



ANALYSIS

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1988, No. 6

An Act to amend the International Companies Act 1981-82

(22 June 1988)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled and by the authority of the same as follows:

1. Short Title and commencement - (1) This Act may be cited as the International Companies Amendment Act 1988 and shall be read together with and deemed part of the International Companies Act 1981-82 (herein referred to as "the principal Act").

(2) Section 4 of this Act shall be deemed to have come into force on the same day as the principal Act came into force.

2. Interpretation - Subsection (1) of section 200 is amended by,-

- (a) inserting after the word "under" and before the words "the Companies Act", the word "either";
and

- (b) adding after the words "1970-71" the words "or the Development Investment Act 1977".

3. Application of other Acts to International Companies - Section 249 of the principal Act is amended by repealing subsection (4) and substituting the following new subsection,-

(4) Subsection (2) shall not apply to a foreign company which transacts onshore business (as defined in section 249A) whether by way of an isolated transaction or of a continuing nature, "except where the business involves one isolated transaction that is completed within a period of 31 days, not being one of a number of similar transactions repeated more than once.

4. Regulation of foreign investment in the Cook Islands - The principal Act is amended by adding after section 249, the following new section,-

"249A. Regulation of foreign investment in the Cook Islands
 -(1) In this section,-

"Administrative Onshore Business" mean,-

- (a) any transaction or dealing by an international company or a foreign company with a local entity engaged in the practice of law in the Cook Islands for the purpose of obtaining legal advice or representation.
- (b) any transaction or dealing by an international company or a foreign company with a local entity engaged in the practice of accounting in the Cook Islands for the purpose of having prepared or audited any of the accounts of that company.
- (c) any transaction or dealing by an international company or a foreign company with a local entity registered under the Banking Act 1969 for the purposes of facilitating the deposit with or movement by that local entity of any of the monies of that company.
- (d) any other class of transaction or dealing being:
 - (i) a class of transaction or dealing by any international company or foreign company with a local entity in respect of the provision of ancillary services by the local entity to any such company to enable it to carry on its business in and from the Cook Islands; and
 - (ii) of such a kind or nature that such services cannot reasonably be supplied by or through a trustee company.

as may from time to time be prescribed.

"Interest" shall include any interest whether legal or equitable and whether vested or contingent in nature.

"Local Entity" means,-

- (a) in the case of a body corporate:
 - (i) a domestic company (except where such a company is a trustee company);
 - (ii) an overseas company registered under the Companies Act 1970-71;
 - (iii) any foreign company which, having either a place of business in the Cook Islands or carries on business in the Cook Islands in contravention of section 200(4) of this Act.
 - (iv) any other body corporate formed or incorporated in the Cook Islands (except a body incorporated or registered under the International Trusts Act 1984 or the International Partnership Act 1984).
- (b) any natural person who is a citizen or resident of or domiciled in the Cook Islands and any partnership or association of such persons.

"Local Property" means,-

- (a) any interest in land in the Cook Islands;
- (b) any interest in tangible personal property ordinarily situated in the Cook Islands;

(c) any interest in a chose in action of or affecting either a local entity or local property;

(d) any interest in a local entity.

"Onshore Business" means,-

(a) any transaction or dealing whether for pecuniary gain or otherwise with a local entity (and whether with that local entity individually or with another person or persons); or

(b) any investment in acquisition of or dealing affecting local property or any interest therein.

but shall not include administrative onshore business.

(2) Any international company or foreign company which transacts onshore business (whether by way of an isolated transaction or of a continuing nature) shall be subject to the provisions of the Development Investment Act 1977.

(3) Nothing in this section shall be interpreted or construed as in any way limiting the right power or capacity of an international company of a foreign company (with or without prior approval),-

(a) to deal with the Registrar in any manner contemplated by this Act or any other Act regulation bylaw or rule made thereunder;

(b) to deal with the Cook Islands Monetary Board;

(c) to institute or become a party to any action suit or other proceeding in the Court.

This Act is administered by the Cook Islands Monetary Board.