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1994-95, No. 39

An Act to establish the Tu'anga Taporoporo and to provide for the conservation and management of the environment of the island of Rarotonga in a sustainable manner

(31 July 1995)

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 Rarotonga Environment Act 1994-95.
(2) This Act shall come into force on the 1st August 1995.
2. Interpretation - In this Act, unless the context otherwise requires -
"Animal" means any member, alive or dead, of the animal kingdom (other than human beings), and includes -
 - (a) marine animals;
 - (b) terrestrial animals;
 - (c) migratory animals that occasionally visit Rarotonga or Rarotonga waters;

- (d) any part of an animal's life cycle, such as eggs or parts of eggs;
and
- (e) any part of animals or animal products such as skin, feathers,
horn, shell or other part of an animal.

"Cabinet" means the Cabinet of the Cook Islands;

"Chairperson" means a person appointed under section 10 of this Act as the chairperson of the Environment Council or member appointed to the position for a particular meeting in the absence of the chairperson;

"Constable" means any member of the police, of any rank;

"Council" means the Environment Council established under section 8 of this Act;

"Director" means the Director of the Tu'anga Taporoporo;

"Discharge" includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

"Environment" means the ecosystems and the quality of those ecosystems as well as of the physical, biological, cultural, spiritual, social and historic processes and resources in those ecosystems, including but not limited to land, water, air, animals, plants and other features of the human habitat;

"Environment officer" means an Environment Officer appointed under this Act;

"Financial year" means a period of 12 months ending on the 30th day of June;

"Foreshore" means -

- (i) all that area between the mean high water mark and a line connecting those points landward and measured at right angles to a distance 30 metres from the mean high water mark or to the edge of the vegetation, whichever shall be the greater distance; and
- (ii) every estuary, stream or river together with the bed of any stream or river and includes that area extending landward and measured at right angles from the mean high water mark in that estuary to a distance 5 metres landward from the edge of the vegetation.

"Government" means the Government of the Cook Islands;

"Internal waters" means the waters and banks of any river, stream, or lake together with the bed (whether dry or not) of any stream, river or lake. For the purposes of this definition "bank" shall include that area extending landward and measured at right angles to a distance of 5 metres from the bank of any such stream, river and lake;

"Local organisation" means any body or group of persons, committee, or club from time to time established and recognised in Rarotonga;

"Management Plan" means a plan for the management of resources prepared in accordance with section 38 of this Act;

"Mean high water mark" means the line of medium high tide between the spring and neap tides;

"Member" means a member of the Environment Council;

"Minister" means the Minister for the environment;

"Native" means a person of the polynesian race indigenous to the Cook Islands and includes a person who is a descendant of a native;

"Native customary land" means land which, being vested in the Crown, is held by natives or the descendants of natives under the native customs and usages of the Cook Islands;

"Native freehold land" means land which either as to the whole of that land, or any undivided share is owned by a native by way of a beneficial estate in fee simple, whether legal or equitable;

"Native land" means native customary land or native freehold land, as herein defined;

"Plant" includes any plant, tree, shrub, herb, flower, nursery stock, culture, vegetable, or other vegetation; and also includes any fruit, seed, spore, and portion or product of any plant;

"Rare and endangered species" means any species of animal or plant designated as a rare or endangered species pursuant to section 7(1)(f);

"Rarotonga waters" means all that area surrounding Rarotonga having as its inner boundary the mean high water mark, and as its outer limit the outer edge of the reef at low tide and every reef, lagoon and the bed of such lagoon within those limits;

"Service" means the Environment Service established under section 17 of this Act;

"Tu'anga Taporoporo" means the body established by section 5 of this Act.

"Vessel" means every description of water craft or other artificial contrivance used or capable of being used as a means of transportation on water;

"Wetlands" means areas of marsh, swamp or water, whether natural or artificial; permanent, seasonally flooded or temporary; with water that is static or flowing; fresh, brackish or salt and includes water storage reservoirs, taro swamps and fish ponds;

"Wildlife" means -

- (a) animals and plants that are indigenous or naturalised to the island of Rarotonga or to internal waters; and
- (b) any other animals and plants described by regulations made under this Act.

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

4. Application of this Act - (1) This Act shall apply only to the island of Rarotonga and Rarotonga waters.

(2) Where the provisions of this Act or of any Regulation or Order made under this Act are inconsistent with any of the provisions of any other Act, or of any regulation, by-law, or other law made under any other Act (other than the Constitution), the provisions of this Act or of the regulations or orders made under this Act shall, unless expressly provided in any Act to the contrary, prevail.

PART I
TU'ANGA TAPOROPORO

5. Tu'anga Taporoporo - (1) There is hereby established a body corporate to be called the Tu'anga Taporoporo with perpetual succession and a common seal which shall be capable of holding real and personal property and of suing and being sued, and of doing and suffering all such other acts and things as corporations may lawfully do and suffer.

(2) The Tu'anga Taporoporo shall comprise the Environment Council referred to in section 8 and the Environment Service referred to in section 17.

6. Functions - The functions of the Tu'anga Taporoporo shall be to -
- (a) protect and conserve the environment and to ensure the sustainable use of the natural resources;
 - (b) protect, conserve, manage, and control wildlife, and in particular the protection, conservation, management and control of rare and endangered species of animals and plants and the regulation and prohibition of trade and commerce in wildlife;
 - (c) protect, conserve, manage, and control Rarotonga waters;
 - (d) prevent, control, and correct the pollution of air, water, and land resources by appropriate means, including those to ensure the environmentally safe use and disposal of any toxic chemical or its wastes;
 - (e) provide and assist in the provision of training in the skills associated with performing any of its functions;
 - (f) carry out investigations, research, and monitoring relevant to the protection and conservation of the natural resources of all Rarotonga waters;
 - (g) protect, manage, control, and prevent damage to any beach, road, internal waters, river, stream, drain, building, market place, and area used or frequented generally by members of the public;
 - (h) evaluate and act on activities which significantly affect the environment;
 - (i) make recommendations to the Minister in relation to the protection and preservation of wildlife, forests, soil, and water resources;
 - (j) do anything incidental or conducive to the performance of any of the foregoing functions.

