

COOK ISLANDS

LAND USE ACT
1969, No. 10

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1969, No. 10

An Act to provide for designation of land use within the Cook Islands

[15 October 1969

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, in accordance with the provisions of subclause (1) of Article 41 of the Constitution of the Cook Islands and by the authority of the same, as follows:

1. Short Title and commencement - (1) This Act may be cited as the Land Use Act 1969.

(2) This Act shall come into force on the island of Rarotonga on the day of assent.

(3) This Act shall come into force with regard to any other island on the date to be appointed by the High Commissioner by Order in Executive Council and different dates may be so appointed in respect of different islands.

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

"Board" means the Land Use Board established by this Act;

"Minister" means the Minister responsible for Justice;

"Occupier" means and includes owner, trustee, lessee or other user of land and any person having an interest in land by native custom.

PART I - ZONING ORDERS

3. Zoning orders - The High Commissioner may by Order in Executive Council (in this Act referred to as a zoning order) establish in any island of the Cook Islands a zone or zones of land use.

4. Effect of zoning order - After the making of a zoning order the use of the land within the zone created shall be pursuant to the provisions of the zoning order, and this Act and such order shall not in any way be deemed an acquisition by the Crown of any right or interest in the land affected.

5. Nature of zoning orders - (1) Zoning orders may provide for the use of land in any one or more of the following respects:-

(a) the use of land primarily for public recreation and enjoyment;

(b) the use of land primarily for tourist accommodation;

(c) the use of land primarily for residential purposes;

(d) the use of land primarily for industrial purposes;

(e) the use of land primarily for commercial purposes;

(f) the use of land primarily for agricultural purposes;

(g) the use of land primarily for public works including roads.

(2) Any zoning order may also include provision for any use incidental or subsidiary to the primary use designated.

6. Continuing use by occupier - Upon a zoning order being made in respect of any land any occupier may continue to use the same in the manner the land was being used at the date of making of the zoning order but shall not, except in accordance with the terms of the zoning order, thereafter make any permanent improvement or alteration to the land or erect or add to any building or other erection thereon without the prior consent of the Board.

7. Effect of ceasing non-conforming use - If at any time while a zoning order is in force the occupier of any land affected thereby has been lawfully using the said land in a manner contrary to the provisions of the zoning order and ceases so to use the said land for a period of twelve (12) months

such occupier shall not be entitled to resume the non-conforming use of the said land without first obtaining the consent of the Board. If the Board, after hearing application by the occupier, shall refuse to grant permission to use the land in the manner in which it was previously used then the occupier shall be entitled to request the Crown to take over the said land and pay appropriate compensation therefor in accordance with the provisions of section 357 of the Cook Islands Act 1915.

8. Failure to comply with zoning order - Except where Section 6 of this Act or an order of the Board applies, any person who fails to comply with any zoning order shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred dollars and in the case of a continuing offence to a further fine not exceeding twenty dollars for every day on which the offence is continued.

PART II - LAND USE BOARD

9. Land Use Board - (1) There is hereby established for the purposes of this Act a Board to be called the Land Use Board.

(2) The Board shall consist of not more than five (5) members, one of whom shall be the Chief Judge of the Land Court who shall be Chairman. The remaining members of the Board shall be appointed by the Minister and shall hold office at his pleasure but may resign. Any member may be re-appointed.

(3) No person shall be deemed to be employed in the service of Her Majesty for the purposes of the Public Service Act 1965 by reason of his being a member of the Board.

(4) The members of the Board shall be paid for their services such remuneration travelling expenses and allowances as the Minister responsible for finance from time to time determines in that behalf.

10. Functions of the Board - (1) The functions of the Board shall be to hear and determine-

(a) objections or submissions by any occupier or other person or group of persons in respect of any zoning order or proposed zoning order;

(b) any application by an occupier of land for permission to deviate from a zoning order;

(c) any application other than matters referred to in paragraphs (a) and (b) of this subsection by any person concerning the use of land arising from the provisions of this Act or regulations thereunder or any zoning or other order pursuant to this Act.

(2) The Board may also either at the request of the Minister or of its own motion report and make recommendations to the Minister on the following matters:-

(a) the need to establish any zone or class of zones and the conditions to be attached thereto;

(b) the alteration or rescission of any zoning order.

11. Powers of the Board - The Board shall have all the powers necessary to carry out its functions under this Act and may conduct hearings in public or otherwise as it shall deem fit.

12. Proceedings of the Board - Proceedings of the Board shall be pursuant to regulations under this Act and in the absence of any appropriate regulation the Board may regulate its own procedure.

13. Matters to be considered by the Board in determining any application or matter - In considering any application or matter before it the Board shall have regard to-

- (a) the interests of the public generally which shall be the paramount consideration;
- (b) the needs of an island or part of an island in relation to the use of the land concerning which the application or matter arises;
- (c) any hardship imposed on any occupier or other person affected by the determination of the Board.

14. Lapsing of permission to deviate from a zoning order - All decisions of the Board granting permission to deviate from the terms of a zoning order shall lapse at the expiry of ten years from the date of the granting of permission or on the rescission or alteration of the zoning order which ever event shall first happen.

15. Liability of Board members - No member of the Board shall be personally liable for any act or thing done by the Board or while acting pursuant to a decision of the Board.

PART III - ADMINISTRATION

16. Administration - Subject to the control of the Minister this Act shall be administered by the Department of Justice which shall be responsible for the enforcement of all zoning and other orders made pursuant to this Act.

17. Regulations - (1) The High Commissioner may from time to time by order in Executive Council, in accordance with recommendations thereon made to him by the Minister, make all said regulations as may, in his opinion, be deemed 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 hereinbefore conferred it is hereby declared that regulations may be made in this connection for all or any of the following purposes:-

- (a) prescribing the procedure to be followed in respect of the applications and objections to and proceedings before the Board and prescribing fees to be paid in respect of any such applications or proceedings;
- (b) providing for the keeping of records for the purposes of this Act;
- (c) prescribing forms for applications and other documents required under this Act;
- (d) providing the procedure for the issue, advertisement and service of notices and documents under this Act;
- (e) prescribing fines not exceeding one hundred dollars in any case for failure to comply with the provision of any regulation under this Act;
- (f) providing for the appointment of such staff and accommodation as shall be required to enable the Board to carry out its functions under this Act.

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