



PARLIAMENT OF THE COOK ISLANDS

MINISTRY OF MARINE RESOURCES LEGISLATION BILL 2019

EXPLANATORY NOTE

The purposes of this Bill are to—

- transfer many of the functions of the Cook Islands Pearl Authority to the Ministry of Marine Resources (“the Ministry”); and
- repeal the Cook Islands Pearl Authority Act 1993; and
- disestablish the Cook Islands Pearl Authority; and
- provide for the consequential effects of that disestablishment; and
- make consequential amendments to other Acts.

Clause 1 sets out the Title of the new Bill.

Clause 2 provides that the Bill, once enacted, is deemed to have come into force on 1 July 2019. The reason for this is to recognise that for administrative and financial purposes the Cook Islands Pearl Authority ceased to operate on that date.

Part 1

Preliminary matters

Clause 3 sets out the purpose of the Bill (as described above).

Clause 4 relates to Interpretation.

Clause 5 inserts a Schedule dealing with Transitionals, savings, and related provisions.

Clause 6 provides that the Bill (once enacted) binds the Crown.

Part 2

Amendments to Ministry of Marine Resources Act 1984

Clause 7 provides that in Part 2 the principal Act being amended is the Ministry of Marine Resources Act 1984.

Clause 8 amends the objectives and functions of the Ministry within the Marine Resources Act 1984.

Section 4(1) of the principal Act is amended by adding the objective of promoting, encouraging, and assisting the development of a sustainable and commercially viable pearl industry in the Cook Islands to the list of the Ministry's objectives.

Section 4(2) of the principal Act is amended to add the following functions to the list of the Ministry's functions:

- to liaise between the pearl industry and agencies of Government, to ensure that the ecology of lagoons continues to be monitored and that environmentally sound practices are made known to the industry;
- to provide services for the grading, measure, and valuation of pearls;
- to promote, organise, and conduct sales, in association with the Pearl Exchange, within the Cook Islands of Cook Islands pearls;
- to assist pearl farmers and industry generally in the technical aspects of the establishment, efficiency, and sustainability of pearl farms;
- to assist with access to the services of seeding technicians and such other expert services as may be necessary or desirable for the benefit of the pearl industry;
- the provision of extension services and training to improve pearl oyster husbandry practices, and the development of new technologies to improve spat collection and propagation;
- the functions referred to in section 13(1) of the Ministry of Marine Resources Legislation Act 2019;
- monitoring and regulating the operation of the Pearl Exchange and other matters relating to the pearl industry generally;
- such other functions as are prescribed.

Clause 9 amends the regulation making powers in section 15 of the principal Act to enable regulations to be made regulating the Pearl Exchange and other matters relating to the pearl industry in general.

Part 3

Disestablishment of Cook Islands Pearl Authority

Clause 10 repeals the Cook Islands Pearl Authority Act 1993.

Clause 11 disestablishes the Cook Islands Pearl Authority ("the Authority").

Clause 12 vests residual assets, liabilities, agreements, leases and licence arrangements of the Authority in the Crown as assets or liabilities of the Ministry. *Clause 12* also provides that information held by the Authority is transferred to the Ministry and that money payable to or by the Authority is transferred to the Ministry.

Clause 13 Finally *clause 13* transfers the functions and powers of the Authority under Part C of the Pearl rules (which relate to the establishment and operation of the Pearl Exchange) to the Ministry. However, the Pearl Marketing Credit Fund will be wound up and that task will be undertaken by the Ministry of Finance and Economic Management.

Part 4
Amendments to other Acts

Clause 14 amends the Official Information Act 2008 to remove a now unnecessary reference to the Cook Islands Pearl Authority.

The *Schedule* sets out transitionals, savings, and related provisions.

Ministry of Marine Resources Legislation Bill 2019

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The Parliament of the Cook Islands enacts as follows:

- 1 Title**
This Act is the Ministry of Marine Resources Legislation Act 2019.

2 Commencement

This Act is deemed to have come into force on 1 July 2019.