7. Powers - (1) The Tu'anga Taporoporo shall have power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions including power to -

- (a) enter into contracts;
- (b) erect buildings and structures and carry out works in the public interest;
- (c) accept gifts, devises, and bequests made to the Council and to act as trustee of money or other property vested in the Tu'anga Taporoporo upon trust;

- (d) prohibit the use of natural resources beyond the limits prescribed by regulations;
- (e) designate in accordance with subsection (2), animals and plants as rare or endangered species and subject to regulations as may be prescribed, to issue guidelines for the special protection of such species;
- (f) obtain pursuant to section 56, loans for the purpose of enabling it to perform any or all of its functions;
- (g) enforce the provisions of this Act and for that purpose to prosecute and sue any person, body corporate, or group of persons, whether incorporated or not, including the Crown its agents, servants and agencies.

(2) For the purposes of paragraph (e) of subsection (1) the Service shall have the power to designate by notice published in the Gazette any animal or plant as a rare and endangered species.

(3) The Tu'anga Taporoporo shall have power to perform any of its functions in co-operation with a Government agency, instrumentality or department, or with a local organisation.

(4) In the exercise of its powers, the Tu'anga Taporoporo shall, except where the circumstances require the immediate exercise of any power to protect the environment, at all times have regard to the principle that it may better serve the community by consultation, negotiation and education.

Environment Council

8. Environment Council - (1) There shall be an Environment Council the membership of which shall comprise six persons appointed by the Minister with the approval of Cabinet.

(2) Every person appointed pursuant to subsection (1) shall be a person who in the opinion of the Minister and Cabinet possesses suitable knowledge and organisational skills, in particular relating to the development and management of the environment.

9. Functions of the Council - (1) It shall be the function of the Council to -

- (a) formulate and coordinate environment policies and programs consistent with the functions of the Tu'anga Taporoporo;
- (b) recommend to the Minister for approval by Cabinet the adoption and implementation of environment policies and programs consistent with the functions of the Tu'anga Taporoporo;
- (c) advise the Minister on environment policies and programs;
- (d) convey to the Service such policies and programs as are approved by the Council for implementation;
- (e) consider and approve budgets of the Tu'anga Taporoporo.
- (f) consider and if necessary make recommendations to the Minister in respect of all project proposals.

(2) In the performance of its functions the Council shall:

- (a) have regard to the policy of Government as conveyed to it by the Minister in writing; and
- (b) seek expert advice at all times where such expert advice is reasonably available.

10. Chairperson - There shall be a chairperson of the Council who shall be appointed by the Minister from amongst those Council members appointed pursuant to section 8, which person shall, subject to subsections (2) and (3) of section 11, hold office for a term of three years.

11. Tenure of Office - (1) Except as otherwise provided by this section, every member of the Council shall be appointed for a term of 3 years, but may from time to time be re-appointed.

(2) Any member of the Council may at any time resign by giving notice in writing to the Minister.

(3) The Minister with the approval of Cabinet may by notice in writing remove a member from the Council in the case of a member becoming bankrupt, or incapacitated by illness, or if he is absent from 3 consecutive Council meetings without leave of the Council, or is otherwise unable or unfit by reason of incompetence or misbehaviour to discharge his functions as a member.

(4) Where any member of the Council ceases to be a member before the expiration of his appointed term of office the Minister may with the approval of Cabinet appoint another member in his stead for the balance then remaining of his term of office.

(5) The powers of the Council shall not be affected by any vacancies in its membership.

12. Meetings of the Council - (1) Every meeting of the Council shall be presided over by the Chairperson. In the absence of the Chairperson the members present shall appoint one of their number to be the chairman for that meeting.

(2) The first meeting of the Council shall be held on a date to be appointed by the Minister, and subsequent meetings shall be held on such dates as the Council shall decide but in any event at intervals of not less than once every two months.

(3) At all meetings of the Council the quorum necessary to transact business shall be four members.

(4) Every question before a meeting of the Council shall be determined by a majority of valid votes of the members present and, in the case of equality of votes the Chairperson at any meeting shall have a casting as well as a deliberative vote.

(5) Subject to the provisions of this Act and any regulations made hereunder, the Council may regulate its proceedings in such manner as it thinks fit.

(6) The Minister shall have the right to attend and address any meeting of the Council.

(7) The Director (if not a member of the Council) shall attend every meeting of the Council.

13. Minutes of meetings - (1) The Council shall cause minutes to be kept in a book provided for the purpose of all resolutions and proceedings at its meetings.

(2) The minutes shall be approved by the Council and signed by the Chairperson at the meeting immediately after the meeting at which they were passed.

(3) A copy of the minutes of every meeting shall be furnished to every member.

14. Remuneration of Council members - Every member of the Council may be paid out of the Tu'anga Taporoporo's Account established by section 55 of this Act such remuneration, expenses and allowances as may be prescribed by Order in Executive Council.

15. Disclosure of conflicting interests - (1) Any member who, otherwise than in his capacity as a member, is directly or indirectly interested in any matter, arrangement or agreement of the Tu'anga Taporoporo shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest to the Council if the Council is in session or if it is not in session the Chairperson of the Council.

(2) A disclosure under this section shall be recorded by the Council or Chairperson as the case may be, and the member shall thereafter not take part in any deliberations or decisions relating to the matter, arrangement or agreement but shall be counted as present for the purpose of forming a quorum of the Council.

16. Special meetings - (1) The Chairperson or any three members of the Council may at any time by notice in writing signed by them and setting forth the matters to be considered, call a special meeting of the Council.

(2) A notice under subsection (1) shall be delivered to every member of the Council and to the Director before the date of the meeting.

Environment Service

17. Environment Service - There shall be established as part of the Tu'anga Taporoporo a Service to be known as the Environment Service to comprise the Director and such other officers and employees as may be appointed pursuant to sections 19 and 21.

18. Functions of the Service - The functions of the Service shall be to -

- (a) implement such policies as are conveyed to the Service by the Council;
- (b) implement such programs as are approved by the Council;
- (c) formulate and recommend policies consistent with the Tu'anga Taporoporo's functions for adoption by the Council;
- (d) recommend programs consistent with the Tu'anga Taporoporo's functions for approval by the Council;
- (e) exercise the powers of the Tu'anga Taporoporo;
- (f) implement and promote the functions of the Tu'anga Taporoporo;
- (g) act as the secretariat to the Council.

19. Director, other officers, and employees - (1) There shall be appointed by the Minister acting with the concurrence of Cabinet, 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, exercise such functions and powers as are conferred on the Service.

