



ANALYSIS

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2002, No. 2

An Act to establish, recognise, and regulate the Cook Islands Red Cross Society

(11 February 2002)

BE IT ENACTED by the Parliament 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 Cook Islands Red Cross Society Act 2002.

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

“Associate” includes any branch of the Society;

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“The Conventions” has the meaning given to it by section 3(1) of the Geneva Conventions and Additional Protocols Act 2002;

“Council” means the Council constituted in accordance with the Society’s constitution, or any body that substitutes the Council as the executive authority of the Society under the constitution;

“Enactment” has the meaning given to it by Article 1(1) of the Constitution of the Cook Islands;

“The former Society” means the body known, immediately before the coming into force of this Act, as the Cook Islands Red Cross Society Incorporated (which was incorporated at Rarotonga on 23 February 1995 under the Incorporated Societies Act 1994);

“Fundamental Principles” means the Fundamental Principles of the International Red Cross and Red Crescent Movement as formulated from time to time by the International Conferences of that movement;

“Minister” means a Minister appointed under the provisions of the Constitution of the Cook Islands as the Minister in charge of the Ministry;

“Ministry” means the Ministry of Foreign Affairs constituted under the Ministry of Foreign Affairs Act 1984;

“The Protocols” has the meaning given to it by section 3(1) of the Geneva Conventions and Additional Protocols Act 2002;

“Rules” means rules made in accordance with the Society’s constitution, and includes regulations, guidelines, and rules of procedure;

“The Society” means the Cook Islands Red Cross Society established by section 4(1);

“The Society’s constitution”, or “the constitution”, means the constitution of the Society.

3. Act to bind Crown – This Act binds the Crown.
4. Establishment of Society – (1) This subsection establishes the Cook Islands Red Cross Society.
 - (2) The Society is a body corporate with perpetual succession.
 - (3) The Society is the same body corporate as the former Society.

5. Object of Society – (1) The object of the Society is to prevent and alleviate human suffering with complete impartiality, making no discrimination as to nationality, race, sex, religious beliefs, class, or political opinions.

(2) In pursuing its object, the Society must act in accordance with the spirit and principles of the Conventions and the Protocols, and the Fundamental Principles.

6. Functions of Society – (1) The functions of the Society are as set out in the Schedule to this Act.

(2) The Society may perform any of its functions, or arrange for its performance, to the extent only that its performance is consistent with the Society's object.

(3) The Society may at any time amend its functions as if the functions were a part of the Society's constitution.

(4) No amendment to the Society's functions has any effect so far as it is inconsistent with any of the following:

- (a) This Act;
- (b) Any regulations made under this Act;
- (c) The spirit and principles of the Conventions and the Protocols;
- (d) The Fundamental Principles.

7. Powers of Society – (1) Except as provided in this Act, the Society has—

- (a) The rights, powers, and privileges of a natural person; and
- (b) Without limiting the generality of paragraph (a), the power to do any other thing it is authorised to do by—
 - (i) This Act; or
 - (ii) Any other enactment; or
 - (iii) Any rule of law.

(2) The Society must not exercise any of its rights, powers, or privileges, except for the purpose of achieving its object or performing its functions.

8. Membership – The Society must not withhold membership from any person on the grounds of nationality, race, sex, religious beliefs, class, or political opinions.

9. Constitution and rules – (1) The council must govern the Society, and otherwise act, in accordance with the Society's constitution and the rules.

(2) The Society and its office holders, members, and associates must act in accordance with the Society's constitution and the rules.

(3) The Society may at any time in accordance with the Society's constitution amend the constitution and the rules.

(4) No provision in the Society's constitution or the rules has any effect so far as it is inconsistent with any of the following:

- (a) This Act;
- (b) Any regulations made under this Act;

- (c) The spirit and principles of the Conventions and the Protocols;
- (d) The Fundamental Principles.

