



ANALYSIS

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1976, No. 22

An Act to restrict leases, assignment of leases, or subleases

(30 November 1976)

BE IT ENACTED by the Legislative Assembly of the Cook Islands, in session assembled, and by authority of the same as follows:

1. Short Title - This Act may be cited as the Leases Restrictions Act 1976.

2. Interpretation - In this Act unless the content requires otherwise:-

"Assignment of lease" includes any assignment, transfer, or conveyance of a lease or a sublease:

"Lease" includes any agreement to lease but does not include any lease under the Short Term Crop Leases Act 1966 or any lease for a term not exceeding 5 years (inclusive of any right of renewal):

"Sublease" includes any agreement to sublease but does not include any sublease for a term not exceeding 5 years (inclusive of any right of renewal).

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3. Approval of Leases Approval Committee required -

(1) Notwithstanding any other provision in any Act, no lease, assignment of lease, or sublease executed after the coming into force of this Act shall be valid and of any effect unless the approval of the Leases Approval Committee has been obtained to that lease, assignment of lease or sublease as the case may be:

Provided that this provision shall have no application in the case of any lease, assignment of lease or sublease made pursuant to a right of renewal or right or option of purchase or assignment contained in any lease or sublease or to any agreement to lease or sublease or to assign any lease or sublease executed before the coming into force of this Act.

(2) The approval of the Leases Approval Committee may be obtained before or after the execution by the parties or any of them of the lease, assignment of lease, or sublease as the case may be.

(3) Notwithstanding any provision in the Cook Islands Act 1915 no lease assignment of lease, or sublease shall be confirmed by the Land Court unless the approval of the Leases Approval Committee to the lease has been first obtained.

(4) Notwithstanding any provision in the Land (Facilitation of Dealings) Act 1970 no resolution of any meeting of assembled owners to lease any land shall be confirmed by the Land Court unless the approval of the Leases Approval Committee to the lease has been first obtained.

4. Leases Approval Committee - For the purposes of this Act there shall be established a Leases Approval Committee of not less than two or more than four members all of whom shall be appointed annually by the Minister responsible for Justice with the concurrence of Cabinet.

5. Functions of Leases Approval Committee - The functions of the Leases Approval Committee 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 for such approvals have been satisfied or met.
- (b) To make recommendations from time to time to the Minister responsible for Justice with regard to the criteria to be applied in granting approvals to leases, assignments of leases and subleases.
- (c) To report to the Minister responsible for Justice from time to time and when required to do so by the Minister on matters relating to leases, assignments of leases and subleases.

6. Policy Directives to the Committee - In the exercise of its functions the Leases Approval Committee shall have regard to policy directives issued to it by Cabinet through the Minister responsible for Justice.

7. Duties of Leases Approval Committee - The Leases Approval Committee shall perform its functions under this Act diligently and with due regard to the need to determine applications in a prompt and efficient manner.

8. Procedure of Leases Approval Committee - (1) Subject to the provisions of this Act and any regulations made hereunder the Leases Approval Committee may regulate its own procedure.

(2) The Department of Justice shall provide the Leases Approval Committee with such secretarial and clerical services as the Committee may require.

(3) The Chairman shall be appointed by the Minister responsible for Justice with the concurrence of Cabinet.

(4) Meetings of the Leases Approval Committee shall be called by reasonable notice to all members of the Committee present in Rarotonga, and shall be held at such times and places as the Chairman or in his absence the Deputy-Chairman shall determine.

(5) Any party interested in an application before the Committee shall be entitled to appear before the Committee personally or through his solicitor or agent for the purposes of making representations or giving information to the Committee.

(6) The quorum for meetings of the Committee shall be established by the Committee from time to time.

(7) Any decision or determination by the Committee shall be made by a majority vote of the members present at the meeting.

9. Application for approval - Every application for approval of the Leases Approval Committee shall be made in writing in the form or to the effect of the form prescribed by the Committee from time to time and shall be accompanied by a fee as may from time to time be prescribed in the Regulations.

10. Further information - In the event that the Leases Approval Committee considers that insufficient information has been made available to it in any application or supporting documents to that application the Committee may require the applicant to supply such further information as it considers relevant to the criteria to be taken into account by the Committee and shall defer consideration of the application until that further information is supplied.

11. Criteria to be applied by Committee - In considering any application before it the Leases Approval Committee shall have regard to any criteria, or other matters prescribed in policy directives issued by Cabinet from time to time through the Minister responsible for Justice as criteria or matters to be taken into account with regard to such applications.

12. False information - Any person who knowingly supplies any false information to the Leases Approval Committee which is material to any application commits an offence and shall be liable upon conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding three months or to both.

13. 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 deemed necessary or expedient for giving full effect to the provisions of this Act and for the due administration hereof.

(2) All regulations made under this section shall be laid before the Legislative Assembly within 28 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 28 days after the date of the commencement of the next ensuing session.

This Act is administered in the Justice Department.