(2) The Director shall be paid such remuneration and allowances as may from time to time be fixed by the Minister with the approval of Cabinet.

(3) The Director may, with the prior approval of the Minister, appoint -

(a) a Deputy-Director with responsibility for any particular function of the Service; and

(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 Minister may determine to enable the Service to efficiently perform its functions and powers.

(4) The Tu'anga Taporoporo by notification in the Cook Islands Gazette, make rules for the duties of officers and employees (other than the Director), of the Tu'anga Taporoporo and their salaries, allowances and conditions of service.

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

(6) Every Deputy Director, officer, employee and consultant shall in the performance of their duties under this Act be responsible to the Director.

20. Delegation of powers - (1) The Director may, by writing signed by him, delegate to any Deputy Director or other officer of the Service all or any of his powers and functions under this Act except this power of delegation.

(2) A power or function so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation under this section is revocable at will, and shall not prevent the exercise of a power or the performance of a function by the Director.

Environment Officers

21. Appointment of environment officers - (1) The Director may, with the approval of the Minister, by instrument in writing appoint -

(a) officers or employees of the Service to be environment officers; and

(b) other persons to be environment officers having such functions duties and powers as the Director shall determine.

(2) The Director shall, by virtue of his appointment, be deemed to be an environment officer.

(3) Every constable shall, by virtue of his office, have all the powers of an environment officer.

(4) The Director shall cause to be issued to each environment officer other than a constable, an identity card in such form as the Director thinks fit, containing a photograph of the holder.

(5) Every person who ceases to be an environment officer shall forthwith return his identity card to the Director.

22. Power of environment officer to make search - An environment officer may, on producing his identity card issued under section 21 and (if not a constable) in the presence of a constable, search any private property, vehicle, aircraft, or vessel if he believes on reasonable grounds that there is in or on that private property, vehicle, aircraft, or vessel,

- (a) any animal, plant, or article in respect of which an offence against this Act has been committed; or
- (b) anything that will afford evidence as to the commission of an offence against this Act,

and may for that purpose stop or detain a vehicle, aircraft or vessel.

23. Arrest by environment officer - (1) An environment officer may, without warrant and (if not a constable) in the presence of a constable, arrest any person whom he reasonably believes to have committed an offence against this Act or regulations made under this Act.

(2) Before arresting any person under subsection (1), the environment officer shall produce and show his identity card to the person being arrested.

(3) Any person arrested under subsection (1) shall be brought before a Court as soon as practicable after his arrest to be dealt with in accordance with law.

24. Power of environment officer to seize vehicle, aircraft, vessel, and article - An environment officer may (if not a constable) in the presence of a constable, and any constable may seize any vehicle, aircraft, vessel, or article that he reasonably believes to have been used or otherwise involved in the commission of an offence against this Act or regulations made under this Act, and subject to section 28, may retain it for a period of 3 months from the date of its seizure, or, if a prosecution for an offence against this Act is instituted within that period, until the prosecution is disposed of and, in the event of an appeal against the decision in that prosecution, until the appeal has been determined.

25. Additional powers of environment officer - (1) An environment officer may, on producing his identity card issued under section 21, or a constable may -

- (a) order a person whom he finds committing or whom he suspects of having committed an offence against this Act or any regulations under this Act, to disclose his full name and usual place of residence;
- (b) order any person whom he reasonably suspects of having done an act in respect of which the person is required to hold a licence, permit, or other authority under this Act to produce such a licence, permit, or evidence of such an authority.

(2) Every person commits an offence against this Act who fails forthwith to comply with any order under this section, and upon conviction shall be liable to a fine not exceeding \$500.

(3) No environment officer shall be liable to be prosecuted or liable in damages for the performance in good faith of the functions, duties and powers imposed on the Tu'anga Taporoporo or an environment officer under this Act.

26. Assaulting or threatening environment officer an offence - Every person who assaults or threatens any environment officer acting in the performance of his duties commits an offence, and upon conviction shall be liable to a fine of not exceeding \$500 or to imprisonment for a period not exceeding 3 months or to both.

27. Impersonation of environment officer an offence - Every person commits an offence who by words or conduct falsely represents that he is or impersonates an environment officer, and upon conviction shall be liable to a fine not exceeding \$500 or to imprisonment for a period not exceeding 3 months or to both such fine and imprisonment.

28. Court may order release of vehicle, aircraft, vessel, or article - The High Court may pending the hearing of any prosecution order that any vehicle, aircraft, vessel or article seized under section 24 to be released to its owner or to the person from whom it was seized, either conditionally or upon such conditions as the High Court in its absolute discretion, considers necessary.

29. Order for forfeiture may be imposed in addition to fine and imprisonment - Upon the conviction of any person for an offence against this Act, the Court may, in addition to imposing any penalty by way of fine or imprisonment or both, order the forfeiture to the Tu'anga Taporoporo of any vehicle, aircraft, vessel or article used or otherwise involved in the commission of the offence.

30. Disposal of forfeited vehicle, aircraft, vessel, or article - Any vehicle, aircraft, vessel or article forfeited under section 29 may be sold or otherwise disposed of as the Court thinks fit and the proceeds of anything so sold shall without further appropriation than this section be paid to the Tu'anga Taporoporo for its use.

PART II

ENVIRONMENTAL IMPACT ASSESSMENT

31. Environmental impact assessment - (1) No person shall undertake any activity which is likely to significantly affect the environment except in accordance with a project permit issued under this section.

(2) Notwithstanding subsection (1), where particulars of any proposed activity are referred to the Service by any person or body responsible for the granting of any licence, permit or other form of approval, the Service may require that a project permit be applied for and obtained in respect of the proposed activity, as if such a permit were required pursuant to subsection (1).

(3) Every application for a project permit shall be submitted to the Service and shall include an environmental impact assessment, setting out details of -

- (a) the impact of the proposed project upon the environment and in particular -
 - (i) those adverse effects that the project will have on the environment; and
 - (ii) a justification for the use or commitment of depletable or non-renewable resources, (if any) to the project; and
 - (iii) a reconciliation of short-term uses and long-term productivity of the affected resources; and
- (b) the proposed action to mitigate adverse environmental effects; and
- (c) the alternatives to the proposed project.

(4) Every application for a project permit shall comply with any guidelines prescribed by regulations under this Act.

(5) The Service shall -

- (a) publish a list of projects for which it has received applications under this section;
- (b) ensure environmental impact assessments are available for review by the public;
- (c) accept comments received within 30 days after the list's publication, from other Government departments or agencies and the public; and
- (d) supply all information to the Council.

