



### ANALYSIS

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1998, No. 16

An Act to amend the Rarotonga Environment Act 1994-95

(28 September 1998)

**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 - This Act may be cited as the Rarotonga Environment Amendment Act 1998 and shall be read together with and deemed part of the Rarotonga Environment Act 1994-95 (hereinafter referred to as 'the principal Act').

2. Environment Council - Section 8 of the principal Act is amended by deleting subsection (1), and substituting the following new subsections -

“(1) There shall be an Environment Council, the membership of which shall comprise not less than 3 nor more than 5 persons appointed by the Minister acting with the approval of Cabinet.

Price \$1.50

(1A) One or more of the persons appointed pursuant to subsection (1) shall be representative of a non-government organisation representing environmental interests.”

3. Meetings of the Council - Section 12 of the principal Act is amended by deleting subsection (3), and substituting the following new subsection -

“(3) At all meetings of the Council, the quorum necessary to transact business shall be three members.”

4. Director, other officers, and employees - The principal Act is amended by repealing section 19, and substituting the following new section -

“19. Director, other officers and employees – (1) There shall be appointed by the Council, a Director of the Tu’anga Taporoporo to be the administrative head of the Service and who shall, subject to the provisions of this Act and any regulations prescribed hereunder, exercise such functions and powers as are conferred on the Service.

(2) The Director shall be required, notwithstanding any other term or condition of employment, to enter into a performance agreement with the Council, and shall be paid such remuneration and allowances as may from time to time be determined by the Council.

(3) The Director shall be responsible to the Council for the efficient and proper administration and management of the Service.

(4) The Director may with the prior approval of the Council, appoint –

(a) a Deputy Director;

(b) such other officers and employees of the Service as may from time to time be required,

on such terms and conditions as the Director with the approval of the Council may determine, to enable the Service to efficiently perform its functions and powers.

(5) The Director with the prior approval of the Council may employ or engage such consultants as may from time to time be necessary to assist the Service in the performance of its functions.”

5. Appointment of environment officers - Subsection (1) of section 21 of the principal Act is amended by deleting the word “Minister” and substituting the word “Council”.

6. Additional powers of environment officer – (1) Subsection (1) of section 25 of the principal Act is amended by adding after paragraph (b), the following new paragraph –

“(c) order any person, by giving notice in writing, to cease carrying on any activity which the environment officer has cause to suspect is an offence under this Act, and enter upon any property to deliver any such notice. A notice issued pursuant to this paragraph shall specify the activity which is to cease and the alleged offence.”

(2) Section 25 of the principal Act is further amended by deleting subsection (2), and substituting the following new subsection –

“(2) Every person commits an offence against this Act, who fails to comply with an order made under subsection (1) and shall upon conviction –

- (a) in the case of failing to comply with an order made under paragraphs (a) or (b) of subsection (1), a fine not exceeding \$500;
- (b) in the case of failing to comply with an order made under paragraph (c) of subsection (1), a fine not exceeding \$1,000.”

7. Protection of wetlands - The principal Act is amended, by inserting after section 50, the following new section -

“50A. Protection of wetlands – (1) No excavation, dredging, clearing, paving, grading, ploughing, dumping, reclamation, removal of trees or other activity of any kind which may alter the natural configuration of the wetlands shall be undertaken on any wetlands, nor shall any building or structure be erected or altered on any wetlands, without the written consent of the Council, which consent may be subject to such conditions as may be prescribed or, if no such conditions are prescribed, such conditions as the Council deems necessary for the protection of the environment, provided that where it is clear that damage to the environment is unlikely to result from such activity, such consent shall not be unreasonably withheld.

(2) Every person commits an offence and shall be liable on conviction to a fine not exceeding \$5,000 who acts in contravention of subsection (1).

(3) The High Court may, in addition to any penalty provided for by subsection (2), order the offender to repair or restore under the supervision of the Director, any damage done as a consequence of any act done in contravention of subsection (1).”

8. Financial and fiscal responsibility - The principal Act is amended by inserting after section 58, the following new section –

“58A. Financial and fiscal responsibility - The Director shall be responsible to the Council, and the Council shall be responsible to the Minister, for ensuring that all activities of the Service are undertaken in a manner which is consistent with the provisions of the Ministry of Finance and Economic Management Act 1995-96.”

9. Regulations – Subsection (2) of section 62 of the principal Act is amended by adding after paragraph (k), the following new paragraphs -

- “(l) prescribing fees for applications, permits and approvals, and for the provision of advisory and other services;
- (m) regulating or prohibiting the importation or the dumping of non recyclable products including glass bottles, plastics and aluminium cans.”

10. Transitional - Notwithstanding the repeal by this Act of section 19 of the principal Act, the Director and every other officer, employee or consultant employed within or engaged by the Service immediately before the coming into force of this Act shall, after the coming into force of this Act continue to be employed or engaged within or by the Service as if appointed pursuant to this Act, upon the same terms and conditions that the Director, officer, other employee or consultant (as the case may be) was previously employed or engaged under immediately prior to the coming into force of this Act.

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This Act is administered by the Tu'anga Taporoporo.