10. Notice of amendment – (1) The Society must give written notice to the Secretary of the Ministry of–

- (a) Each amendment to its functions made under section 6(3); and
- (b) Each amendment to the constitution made under section 9(3).

(2) The notice must be given as soon as practicable after each amendment is made, and in all cases within 14 days of the amendment being made.

11. Recognition by Crown – (1) The Crown recognises the Society as–

- (a) A voluntary aid society auxiliary to the public authorities for the purposes of the Society's object, the Conventions, and the Protocols; and
- (b) The only national Red Cross society in the Cook Islands.

(2) The Crown must in accordance with resolution 55(I) of the General Assembly of the United Nations respect the independent and voluntary nature of the Society and the Society's adherence to the Fundamental Principles.

(3) The Society may carry out its activities anywhere in the Cook Islands and elsewhere.

12. Use of Red Cross emblem and designation – The Society may, in accordance with the Conventions, the Protocols, and any regulations made under this Act, use–

- (a) The emblem of a red cross surrounded by a white ground;
- (b) The designation "Red Cross".

13. Society not incorporated society – The Society is not incorporated under the Incorporated Societies Act 1994 and nothing in that Act or regulations made under it applies to the Society merely because the Society is the same body corporate as the former Society.

14. No liability on members for obligation of Society – Membership of the Society does not in itself impose on the members any liability in respect of any contract, debt, or other obligation made or incurred by the Society.

15. Members to have no right to property of society – Membership of the Society does not give the members any right, title, or interest, either legal or equitable, in the property of the Society.

16. Regulations – (1) The Queen's Representative may, on the recommendation of the Minister, make regulations by Order in Executive Council for all or any of the following purposes:

- (a) Regulating the use by the Society of the emblem and the designation referred to in section 12;
- (b) Providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

(2) The Minister must consult the Society before recommending the making of any regulations under subsection (1).

17. Transitional and savings – (1) Unless the context otherwise requires, every reference to the former Society in any enactment, document, or agreement (whether in writing or not), in force immediately before the coming into force of this Act, is, on the coming into force of this Act, a reference to the Society.

(2) Subject to section 9(4), the constitution of the former Society in force immediately before the coming into force of this Act, is on the coming into force of this Act, the Society's constitution.

(3) Subject to section 9(4), every rule of the former Society in force immediately before the coming into force of this Act, is on the coming into force of this Act, a rule of the Society.

(4) For the avoidance of doubt, –

- (a) The assets and liabilities that the former Society had immediately before the coming into force of this Act, are, on the coming into force of this Act, the assets and liabilities of the Society;
- (b) Every person who was a member, office holder, or employee of the former Society immediately before the coming into force of this Act, is, on the coming into force of this Act, a member, office holder, or employee of the Society, respectively; and
- (c) Every body of persons that was a branch of the former Society immediately before the coming into force of this Act, is, on the coming into force of this Act, a branch of the Society.

This Act is administered in the Ministry of Foreign Affairs.

SCHEDULE**Section 6(1)****FUNCTIONS OF THE COOK ISLANDS RED CROSS SOCIETY**

1. To act in case of armed conflict, and in peace to be prepared to act in all fields covered by the Geneva Conventions and their Additional Protocols and on behalf of all victims of armed conflict, both civilians and military;
 2. To contribute to the improvement of health, the prevention of disease and the mitigation of suffering by a programme of training and services for the benefit of the community, adapted to national and local needs and circumstances;
 3. To organise, consistent with any national plan, emergency relief services for the victims of disasters, however caused;
 4. To recruit, train, and assign such personnel as are necessary for the discharge of its responsibilities;
 5. To promote the participation of all persons (including young people) in the work of the Red Cross, recognising the special contribution of women to the Red Cross world-wide; and
 6. To propagate the humanitarian principles of the Red Cross in order to develop among the population, and particularly among children and youth, the ideals of peace, mutual respect, and understanding among all peoples.
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