(6) The Service shall request comments from any Government department or agency or person affected by or having expertise relevant to the proposed project or its environmental impact.

(7) After the Council has reviewed and assessed the application and all relevant information including the environment impact assessment, the Service shall notify the applicant of its decision -

- (a) approving a permit for the proposed project, specifying, if any, the terms and conditions subject to which the approval is granted; or
- (b) requesting the applicant to submit modifications regarding the proposed project; or
- (c) refusing a permit for the proposed project and stating the reasons for such refusal.

(8) Within fourteen days of receiving notice of a refusal under subsection (7)(c) the applicant may, by letter to the Minister, request that the Minister reconsider the Council's decision. The Minister shall, review the Council's decision and all information relevant thereto including the national and any local interest, and shall notify the applicant and the Service in writing of his decision to either -

- (a) uphold the Service's decision to deny the proposed project permit; or
- (b) direct the Service to request that the applicant submit specified modifications to the Service regarding the proposed project for consideration by the Council.

(9) No person affected by a decision under subsections (7)(a) or (8)(a) may appeal against that decision to the High Court, except on the grounds of lack of jurisdiction.

(10) Every person who is required by this section to obtain a project permit and fails to file a project permit application commits an offence, and shall upon conviction be liable to a fine not exceeding \$10,000.

(11) Every person who, without a project permit, initiates any activity which is likely to significantly affect adversely the environment commits an offence, and shall upon conviction be liable -

- (a) in the case a body corporate to a fine not exceeding \$200,000;
- (b) in any other case to a fine not exceeding \$20,000.

(12) In addition to any penalty imposed pursuant to subsections (10) and (11) the High Court may order that the person convicted -

- (a) under the supervision and to the satisfaction of a person appointed by the Court, clear up and remove the damage caused to the environment as a consequence of the offence within such period and upon such conditions as may be specified in the order;

- (b) to pay such amount as the High Court may assess in respect of the expenses and costs that have or may be incurred in restoring the environment to its former state immediately before the offence or in removing or cleaning up or dispersing any oil or noxious liquid substance, or other harmful substance to which the offence relates.

PART III

ENVIRONMENT NOTICES

32. Environment notices - (1) Subject to the provisions of this Part, the Council may cause to be issued in respect of any native land an environment notice for the purpose of -

- (a) protecting, conserving, managing and controlling any resource animal plant or habitat of any animal or plant; or
 - (b) providing to the public the enjoyment of any land the subject of the notice.
- (2) Every environment notice issued pursuant to this section shall specify
- (a) in the case of native freehold land, the legal description of the land to which it shall relate or in the case of native customary land, a survey description; and
 - (b) the particulars of the resource, animal, plant or habitat; and
 - (c) a management plan prepared in accordance with Part IV of this Act;
 - (d) the conditions and restrictions that shall apply in respect of the land,
- and shall be published in the Gazette.
- (3) An environment notice shall not be issued by the Council, -
- (a) in respect of native freehold land, unless and until there has been concluded pursuant to the Land (Facilitation of Dealings) Act 1970, between the Director and the owners of the land and any other person having an interest in the land to which the notice relates a shared resource management agreement as provided for in subsection (4);
 - (b) in respect of customary land, unless and until there has been concluded, between the Director and the members of the Aronga Mana of the district in which the land is situated and any other person having or appearing to have an interest in the land to which the notice relates, a shared resource management agreement as provided for in subsection (4).
- (4) Every shared resource management agreement shall -
- (a) identify the resource animal plant or habitat to be protected conserved managed or controlled;
 - (b) include a management plan prepared in accordance with Part IV of this Act; and
 - (c) describe the manner in which the management plan shall be implemented so as to achieve the objectives of the plan; and

- (d) set out any restrictions (if any) to which the land shall be subject in the interests of achieving the objects of the plan; and
- (e) provide for the manner in which the management plan may be amended or varied.

(5) The High Court may, if it is satisfied on application by the Director that it is the intention of the parties that the land or any part thereof should be subject to an environment notice, make an order accordingly (in this Act called an environment protection order) for such period and upon such terms and conditions as shall be agreed between them.

(6) An environment notice shall come into force and take effect from the date that an environment protection order shall be made.

(7) After an environment notice shall come into force no person shall without the consent of the Director carry out any works or undertake any activity on the land subject to the notice if that work or activity is contrary to the notice or the shared resource management agreement or is likely to jeopardise the objectives of the management plan.

(8) Every environment officer shall be entitled at all reasonable times to have access to and enter upon any land that is subject to an environment notice to implement and monitor the objectives of any relevant management plan and to determine whether any restrictions and conditions relating to the land are being complied with.

33. Titles to land to be noted - The Registrar of the High Court or Deputy Registrar as the case may be shall cause every environment protection order affecting land to be noted against the records of the land affected by the order and for this purpose the Director shall cause to be registered with the Registrar or the Deputy Registrar a copy of the shared resource management agreement and environment notice.

34. Effect of environment notice - Subject to section 36 every person having an interest in or who shall derive an interest in land that is subject to an environment notice shall hold or derive that interest subject to the terms and conditions of the resource management agreement and environment notice affecting the land.

35. Cancellation of environment notice - (1) Where the Council is of the opinion that an environment notice should be cancelled the Council shall, after consultation with the owners and occupiers (if any) of the land and the Aronga Mana of the district in which the land is situated, cause to be published in the Gazette a notice to that effect and shall cause notice thereof to be given to the owner or occupier of the land affected (if any) and upon the giving of such notice by the Council the environment notice and any environment protection order shall cease to have any force or effect and any shared resource management agreement shall be deemed to have terminated.

(2) A copy of every notice of cancellation that shall relate to native freehold land shall be filed with the Registrar of the High Court or a Deputy Registrar who shall cause the notice of cancellation to be noted against the records of the land affected.

36. Special provisions in respect of environment notices relating to native customary land - (1) Every environment notice affecting native customary land shall continue in force until such time as the notice is cancelled pursuant section 35 or until the freehold title to the land affected has been investigated by the High Court.

(2) Notwithstanding the provisions of any Act to the contrary the Director may in accordance with this Act take such action and commence such proceedings as the Director may determine to require compliance with or to prosecute any breach of the terms and conditions of an environment notice that shall be in force in respect of native customary land.

