

Animal Control Products Limited Act 1991 036

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An Act to provide for the incorporation of a company to take over certain business of the Agricultural Pests Destruction Council

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement---(1) This Act may be cited as the Animal Control Products Limited Act 1991.

(2) Except as provided in section 20 (3) of this Act, this Act shall come into force on the date on which it receives the Royal assent.

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

``Animal Control Products" means the trading arm of the Council known as Animal Control Products which operates the Council's poison factory business:

``Appointed day" means the date appointed by the Governor-General by Order in Council made under section 6 (3) of this Act:

``The company" means Animal Control Products Limited, a company to be incorporated in accordance with section 5 of this Act:

``The Council" means the Agricultural Pests Destruction Council constituted under the Agricultural Pests Destruction Act 1967:

``Liabilities" means liabilities, debts, charges, duties, and obligations of every description (whether present or future, actual or contingent, and whether payable or to be observed or performed in New Zealand or elsewhere):

``Poison factory business" means the business operated by Animal Control Products at the poison factories in Wanganui and Waimate

and consisting of the manufacture, sale, and other disposal of poison and poisoned baits:

``Property" means property of every kind whether tangible or intangible, real or personal, corporeal or incorporeal and, without limiting the generality of the foregoing, includes---

(a) Choses in action and money:

(b) Goodwill:

(c) Rights, interests, and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent, or prospective:

``Rights" means all rights, powers, privileges, and immunities, whether actual, contingent, or prospective:

``Shareholding Ministers" means the Minister of Agriculture and the Minister of Finance.

Cf. 1986, No. 129, s. 2; 1988, No. 166, s. 2

3. Act to bind the Crown---This Act shall bind the Crown.

4. Responsibility of Ministers---The shareholding Ministers shall be responsible to the House of Representatives for the performance of the functions given to them by this Act.

Cf. 1986, No. 124, s. 6; 1988, No. 166, s. 4

5. Incorporation of company to take over poison factory business---(1) Notwithstanding anything in the Companies Act 1955 or any other enactment or rule of law, the shareholding Ministers may form and register under the Companies Act 1955 a private company limited by shares that has the name ``Animal Control Products Limited".

(2) All the shares in the capital of the company shall, on its incorporation, be subscribed for by the shareholding Ministers on behalf of the Crown in equal proportions, and no shares in the capital of the company shall be issued or allotted by the company before the appointed day unless those shares are issued or allotted to the shareholding Ministers in equal proportions.

(3) On the appointed day all the shares in the capital of the company subscribed for in accordance with subsection (2) of this section and any other shares in the capital of the company issued to the shareholding Ministers before the appointed day shall be deemed to have been allotted as fully paid up to each shareholding Minister in equal proportions.

(4) Nothing in section 60 of the Companies Act 1955 (which relates to returns of allotments and prescribes the documents that must be delivered to the Registrar of Companies when shares are allotted for a consideration other than cash) shall apply to shares which are deemed to have been allotted pursuant to subsection (3) of this section.

(5) Except as provided in subsections (1) and (4) of this section and in section 19 of the State-Owned Enterprises Act 1986 (as applied to the company by section 15 of this Act), the Companies Act 1955 shall apply to the company.

(6) Nothing in this section prevents the name of the company being changed in accordance with the provisions of the Companies Act 1955.

Cf. 1986, No. 124, s. 30; 1986, No. 129, s. 4; 1988, No. 166, s. 5

6. Vesting of poison factory business in company---(1) The shareholding Ministers may, at any time or times, prepare a list or lists specifying the property and liabilities of the Council which are used for, or held for the purposes of, the poison factory business and which should, in the opinion of the shareholding Ministers, be vested in the company in accordance with this Act.

(2) Every such list shall---

- (a) Contain a description of each asset and liability, either individually or as a group or class; and
- (b) Be signed by the shareholding Ministers; and
- (c) Be laid before the House of Representatives by the Minister of Agriculture within 12 sitting days of its being signed.

(3) The Governor-General may, at any time or times, by Order in Council, vest in the company on a date appointed in the order the property and liabilities specified in the order, being property and liabilities set out in a list prepared pursuant to subsection (1) of this section and which is referred to in the order.

