



## ANALYSIS

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1980, No. 17

An Act to establish a Primary Producers' Federation and to represent and promote the interests of Producers

(2 December 1980)

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

1. Short Title - This Act may be cited as the Primary Producers Federation Act 1980

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

"Board" means the Board of Directors established under this Act;

"Federation" means the Primary Producers Federation established under this Act;

"Financial Year" means the period from the 1st day of April in any year to the 31st day of March in the following year;

"Primary Produce" includes any product from agriculture, horticulture, animal husbandry, fisheries or forestry.

3. Establishment of Primary Producers Federation - (1) There is hereby established a body to be known as the Primary Producers Federation.

(2) The Federation shall be a body corporate with perpetual succession and a common seal and may purchase or otherwise acquire hold dispose of and alienate real and personal property and sue and be sued and do and suffer all such acts and things as bodies corporate may lawfully do and suffer.

4. Constitution - The constitution set out in the Schedule hereto shall be the Constitution of the Federation and may be amended from time to time in accordance with the provisions set out in the Constitution.
5. Functions - The functions of the Federation are to protect foster and advance the interests of all primary producers and production generally, and to do all things necessary for or incidental or ancillary to such protection fostering or advancement, including purchasing selling or dealing in primary produce.
6. Board of Directors - The affairs and business of the Federation shall be controlled and managed by a Board of Directors one of whom shall be the Chairman of the Board of Directors.
7. Employees - The Board may appoint such officers and employees as it deems necessary for the efficient carrying out of its functions under this Act and may determine the salaries wages and allowances payable to its officers and employees.
8. Committees - (1) The Board may from time to time appoint any committee to inquire into and report upon such matters as the Board thinks fit.
- (2) Any person may be appointed to be a member of any committee notwithstanding that he is not a member of the Federation.
- (3) Any committee shall include at least one member of the Board who shall act as the Chairman thereof.
- (4) Members of such committees may be paid such remuneration as the Board determines.
9. Personal liability - No member or employee of the Federation, the Board, or any committee appointed by the Board shall be personally liable for any act or default done or omitted in good faith in the course of the operations of the Federation.
10. Co-ordination of policy - In carrying out its functions and the exercise of its powers under this Act, the Board shall consult with the Government of the Cook Islands for the purpose of co-ordinating policies in relation to primary production and to ensure that the interests of the Federation are represented in the formulation of Government policies.
11. Contracts with the Crown - The Crown acting through any Government Department or Statutory Authority may from time to time enter into contracts or arrangements for the execution or provision by it of any work or services or for the supply to the Federation of any personnel, goods, stores, services or equipment on such terms as may be agreed upon.
12. Qualifications of members - Any group of persons being a legal entity comprising no less than 15 persons, and having its predominant purpose the furtherance of primary production in the Cook Islands shall be eligible for membership of the Federation and on admission that group shall be one member.
13. Finance - (1) The funds and the resources of the Federation shall include:
- (a) such sums as may be levied from members,
  - (b) the proceeds of any loan granted to the Federation by any person,
  - (c) all sums of money which may in any manner become payable to or vest in the Federation in respect of the performance of its functions, and

(d) such sums of money as may be vested in the Federation by virtue of the coming into force of this Act.

(2) The Board may establish and operate such account or accounts that it deems necessary.

(3) The Board may from time to time by resolution authorise any person or persons to operate its accounts and may from time to time by resolution fix the maximum amount that may be drawn by such persons at any one time.

(4) Any money belonging to the Federation may be invested in any manner authorised by the Board from time to time with or without security.

(5) The Federation may from time to time borrow money by way of overdraft or otherwise, and may for that purpose issue debentures, mortgages, grant guarantees or charge any of its real or personal property as security.

(6) The Federation shall keep full and proper accounts of all money received and expended by it. These accounts and moneys shall be audited annually.

14. Registered office - (1) The Federation shall have a Registered Office at an address decided upon by the Board to which all notices and communications may be sent.

(2) The Federation shall keep a copy of its Constitution and a list of its members open to inspection by the public at its Registered Office.

15. Contracts of the Board - (1) Any contract which, if made between private persons must be by deed, shall if made by the Federation be in writing under the seal of the Federation.

(2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith, shall, if made by the Federation, be in writing either under the seal of the Federation or signed by any person acting on behalf of and under the express or implied authority of the Federation.

(3) Any contract which, if made between private persons, may be made verbally, may, when made by the Federation be made verbally by any person acting on behalf of and under the express or implied authority of the Federation, but no verbal contract shall be made of a value exceeding fifty dollars.

16. Levy - The Federation may contract with or act as agent for any member to dispose of any produce to or through the Federation or to assist any member in any manner and may impose a levy on that produce to enable the Federation to carry out its functions.