(3) For the purposes of the Director entering into a shared management resource agreement affecting native customary land the Director may make application to the High Court to determine the owners thereof.

PART IV **MANAGEMENT PLANS**

37. Management plans - (1) The Service may from time to time and shall when directed by the Council, prepare a draft management plan for the island of Rarotonga for the protection, conservation, management, and control of -

- (a) wildlife including endangered species and the habitat of such wildlife and specie;
- (b) Rarotonga waters and inland waters;
- (c) foreshore areas;
- (d) forests;
- (e) soil erosion;
- (f) pollution and waste;
- (g) wetlands; and
- (h) any other matter relating to the environment which in the opinion of the Service or the Council will benefit from a management plan.

(2) When the Service has prepared a draft management plan the Director shall, by public notice -

- (a) state that a management plan has been prepared and the areas affected by the plan;
- (b) specify the place or places where such a plan is displayed and may be inspected by interested persons;
- (c) invite interested persons including the Aronga Mana of the district that may be affected to make representations in connection with the draft management plan by a specified date, not being less than 1 month after the publication of the notice; and
- (d) specify an address to which such representations may be forwarded.

(3) Any person may, not later than the date specified in the notice, make representations to the Service in connection with the proposed management plan and the Service shall give due consideration to any representations so made, and may alter, amend, or vary the proposed management plan.

(4) In the preparation of the management plan regard shall be had to the following objects -

- (a) in the case of landowners or occupiers of land affected by the plan expressing an interest in participating in the management plan, the preparation of the plan in consultation with those landowners or occupiers and the implementation of the plan by a management committee including representatives of those landowners and occupiers;
- (b) the protection of special features, including objects and sites of biological, geological, and geographical interest;
- (c) the protection of the water catchment values of those areas within the plan;
- (d) the protection, conservation, control and management of soil resources, erosion, and related works; and
- (e) good traditional practices.

(5) The Director shall submit to the Council the draft management plan, together with such comments and representations as have been made under subsection (3).

(6) The Council may -

- (a) accept or decline to accept the draft management plan as so submitted; or
- (b) refer it to the Service, together with its suggestions for further consideration and for any necessary amendment to the draft management plan.

(7) Where the Council has referred the draft management plan to the Service under subsection (6) (b), the Service shall consider the Council's suggestions, and may alter, amend, or vary the draft plan before re-submitting the draft plan to the Council for approval.

(8) As soon as practicable after a management plan has been accepted by the Council it is to be laid before Cabinet for consideration. In the event that Cabinet does not approve any Management Plan, it shall be referred back to the Council with Cabinet's recommendations.

38. Coming into force of management plan - A management plan shall come into force by Order in Executive Council, and the Service shall then manage those areas within the management plan in accordance with that plan.

39. Amendment or revocation of management plan - The Service shall from time to time prepare a draft amendment of an approved management plan in substitution for part of that plan or a draft new management plan in substitution for an approved management plan and the provisions of section 37 shall apply with respect to any such amendment or new plan.

40. Effect of management plan - The provisions of any management plan may be prescribed by regulations, which regulations may prescribe offences for any breach of a management plan and may prescribe fines not exceeding \$10,000.

PART V CONTROL OF LITTER

41. Interpretation - In this Part, unless the context otherwise requires -
"Depositing", in relation to litter, includes -

- (a) casting, placing, throwing, or dropping litter; and
- (b) allowing litter to be cast, thrown, dropped or, without reasonable excuse, to escape, from any motor vehicle or trailer;

"Litter" includes any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth, or waste matter, or any other thing of a like nature;

"Occupier", in relation to any land or premises, means any lessee, licensee, or other occupant of the land, and includes the owner or the agent of the owner where there is no apparent occupier;

"Private land" means every place other than a public place;

"Public place" includes -

- (a) every road, street, private street, footpath, access way, storm water drain, service lane, court, mall, thoroughfare, wharf and airport to which the public generally has access, whether with or without payment of any fee, and includes any national park or reserve;
- (b) any park, garden, or other place of public recreation to which the public has access, whether with or without payment of any fee;
- (c) any beach or foreshore, or the bank of any river or stream, or the margin of any lake, to which the public traditionally has access, whether with or without payment of any fee;
- (d) any waters to which the public traditionally has access, whether with or without payment of any fee, for bathing or other recreational purposes;
- (e) every wharf, pier, or jetty to which the public has access;
- (f) any airport within the meaning of section 2 of the Airport Authority Act 1985;
- (g) any land vested in or controlled by the Crown, being land that is not occupied pursuant to any lease, licence, or other authority by any private person;
- (h) any other place whether public or private in the open air to which the public has access, whether with or without payment of any fee, but does not include any site for the disposal of litter, or any receptacle installed in any such public place pursuant to this Act or any other Act.

42. Litter Wardens - (1) The Minister may from time to time by warrant under his hand, appoint Litter Wardens for the purpose of enforcing this section.

(2) Every Litter Warden shall be issued with an identity card signed by the Minister which shall be evidence of the authority of the person named on that identity card to carry out the duties of a Litter Warden, and a Litter Warden shall produce that identity card whenever requested to do so by any person requiring evidence of the Litter Warden's authority under this Act.

(3) Every Litter Warden is authorised to enforce the provisions of this Part and may, without further authority than this section, summarily interfere to prevent the deposit or attempted deposit of litter (whether inadvertently or otherwise) in any public place or from any such public place onto private land if the Litter Warden has good reason to believe the deposit or attempted deposit has been or is being made without the consent of the occupier of that private land.

(4) A Litter Warden may, if permitted or requested to do so, by the occupier of any private land, enter that land if so required for the discharge of his duty.

(5) If a Litter Warden finds a person committing an offence against this section, or has good cause to believe that a person has committed such an offence, the litter warden may require that person to do any or all of the following, namely, -

- (a) state his name, and place of residence;
- (b) remove the litter from that place or land and to dispose of it in such a manner as the litter warden may direct or as will not contravene the provisions of this Act;
- (c) pay to the Litter Warden a fine of \$20.00 within 14 days.

(6) Every person who shall be required to pay a fine pursuant to subsection (5)(c) may -

- (a) elect to pay the fine and in the event that the fine is paid to the litter warden, the litter warden shall acknowledge in writing the receipt of such sum and the person shall not be liable to prosecution under section 52; or
- (b) elect not to pay the fine in which event he shall be liable to prosecution under section 52.