Cf. 1987, No. 195, s. 6 (1)-(3)

7. Consequential provisions on vesting of poison factory business in company---Without limiting the generality of section 6 of this Act, the following provisions shall have effect on and after the appointed day:

- (a) A reference (express or implied) to the Council or Animal Control Products in any instrument relating to the poison factory business shall be read and construed as a reference to the company:
- (b) All contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices (whether or not in writing) relating to the poison factory business, entered into by, made with, given to or by, or addressed to the Council or Animal Control Products (whether alone or with any other person) subsisting immediately before the appointed day shall, to the extent that they were previously binding on and enforceable by, against, or in favour of the Council or Animal Control Products, be binding on and enforceable by, against, or in favour of the company as fully and effectually in every respect as if, instead of the Council or Animal Control Products, the company had been the person by whom they were entered into, with whom they were made or to or by whom they were given or addressed, as the case may be:
- (c) Any action, arbitration or proceedings or cause of action which immediately before the appointed day is pending or existing by, against, or in favour of the Council or Animal Control Products or to which the Council or Animal Control Products is a party may, if it relates to the poison factory business, be prosecuted, and without amendment of any writ, pleading or other document, continued and enforced by, against, or in favour of the company.

Cf. 1988, No. 91, s. 31

8. Additional provisions relating to vesting of land, etc., in company---(1) The provisions of this Act vesting any property or liabilities in the company shall have effect notwithstanding any

enactment, rule of law, or agreement.

(2) Where, by virtue of this Act, any land vests in the company, the land shall vest in the company for an estate in fee simple subject to all leases, agreements to lease, and easements existing in respect of any part of that land immediately before the land vests in the company.

(3) District Land Registrars are hereby authorised and directed, on written request being made by or on behalf of the company and on payment of the prescribed fee, to make such entries in their registers and do everything necessary to give effect to the vesting of any land or any estate or interest in land in accordance with this Act.

Cf. 1987, No. 195, s. 7 (3), (4), (6)

9. Certain matters not affected by vesting of poison factory business in company---Nothing effected or authorised by this Act---

- (a) Shall be regarded as placing the Council, or Animal Control Products, or the company, or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
- (b) Shall be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
- (c) Shall be regarded as placing the Council, or Animal Control Products, or the company, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
- (d) Shall release any surety wholly or in part from any obligation; or
- (e) Shall invalidate or discharge any contract or security.

Cf. 1986, No. 129, s. 6 (g); 1988, No. 166, s. 11

10. Firefighter business not to be treated as part of poison factory business---(1) The business conducted at the poison factory operated by Animal Control Products in Wanganui and consisting of the manufacture, sale, and other disposal of firefighters and paper pellets shall not, for the purposes of this Act, be treated as part of the poison factory business.

(2) The interest of the Council in that firefighter and paper pellet business shall, on the appointed day, vest in the Crown.

11. Officers and employees---Notwithstanding any other provision of this Act---

- (a) On the appointed day each employee of the Council or Animal Control Products who is employed in respect of the poison factory business shall cease to be an employee of the Council or Animal Control Products and shall become an employee of the company but, for the purposes of every enactment, law, award, determination, contract, and agreement relating to the employment of each such employee, his or her contract of employment shall be deemed to have been unbroken and the period of his or her service with the Council or Animal Control Products shall be deemed to have been a period of service with the company; and
- (b) The terms and conditions of the employment of each transferred employee with the company shall on the appointed day (and

thereafter until varied) be identical with the terms and conditions of his or her employment with the Council or Animal Control Products immediately before the appointed day and be capable of variation in the same manner; and

- (c) A transferred employee shall not be entitled to receive any payment or other benefit by reason only of his or her ceasing by virtue of this Act to be an employee of the Council or Animal Control Products; and
- (d) Nothing in this Act, other than paragraph (c) of this section, shall affect any rights or liabilities under any provident, benefit, superannuation, or retirement fund or scheme relating to employees of the Council or Animal Control Products.

Cf. 1988, No. 166, s. 12

12. Crown shareholding---(1) Each shareholding Minister may, from time to time, on behalf of the Crown subscribe for or otherwise acquire shares in the capital of the company in addition to the shares subscribed for under section 5 of this Act.

(2) Any money required to be paid by a shareholding Minister for the purpose of subsection (1) of this section shall be paid out of the Crown Bank Account from money appropriated by Parliament for the purpose.

(3) Shares in the capital of the company in the name of a person described as the Minister of Agriculture or the Minister of Finance shall be held by the person for the time being holding the office of Minister of Agriculture or Minister of Finance, as the case may be.

(4) Notwithstanding any other enactment or rule of law, it shall not be necessary to complete or register a transfer of shares in the capital of the company consequent upon a change in the person holding office as the Minister of Agriculture or the Minister of Finance, as the case may be.

(5) Each shareholding Minister who holds shares in the company may exercise on behalf of Her Majesty the Queen all or any of Her Majesty's rights and powers as the holder of those shares.