## PART II

17. Assets and Liabilities of the Primary Produce Marketing Board - On the commencement of this Act:

(a) all real and personal property that immediately before the commencement of this Act was vested in the Primary Produce Marketing Board shall without conveyance, transfer or assignment, vest in the Cook Islands Government Property Corporation subject to all liabilities, charges, obligations and trusts affecting the property, and

(b) all the contracts, debts, and liabilities of the Primary Produce Marketing Board immediately before the commencement of this Act (including every guarantee and indemnity continuing to have effect)



shall become the contracts, debts and liabilities of the Cook Islands Government Property Corporation.

18. Repeals - The Primary Produce Marketing Board Act 1970-71 is repealed.

#### SCHEDULE

##### CONSTITUTION OF THE PRIMARY PRODUCERS FEDERATION

- A. NAME - The name shall be THE PRIMARY PRODUCERS FEDERATION (hereinafter called "the Federation")
- B. POWERS -
- (1) The Board shall have all such powers, rights and authorities as may reasonably be necessary or expedient to enable it to carry out its functions.
  - (2) Without limiting the general powers conferred on the Board herein, the Board shall have authority from time to time:
    - (a) to acquire, establish, maintain and operate adequate plant, machinery, equipment, stores, supplies or implements, packing materials, manures, sprays or any other facilities whatever the Board thinks necessary or desirable for the efficient performance of any of its functions or powers under this Act;
    - (b) to purchase and resell manure, sprays, spraying implements, fencing materials, tools and any other stores or equipment and to negotiate agencies in connection therewith;
    - (c) to engage in any trading or business activity dealing in any way with production;
    - (d) to take delivery of, handle, process, grade, pack, store and transport any primary produce;
    - (e) to negotiate on freight rates and modes of transportation for primary produce;
    - (f) to act as agents for any member upon request;
    - (g) to promote or initiate or provide or negotiate with other bodies to provide services and inputs for production;
    - (h) to impose restrictions and conditions on the sale of any primary produce;
    - (i) to affiliate or co-operate with or join or subscribe to the funds of any company, society, corporation, body or organisation having similar objects to the Federation or to join or co-operate or subscribe to or contribute to the funds of any company, society or corporation, body or organisation for the purpose of better attaining or otherwise furthering the objects and interests of the Federation or of the members thereof;

- (j) to initiate, promote and support activities of members calculated to benefit and assist primary producers and primary production and for this purpose to lend money to or give or undertake to give any guarantee in respect of the obligations of any member for sufficient security only;
- (k) to borrow or raise money with or without security and to secure payment of moneys so borrowed by mortgage or debenture over or charged upon, or by the hypothecation of all or any of its real or personal property;
- (l) to invest any moneys of the Federation not required for immediate use in such manner as may seem desirable and with power from time to time to vary investments for other of a like nature;
- (m) to advance on terms and conditions at its discretion any amount or amounts of money for any of the following purposes:
  - (i) the purchase of trees, plants or seeds;
  - (ii) the purchase of building construction or maintenance materials, machinery, equipment, tools, stores or packing materials;
  - (iii) the payment of any service, including labour;
- (n) to purchase, lease, or otherwise acquire land, buildings and other real and personal property and to sell, demise, exchange and otherwise deal with the same;
- (o) to construct maintain or alter any buildings or work necessary or convenient for the purpose of the Federation;
- (p) to keep and maintain a vigilant watch on all legislative measures brought before the Legislative Assembly and to make representations to those concerned in relation to such measures as are deemed injurious or beneficial to the Federation or its members; and
- (q) to make recommendations to education authorities and to support and assist education activities relevant to primary production and matters ancillary thereto.

C. MEMBERSHIP -

- (1) The first members shall be those associations herein listed:

Matavera Growers Association  
Ngatangia Growers Association  
Titikaveka Growers Association  
Puaikura Growers Association  
Avatiu/Nikao Growers Association  
Tupapa/Maraerenga Growers Association  
Kuki Airani Producers Co-operative Society Limited  
Aitutaki Growers Association  
Atiu Growers Association  
Mauke Growers Association  
Mangaia Growers Association

Mitiaro Growers Association  
The Cook Islands Market Gardeners Association  
Pukapuka Growers Association  
Manihiki Growers Association  
Rakahanga Growers Association  
Penrhyn Growers Association  
Palmerston Growers Association