(7) Every amount paid to a Litter Warden pursuant to subsection (5)(c) shall be paid by the litter warden to the account of the Tu'anga Taporoporo within 3 working days of its receipt.

(8) Every Litter Warden shall without further appropriation than this section, be paid remuneration at intervals of not less than two weeks, equivalent to fifty percent of the fines imposed by him pursuant to subsection (5)(c), and paid whether to that litter warden or to the office of the Tu'anga Taporoporo pursuant to subsection (6)(a).

(9) Every Litter Warden who fails to comply with subsection (7) commits an offence and shall on conviction be liable to a fine not exceeding \$500 or to a fine equivalent to 3 times the amount which he has failed to pay to the Tu'anga Taporoporo, whichever is the higher.

(10) For the purpose of this section, every environment officer is deemed to be a Litter Warden.

43. Receptacles to be provided in public places - (1) Every person, authority, and Government department or agency shall at all times provide and maintain in every public place under his or its control or management where litter is likely to be deposited, such number of litter receptacles, of suitable construction and design for the temporary deposit of litter as may reasonably be necessary to keep the place free from litter.

(2) Where litter generated on or attributable to any particular land or premises is likely to be carried or to otherwise escape from that land or those premises onto a public place, an environment officer shall require the occupier of the land or premises to take all reasonable steps to prevent such litter being carried or escaping onto the public place.

(3) Where it can be shown that excessive litter is attributable to or emanates from any particular land or premises, an environment officer may require the occupier of the land or premises to provide and maintain such number of litter receptacles of suitable construction or design in any public place adjacent to or within the vicinity of the land or premises for the temporary deposit of litter as may reasonably be necessary to ensure that the public place may be kept free of that litter.

(4) Where any occupier fails to comply with any proper request of a environment officer to take reasonable steps to prevent litter being carried or escaping under subsection (2), or to provide suitable litter receptacles in accordance with subsection (3), the officer may take those steps or provide and install those receptacles, and shall recover the cost of so doing from the occupier as a debt due to the Tu'anga Taporoporo.

(5) Every person, authority, and Government department to which this section shall apply shall also make appropriate provision for the emptying of the contents of litter receptacles situated within public places under its control or in its district and for the removal and disposal of those contents. The work shall be executed promptly, efficiently, and at regular intervals.

44. Environment Officer may require occupier of private land to clear litter - (1) An environment officer may serve on the occupier of any private land or any land vested in or controlled by the Crown or any authority a notice in writing requiring the occupier, to the satisfaction of the officer -

- (a) to clear away, or remove, from the land; or
- (b) to clean up; or
- (c) to screen, cover, or otherwise obscure from view, such litter as may be specified in the notice within such time as may be so specified.

(2) If, upon the representations of an occupier served with a notice under subsection (1) the officer is satisfied that steps have been taken to comply with the requirements of the notice but the occupier has been prevented by reasonable cause from completing the necessary work within the time specified, the officer may extend the time specified for such further period as he thinks fit.

(3) Every person receiving a notice under subsection (1) of this section may object to the requirements of the notice within 7 days after its receipt on the grounds that those requirements are unreasonable.

(4) Every objection shall be made in writing to the Council, which shall appoint a time and place for hearing the objection, and shall give reasonable notice of that time and place to the objector who shall be entitled to be present and, if present at that time and place, to be heard.

(5) The chairperson of the Council for the time being may appoint a committee of the Council to hear and determine any objection under this section.

(6) The Council, after hearing an objection, may confirm, cancel, or vary the requirements of the notice, and shall, within 14 days after the hearing, give to the objector written notice of its decision.

PART VI **OFFENCES**

45. Protection of foreshore and Rarotonga waters - (1) Every person commits an offence who, without the prior consent in writing of the Council (which consent may be granted on such terms and conditions as the Council may impose), or contrary to any terms and conditions of a management plan either -

- (a) removes any silt, sand, cobble, gravel, boulder, coral or any tree from the foreshore or Rarotonga waters; or
- (b) carries out any excavation, dredging, clearing, paving, grading, ploughing, removal of trees or vegetation or other activity within the foreshore or Rarotonga waters which may result in the alteration of the natural configuration of the foreshore; or
- (c) places any fill or material of any type within the foreshore or Rarotonga waters;
- (d) carries out the construction or erection of any wall or structure within the foreshore or Rarotonga waters.

(2) The consent of the Council shall not be granted in respect of the foreshore unless the Council is of the opinion that such removal, excavation, or fill will result in the restoration or preservation of the natural configuration and features of the foreshore or the natural flow of water.

46. Council may require or take remedial action - Notwithstanding any penalty or other order which may be imposed in respect of any offence committed against section 45 of this Act, where the Council is of the opinion that any person has acted in contravention of section 45 or not in accordance with the written consent of the Council, the Council may -

- (a) require that person to desist from so acting and take such remedial action as the Council may determine; or
- (b) where that person refuses to take such remedial action as may be determined by the Council, take such remedial action as may be necessary in the circumstances, and recover the cost of so doing from that person.

47. Pollution of Rarotonga waters and internal waters - Every person commits an offence who -

- (a) throws, discharges, or deposits, or causes, suffers, or procures to be thrown, discharged, or deposited into any Rarotonga waters or internal waters, either from or out of any vessel, or from the shore or any wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever; or
- (b) deposits, or causes, or suffers, or procures to be deposited material of any kind in any place on the shore or bank of any Rarotonga waters or internal waters where the same shall be liable to be washed into such waters whereby navigation shall or may be impeded or obstructed or the level of pollution of such waters increased, or where the same may become a danger, physical or otherwise, to other properties, or to any person;
- (c) discharges or causes or suffers or permits to be discharged any oil, noxious liquid substances, or other harmful substances, by any method, means, or manner, into or upon any Rarotonga or internal waters.

48. Protection of rare and endangered species - (1) Every person commits an offence who -

- (a) threatens or disturbs any rare or endangered animal or plant or the habitat of any such animal or plant;
- (b) imports, exports, transports from Rarotonga, (whether overseas or to any other island within the Cook Islands), or trades in -
 - (i) any rare or endangered animal or plant; or
 - (ii) any animal or plant which as a consequence is likely to be damaging to or become a nuisance to wildlife or the environment.