Cf. 1986, No. 124, s. 22 (1)-(3); 1988, No. 166, s. 13

13. Books and documents to remain evidence---(1) Any document, matter, or thing relating to the poison factory business, which, if this Act had not been passed, would have been admissible in evidence in respect of any matter for or against the Council or Animal Control Products shall, on and after the appointed day, be admissible in evidence in respect of the same matter for or against the company.

(2) In this section "document" has the same meaning as in section 2 (1) of the Evidence Amendment Act (No. 2) 1980.

Cf. 1986, No. 129, s. 10; 1988, No. 166, s. 14

14. Taxes and duties---For the purposes of the Acts specified in the First Schedule to the Inland Revenue Department Act 1974 and any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge---

- (a) The Council or Animal Control Products, as the case may be, and the company shall, for the purposes of the taxation of the poison factory business, be deemed to be the same person with

effect on and from the appointed day; and

- (b) In respect of the liability for and the assessment, determination, or imposition of taxes, duties, levies, or other charges accruing on and from the appointed day under any such enactment, all transactions entered into by, and acts of, the Council or Animal Control Products before the appointed day in respect of the poison factory business shall be deemed to have been entered into by, or to be those of, the company and to have been entered into or performed by the company at the time when they were entered into or performed by the Council or Animal Control Products, as the case may be.

Cf. 1986, No. 129, s. 17

15. Application of State-Owned Enterprises Act 1986---(1) While a shareholding Minister holds any shares in the capital of the company, Part III of the State-Owned Enterprises Act 1986 shall apply to the company and for that purpose the company shall be deemed to be a State enterprise within the meaning of section 2 of that Act.

(2) On the date on which Part III of the State-Owned Enterprises Act 1986 ceases to apply to the company---

- (a) The Audit Office shall cease to be the auditor of the company and every subsidiary of the company;
- (b) Any person or firm holding office as an additional auditor of the company or any subsidiary of the company under section 19 (3) of that Act shall cease to hold that office;
- (c) The directors of the company and of every subsidiary of the company shall appoint an auditor or auditors of the company and of every subsidiary of the company and every such appointment shall be deemed to have been made by the directors to fill a casual vacancy in the office of auditor under section 163 (5) of the Companies Act 1955.

Cf. 1988, No. 166, s. 16

16. Final report of Council in respect of poison factory business---(1) As soon as reasonably practicable after the appointed day, the Council shall send a final report of the Council in respect of the poison factory business to the Minister of Agriculture showing the Council's operations in respect of that business for the period beginning with the 1st day of April immediately preceding the appointed day and ending with the commencement of the appointed day, and shall attach to the report a copy of the Council's accounts in respect of that business for that period certified by the Audit Office.

(2) A copy of the report and accounts shall be laid before the House of Representatives as soon as practicable after their receipt by the Minister of Agriculture.

Cf. 1988, No. 166, s. 18

17. Amendment to Agricultural Pests Destruction Act 1967---The Agricultural Pests Destruction Act 1967 is amended as from the commencement of the appointed day by repealing section 17.

18. Amendment to Income Tax Act 1976---The Income Tax Act 1976 is amended as from the commencement of the appointed day by inserting in the Fourteenth Schedule (as substituted by section 23 (1) of the State Services Conditions of Employment Amendment Act 1987), in its

appropriate alphabetical order, the item ``Animal Control Products Limited".

Cf. 1988, No. 166, s. 22

19. Amendment to Official Information Act 1982---The Official Information Act 1982 is amended as from the commencement of the appointed day by inserting in the First Schedule (as substituted by section 23 (1) of the Official Information Amendment Act 1987), in its appropriate alphabetical order, the item ``Animal Control Products Limited".

Cf. 1988, No. 166, s. 25 (2)

20. Amendments consequential on disposal by the Crown of shares in company---(1) The Income Tax Act 1976 is amended as from the commencement of the date appointed under subsection (3) of this section by omitting from the Fourteenth Schedule (as substituted by section 23 (1) of the State Services Conditions of Employment Amendment Act 1987) the item ``Animal Control Products Limited" (as inserted by section 18 of this Act).

(2) The Official Information Act 1982 is amended as from the commencement of the date appointed under subsection (3) of this section by omitting from the First Schedule (as substituted by section 23 (1) of the Official Information Amendment Act 1987) the item ``Animal Control Products Limited" (as inserted by section 19 of this Act).

(3) Subject to subsection (4) of this section, this section shall come into force on a date to be appointed by the Governor-General by Order in Council.

(4) A date may be appointed under subsection (3) of this section only where the Governor-General in Council is satisfied, at the time of the making of the Order in Council appointing the date, that at least 50 percent of the ordinary shares in the capital of Animal Control Products Limited are no longer held on behalf of Her Majesty the Queen.

Cf. 1988, No. 166, s. 27