- (2) New members shall be admitted upon election by a minimum of four of the Directors present at a meeting of the Board but no group shall be presented for election without application in writing from itself and with written support from two existing members.
- (3) Resignation of Members: Any member may resign from its membership by giving to the Chairman of the Board notice in writing to that effect and every such notice shall unless otherwise expressed, take effect as from the end of the year then current.
- (4) Bankruptcy of Members: If any member shall be convicted of an indictable offence or be adjudged a bankrupt or make a composition with its creditors, or if an effective resolution or order or Court be passed or made for the winding up or dissolution of any company or other body corporate which shall be a member, then such member shall, without releasing it from any antecedent liability to the Federation, forthwith cease to be a member, but the Federation may in its discretion reinstate it without payment of entrance fee or contribution as a new member.
- (5) Expulsion of Members: The Federation may at any time by letter invite any member within a specified time to retire for breach by it of these rules and in the fault of withdrawal to submit the question of its expulsion to a general meeting to be held within three calendar months from the date of such letter. At that meeting, the member whose expulsion is under consideration shall be allowed to offer an explanation verbally and/or in writing and if thereupon two-thirds of the members present shall vote for its expulsion, it shall forthwith without releasing it from any antecedent liability to the Federation cease to be a member.

D. FEES AND CONTRIBUTIONS -

- (1) Entrance Fees: The first members each shall on or before 1st day of December 1980 and every new member shall upon application as aforesaid, pay to the Federation an entrance fee of \$50.00.
- (2) Annual Subscription: Every member shall on or before the 1st day of September in every year and forthwith upon its election to the Federation in the case of a new member, pay to the Federation in addition to its Entrance Fee, an annual subscription of \$100.00 or such other amount as shall from time to time be fixed by resolution in general meetings.
- (3) Contribution by new Members: Every new member in addition to its Entrance Fee and annual subscription shall forthwith upon election pay to the Federation by way of contribution to its fund a sum equal to that which every member would have received out of the surplus assets of the Federation in the event of a winding up immediately prior to the election of the new member, for which purpose the balance sheet of the Federation adopted by the Federation next prior to such election, shall be conclusive both as to the

identity and also as to the value of such assets.

- (4) Further Subscriptions or Levies: Every member shall in addition to all other moneys payable by it forthwith pay to the Federation all and every sum or sums of money or further subscriptions or levies not exceeding in any one year the amount of its annual subscription for the current year, which shall at any time and from time to time by resolution in general meeting be levied upon it as a member by the Federation and which the Federation shall consider necessary or expedient for the purpose of furthering the interests of the Federation and its members.
- (5) Penalties: The Federation may impose upon any member whose entrance fee or subscription, whether annual or otherwise, levy penalty or other contribution is in arrears and unpaid for the space of one calendar month from the due date thereof, a fine not exceeding ten per centum of the amount of such arrears.

E. GENERAL MEETINGS -

- (1) Annual General Meeting: The Annual General Meeting of the Federation shall be held in the month of August in every year and upon a date and at a time to be fixed by the Board for the following purposes;
- (a) to receive from the Board a report, balance sheet, and statement of account for the preceding year and an estimate of the receipts and expenditure for the ensuing year;
  - (b) to elect Directors to the Board for the ensuing year;
  - (c) to appoint an Auditor for the ensuing year;
  - (d) to decide on any resolution which may be duly submitted to the meeting.
- (2) Special General Meeting: The Chairman or in his absence or inability, the Board may in extra-ordinary circumstances call a Special General Meeting, and he/it shall do so forthwith upon the requisition in writing of any ten members stating the purpose for which the meeting is required.
- (3) Notice: At least seven clear days before a Special General Meeting and 28 days before an Annual General Meeting, a notice thereof shall be given to every member in the manner considered most appropriate by the Board.
- (4) Attendance: Members shall be represented at General Meetings by delegates. The number of delegates to be nominated by each or any member shall be decided upon by the Board according to the criteria determined by the Board. The criteria for the number of delegates may include the number of persons employed in primary production comprising a member, the production according to quantity and value of that member, the place of residence of most of the persons comprising that member and any other matter that the Board shall decide upon.

(5) Quorum:

- (a) At General Meetings no business shall be transacted unless a quorum of members is present at the time the meeting proceeds to business;
- (b) A quorum shall consist of not less than 60% of the members being represented either by having their delegates present or by proxy. When any proxy is claimed by any person, the Chairman shall have the right to disallow or allow that proxy.

F. VOTING -

- (1) With the exception of Clause H below, each delegate shall have the right to attend any General Meetings, speak on any motion or matter thereon, and exercise one vote on every matter thereon.
- (2) In the case of an equality of votes, the Chairman shall have a deliberative and casting vote.
- (3) Voting on all questions shall be by voice unless a show of hands is requested by any member and provided that election of the Directors will be by ballot.