(2) It shall be the duty of every environment officer, and every officer and employee of the Department of Agriculture and the Department of Customs to enforce the provisions of this Act relating to the prohibition of import, export and trade in rare and endangered animals and plants and in the performance of that duty shall have all the powers and duties of an environment officer under this Act and shall upon detecting an offence under this Act give notice to the Director of the circumstances relating thereto.

49. Disposal of toxic chemicals - Every person commits an offence against this Act who disposes of any toxic chemical or its waste in a manner likely to harm the environment.

50. Excavations on sloping land - (1) No excavation of any kind shall be undertaken on any land having a natural gradient in excess of 1:10, or shall any building or structure be erected or altered on such land 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 excavations, 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).

51. Interference with work of Council or Service - Every person commits an offence against this Act who threatens destroys or otherwise interferes with work of the Council or the Service whether undertaken or in progress.

52. Penalty for deposit of litter in public place or on private land - (1) Every person commits an offence who, without reasonable excuse -

- (a) deposits any litter in or on any public place or, in the case of any private land, in or on that private land without the consent of its occupier or in the case of private land in the ownership or possession of an absentee owner deposits any litter whether that absentee owner consents or not;
- (b) having deposited any litter (whether inadvertently or otherwise) in or on any public place, or in or on any private land without the consent of its occupier, leaves the litter there after having been requested by an environment officer to remove it;
- (c) having elected to pay a fine under section 42(5)(c) fails to pay that fine;
- (d) fails to comply with the provisions of a request made pursuant to section 43;
- (e) fails to comply with a notice issued under section 44 or fails to comply with a decision of the Council under that section,

and upon conviction shall be liable, in the case of an individual, to a fine not exceeding \$750; or in the case of a body corporate, to a fine not exceeding \$5,000.

(2) Where any person is convicted of an offence against this section the Court shall in addition to imposing a penalty, order the offender, under the supervision and to the satisfaction of a person nominated by the Court, to clear up and remove the deposited litter within such period and to such place as may be specified in the order, and on the making of any such order the Court shall further order that, if the offender fails to comply with the order, he is liable in addition to any other penalty imposed, to a fine not exceeding \$5000.

(3) Where a Court convicts a person of an offence against this section the Court may, if it thinks fit, in addition to imposing a penalty, order the offender to pay by way of compensation to the public authority having the control or management of the public place or, as the case may be, the occupier of the private land where the offence was committed, such sum as it considers reasonable to cover the cost of the removal of the litter, and the amount so awarded shall be deemed to be a judgment debt due to the authority or occupier from the offender and may be enforced in any manner in which a judgment or order of the Court for the payment of a civil debt may be enforced.

53. Wilful breaking of bottles or glass - Every person commits an offence, who wilfully breaks any bottle, or any glass, or any article made of glass, in or on any public place without lawful authority or without the express consent of the public authority having the control or management of the public place, or in or on any private land without lawful authority or without the express consent of the occupier of the private land, and upon conviction shall be liable to a fine not exceeding \$5000.

54. General penalties - (1) Every person who commits an offence for which no other penalty is provided by this Act shall be liable -

- (a) in the case of a body corporate to a fine not exceeding \$200,000 and if the offence is a continuing one to a further fine of \$25,000 for each day or part of a day that the offence shall continue; or
- (b) in the case of a body corporate the Court in addition to any fine imposed may sentence any Director or Officer proved to be responsible for the commission by a body corporate of an offence against this Act to imprisonment for a term not exceeding one year;
- (c) in the case of an individual to a fine not exceeding \$20,000 and if the offence is a continuing one to a further fine of \$250 for each day or part of a day that the offence shall continue or to imprisonment for a term not exceeding one year or to both.

(2) In addition to or instead of such fine and imprisonment the High Court may either order that individual or body corporate -

- (a) under the supervision and to the satisfaction of a person nominated by the Court, to clear up and remedy any damage caused to the environment as a consequence of the offence within such period and upon such conditions as may be specified in the order with the intent that any damaged area be restored as near as possible to a satisfactory, environmentally compatible state;
- (b) to remove any structure, fill or material placed in contravention of this Act.
- (c) to pay such amount as the High Court may assess in respect of the expenses and costs that have or may be incurred restoring the environment to its former state immediately before the offence or in removing or cleaning up or dispersing any oil or noxious liquid substance, or other harmful substance to which the offence relates.

(3) Where a company or corporation commits an offence against this Act, every director and every officer concerned in the management of the company or corporation shall be guilty of the like offence, unless the act constituting the offence took place without his knowledge or consent.

(4) Where the offence is committed through the discharge of oil or noxious liquid substances or other harmful substances from a vessel, the clearance of any such vessel by the Customs Department shall be withheld until -

- (a) all proceedings before the High Court have been finally dealt with; and
- (b) the penalty and any amount payable pursuant to subsection (1) is satisfied or paid, and any amount so payable shall constitute a lien on such vessel which may be recovered in proceedings by action in the High Court.

PART VII FINANCIAL PROVISIONS

55. Funds of the Tu'anga Taporoporo - (1) The funds of the Tu'anga Taporoporo consist of -

- (a) all money received by the Tu'anga Taporoporo out of money appropriated by Parliament for the purpose;
- (b) all money received by way of fees, fines, rents, royalties, or other income in respect of real or personal property vested in or controlled by the Tu'anga Taporoporo or in respect of the exercise of any of the functions or powers of the Tu'anga Taporoporo under this Act;
- (c) all money from time to time received by way of grants, donations, and subsidies;
- (d) all money received by the Tu'anga Taporoporo from the sale or other disposal of any real or personal property of the Tu'anga Taporoporo;
- (e) all accumulations of money belonging to the Tu'anga Taporoporo.

(2) The Tu'anga Taporoporo shall open and maintain an account to be called the Tu'anga Taporoporo Account with a Bank approved by the Minister of Finance and all money received shall be paid into the appropriate account at the earliest opportunity.

(3) The funds of the Tu'anga Taporoporo shall be applied only -

- (a) in payment or discharge of the expenses, charges, obligations, liabilities incurred or undertaken by the Tu'anga Taporoporo in or in connection with the performance of its functions or exercise of its powers;
- (b) in payments required by law to be made out to its funds.

(4) No money shall be withdrawn from the bank except by the authority of the Council and either by cheque or by any other instrument (not being a promissory note or a bill) signed by an officer or other person authorised by the Council and countersigned by a member of the Council authorised by the Council for that purpose.

