other references in the Act to the term 'Director of Marine Resources' and substituting the term 'Secretary of Agriculture and Fisheries'.

By adding after Section 26 of the Act the words 'This Act is administered in the Ministry of Agriculture and Fisheries'.

Plants Act, 1973

By omitting from Section 2 the term "Director" and the definition of that term and substituting the term and definition "Secretary" means the 'Secretary of Agriculture and Fisheries'.

By omitting all other references in the Act to the term "Director" and substituting the term "Secretary".

By omitting from the definition of the term "Inspector" the words 'Department of Agriculture Act, 1970' and substituting the words "Ministry of Agriculture and Fisheries' Act, 1978".

By omitting from the definition of the term "Minister" in Section 2 the words "means the Minister in Charge of the Department of Agriculture" and substituting the words "means the Minister of Agriculture and Fisheries".

By omitting all other references in the Act to the term 'Department of Agriculture' and substituting the term 'Ministry of Agriculture and Fisheries'.

Copra Act, 1970

By omitting from Section 2 the term "Director" and the definition of that term and substituting the term and definition "Secretary" means the 'Secretary of Agriculture and Fisheries'.

By omitting all other references in the Act to the term "Director" and substituting the term "Secretary".

By omitting all references in the Act to the terms 'Department of Agriculture' and 'Agriculture Department' and substituting the term 'Ministry of Agriculture and Fisheries'.

This Act is administered by the Ministry of Agriculture and Fisheries