G. BOARD OF DIRECTORS -

- (1) The affairs and business of the Federation shall be controlled and managed by a Board of Directors.
- (2) The Board of Directors shall consist of five Directors as follows:
  - (a) one person representing the Islands of Pukapuka, Nassau, Manihiki, Rakahanga, Penrhyn, Palmerston;
  - (b) one person representing the Islands of Atiu, Aitutaki, Mangaia, Mauke, Mitiaro;
  - (c) one person representing the Island of Rarotonga; and
  - (d) two other persons who shall be appointed in accordance with the Constitution of the Federation.
- (3) The first members of the Board of Directors shall be those persons listed hereunder:

Mr M. Matapo  
Mr N. Munokoa  
Mr R. Wigmore  
Mr W. Estall  
Mr K. Koteka

- (4) At every Annual General Meeting of the Federation the members shall elect the five Directors who shall hold office until death, retirement, absence, removal from Office, or election of successors to Office.
- (5) The Board shall meet at such time and places as shall from time to time be determined by the Chairman and otherwise no more than 7 days after a request therefore by 2 Directors and at all such meetings, the Board shall determine its own procedure.



- (6) The Chairman of the Board, or in his absence, any other Director of the Board shall act as the Chairman of any meeting of the Board and every Director present shall be entitled on every motion to one vote and in the case of equality of votes, the Chairman shall have a casting vote as well as deliberative vote.
- (7) The quorum for meetings of the Board shall be three Directors.
- (8) Absence: Any Director of the Board who shall absent himself without leave from three consecutive meetings of the Board shall ipso facto cease to be a member of the Board.
- (9) Vacancy: The Board shall have power to appoint any eligible person as Director to fill any casual vacancy on it, until the next Annual General Meeting, caused by death, retirement, absence or removal from Office of a Director.
- (10) Duty: It shall be the duty of the Board generally to conduct the affairs of the Federation, to collect all subscriptions and keep usual and proper books of account properly posted up and other records of the business of the Federation, and to prepare and submit to the Annual General Meeting a report, balance sheet and statement of accounts for the preceding year.
- (11) Minutes: The Directors shall cause minutes to be duly entered in books provided for that purpose, the names of the Directors present at each meeting of the Board and of all resolutions and proceedings of General Meetings and of meetings of the Board. Any such minutes of any meeting, if signed by the Chairman of the meeting, shall be receivable as prima facie evidence of the matters stated in the minutes.
- (12) Powers: The management of the business of the Federation shall be vested in the Board and the Board may exercise all such powers and do all such acts and things as the Federation is by its rules or otherwise authorised to exercise and do and are not hereby or by statute directed or required to be exercised or done by the Federation in General Meeting.
- (13) Borrowing: The Board shall in addition to the other powers vested in it, have power to borrow or raise money from time to time by the issue of debentures, bonds, mortgages or any other securities founded or based on all or any of the property and or rights of the Federation, or without any such security and upon such terms as to priority and otherwise as shall seem fit to the Board which shall be entitled to exercise such power to borrow or raise money.

H. ELECTION OF DIRECTORS -

- (1) To ensure fair representation at the election of the Directors of the Board, the delegates shall be grouped into three provinces, that is;
  - (a) The delegates of those members whose own individual members are predominantly resident in the Southern Cook Islands (not including Rarotonga);

- (b) The delegates of those members whose own individual members are predominantly resident in the Island of Rarotonga;
- (c) The delegates of those members whose own individual members are predominantly resident in the Northern Cook Islands.
- (2) The delegates of each province shall to the exclusion of the delegates of the other provinces nominate and vote for a Director on the Board to represent that province.
- (3) The remaining two Directors may be nominated and elected by all the delegates, each delegate having one vote.
- (4) Following the election of the five officers of the Board, the Chairman of the Federation shall be nominated and elected by all or any of the delegates, each delegate having one vote.
- (5) Any member of a member Association shall be eligible for election as a Director of the Federation, provided that he/she is or is intending to be normally resident on the Island of Rarotonga.
- (6) Only an existing Director of the Federation may be eligible for election to the position of the Chairman of the Federation.

I. COMMON SEAL -

- (1) The Common Seal of the Federation shall be that appointed by the Board, which shall be responsible for the safe custody and control thereof.
- (2) Whenever the Common Seal of the Federation is required to be affixed to any deed, documents, writing or other instrument, the Seal shall be affixed pursuant to a resolution of the Board, by the Chairman and any one other Director of the Board thereby authorised to affix the Seal, and the persons so affixing the Seal shall at the same time sign the documents to which the Seal is so affixed.

J. ALTERATION OF RULES -

These rules may be altered, added to, rescinded, or otherwise amended by an ordinary resolution passed at a General Meeting.

K. DEFINITION -

In this Constitution, except where a different intention appears:

"Chairman" means the Chairman of a General Meeting or meeting of the Board, as the case may be;

"Director" means a member of the Board; and

"primary production" includes agriculture, horticulture, animal husbandry, fisheries and forestry.

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This Act is administered by the Primary Producers Federation.