(5) The Council shall have the power to authorise the investment of any surplus funds held, at such bank as may from time to time be appointed by the Minister.

56. Borrowing powers - The Tu'anga Taporoporo may with the consent of the Acting Minister of Finance with the concurrence of Cabinet borrow money by way of mortgage, debentures, bonds, overdraft or otherwise and may mortgage or charge any of its real or personal property, whether present or future in such manner as it thinks fit.

57. Accounts - (1) The Tu'anga Taporoporo shall keep full and correct accounts of money received and expended by it and shall do all things necessary to -

- (a) cause to be kept proper accounts and records;
- (b) ensure payments are correctly made and properly authorised;
- (c) maintain adequate control over its assets or the assets in its custody; and
- (d) maintain adequate control over its liabilities.

(2) The Tu'anga Taporoporo shall as soon as possible after the end of the financial year, but not later than the end of the fourth month of the next succeeding financial year balance its accounts for that year and prepare a statement of assets and liabilities as at the end of that financial year, together with an account of income and expenditure showing financial transactions of the Tu'anga Taporoporo.

(3) The account, financial statements and records of Tu'anga Taporoporo shall be audited annually by auditors appointed pursuant to Article 71 of the Constitution and a report of the audit shall be supplied to the Tu'anga Taporoporo and to the Minister.

58. Budget estimates - (1) The Tu'anga Taporoporo shall prepare and submit to the Minister one month before the beginning of any financial year, the budget estimates for its revenues, expenditures, provisions for depreciation, and other provisions in such form as the Minister may direct. The Minister upon advice from the Minister of Finance, shall submit the estimates with his recommendation to the Cabinet. The estimates, as approved by Cabinet, shall be returned to the Tu'anga Taporoporo.

(2) The Tu'anga Taporoporo shall approve expenditure only in accordance with its approved budget estimates subject to the following powers of re-allocation -

- (a) the Chairperson may exercise a power of virement not exceeding twenty percent of the budgeted amount for the item to which funds are transferred;
- (b) the Minister may authorise expenditure in excess of the total provided to the extent that receipts of the Tu'anga Taporoporo exceed the amount estimated.

59. Exemption from taxation - The Tu'anga Taporoporo shall be exempt from the payment of any tax (including turnover tax), duty levy or due in the performance of its functions and the exercise of its powers.

60. Annual report - (1) The Tu'anga Taporoporo shall as soon as practicable after the end of each financial year but not later than the 30th September of each year prepare and furnish to the Minister a report on its operations during the year ended on the preceding 30th of June, together with financial statements in respect of that year in such form as the Minister may approve.

(2) Every annual report shall be laid before Parliament within 28 days after the furnishing thereof to the Minister if Parliament is then in Session and if Parliament not then in session, at the commencement of the next ensuing Session.

PART VIII
MISCELLANEOUS

61. Contracts - (1) Any contract required to be in writing and entered into by the Tu'anga Taporoporo shall be in writing and executed under the seal of the Tu'anga Taporoporo pursuant to a duly minuted resolution of the Council.

(2) The seal of the Tu'anga Taporoporo shall be kept in the safe custody of the Director and shall not be used except by the authority of the Council.

(3) Every document to which the seal of the Tu'anga Taporoporo shall be applied shall be witnessed by the Director and a member of the Council authorised by the Council for that purpose.

62. Regulations - (1) The Queen's Representative may from time to time, by Order in Executive Council, make such regulations as are contemplated by any provision of this Act or are necessary for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the generality of subsection (1), regulations may be made

- (a) providing for the functions and powers to be conferred and the duties to be imposed upon environment officers;
- (b) providing for the protection, conservation and control of wildlife including rare and endangered species;
- (c) regulating or prohibiting trade and commerce in connection with wildlife including rare and endangered species;
- (d) regulating or prohibiting the pollution of air, water, or land, and the depositing or dumping of litter, rubbish, or any substance of a dangerous, noxious, or offensive nature;
- (e) providing for the prevention and control of soil erosion and siltation, and of the taking of gravel, sand, soil, rock, coral, or like material;
- (f) providing for the preservation, protection and conservation of trees and the prevention and control of the clearing, cutting, lopping, trimming, felling, burning, or removal of trees and other plants;
- (g) providing for the establishment, preservation protection and conservation of national parks and marine reserves and the regulation of any activity within a national park or marine reserve;
- (h) giving effect to any management plan;
- (i) prescribing forms required to be used pursuant to this Act;
- (j) prescribing offences against the regulations, and prescribing fines for such offences not exceeding \$50,000 and, in the case of continuing offences, a fine not exceeding \$1000 for every day on which the offence shall have continued;
- (k) providing for any matter incidental to or connected with any of the foregoing.

63. Transfer of assets and liabilities of the Conservation Service to the Tu'anga Taporoporo - (1) Upon the date of coming into force of this Act -

- (a) all assets and liabilities of the former Conservation Service, as they pertain to the jurisdiction of the Tu'anga Taporoporo, are hereby transferred to the Tu'anga Taporoporo, and the Tu'anga Taporoporo shall have all powers necessary to take possession of, recover, and deal with such assets, and discharge such liabilities;
- (b) every agreement whether in writing or not, and every deed, bond, or other instrument to which the Conservation Service was a party or which affected the Conservation Service, whether or not permitting assignment or rights and obligations, or liabilities shall have effect as if the Tu'anga Taporoporo were a party thereto or affected thereby instead of the Conservation Service.

(2) For the purposes of this section, "Conservation Service" means the Conservation Service established by the Conservation Act 1986-87.

64. Transitional - (1) Notwithstanding the repeal of the Conservation Act 1986-87 a person employed within the Conservation Service before the coming into force of this Act shall after the coming into force of this Act be deemed to be employed within the Tu'anga Taporoporo as established by this Act upon such terms and conditions that the person was employed immediately prior thereto.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the amendment or repeal of any enactment, or provision of any enactment, by or pursuant to this Act shall not affect any appointment, document made or anything whatsoever done under the enactment so repealed or provision so amended or under any corresponding former provisions, and every such appointment, document or thing so far as it subsists or is in force at the time of the amendment or repeal shall continue and have effect as if it had been made or done under the corresponding provision of this Act and if there be no such corresponding provision then as if the provision amended or enactment repealed had not been so amended or repealed.

65. Repeal - The Conservation Act 1986-87 is repealed.

This Act is administered by the Tu'anga Taporoporo