Part 1

Preliminary matters

3 Purpose

The purposes of this Act are to—

- (a) transfer many of the functions of the Cook Islands Pearl Authority to the Ministry of Marine Resources; and
- (b) repeal the Cook Islands Pearl Authority Act 1993; and
- (c) disestablish the Cook Islands Pearl Authority; and
- (d) provide for the consequential effects of that disestablishment; and
- (e) make consequential amendments to other Acts.

4 Interpretation

In this Act, unless the context otherwise requires,—

assets includes real or personal property, money, rights, or interests

Authority means the Cook Islands Pearl Authority established by section 6 of the Cook Islands Pearl Authority Act 1993

liabilities includes debts, charges, duties, and other obligations, whether present, future, actual, contingent, payable, or to be observed or performed in the Cook Islands or elsewhere

Ministry means the Ministry of Marine Resources

Pearl rules means the document titled **Rules regulating the establishment and operation of the Pearl Marketing Revolving Credit Fund** dated 27 October 2010.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in the Schedule have effect according to their terms.

6 Act binds the Crown

This Act binds the Crown.

Part 2

Amendments to Ministry of Marine Resources Act 1984

7 Principal Act

- (1) This Part amends the Ministry of Marine Resources Act 1984 (the principal Act).

8 Section 4 amended (Principal objectives and functions of the Ministry)

- (1) Section 4(1) is amended by adding “; and” to paragraph (h), and adding the following paragraph:

- “(i) to promote, encourage, and assist the development of a sustainable and commercially viable pearl industry in the Cook Islands”.
- (2) Section 4(2) is amended by adding “; and” to paragraph (e), and adding the following paragraphs:
- “(f) to liaise between the pearl industry and agencies of Government, to ensure that the ecology of lagoons continues to be monitored and that environmentally sound practices are made known to the industry; and
- “(g) to provide services for the grading, measuring, and valuation of pearls; and
- “(h) to promote, organise, and conduct sales, in association with the Pearl Exchange, within the Cook Islands of Cook Islands pearls; and
- “(i) to assist pearl farmers and industry generally in the technical aspects of the establishment, efficiency, and sustainability of pearl farms; and
- “(j) to assist with access to the services of seeding technicians and such other expert services as may be necessary or desirable for the benefit of the pearl industry; and
- “(k) the provision of extension services and training to improve pearl oyster husbandry practices, and the development of new technologies to improve spat collection and propagation; and
- “(l) the functions referred to in section 13(1) of the Ministry of Marine Resources Legislation Act 2019; and
- “(m) monitoring and regulating the operation of the Pearl Exchange and other matters relating to the pearl industry generally; and
- “(n) such other functions as are prescribed.”

9 **Section 15 amended (Regulations)**

Section 15(2) is amended by inserting, after paragraph (a):

- “(ab) regulating the operation of the Pearl Exchange and other matters relating to the pearl industry; and”

Part 3

Disestablishment of Cook Islands Pearl Authority

10 **Repeal of Cook Islands Pearl Authority Act 1993**

The Cook Islands Pearl Authority Act 1993 is repealed.

11 **Cook Islands Pearl Authority disestablished**

The Authority is disestablished.

12 **Residual assets, liabilities, agreements, leases, and license arrangements, information, money payable, etc**

- (1) All residual assets, liabilities, agreements, leases and licence arrangements of the Authority in existence immediately before the commencement of this Act are vested in the Crown as assets or liabilities of the Ministry.

- (2) All information held by the Authority immediately before the commencement of this Act is transferred to the Ministry.
- (3) All money payable to or by the Authority immediately before the commencement of this Act becomes payable to or by the Ministry.
- (4) Unless the context otherwise requires, anything done, omitted to be done, or to be done by, or in relation to, the Authority is to be treated as having been done, having been omitted to be done, or having to be done by, or in relation to, the Ministry.
- 13 Some functions and powers of Authority under Pearl rules transferred to Ministry**
- (1) The functions and powers of the Authority under Part C of the Pearl rules (which relate to the establishment and operation of the Pearl Exchange) immediately before the commencement of this Act, become the functions and powers of the Ministry.
- (2) The functions and powers of the Authority under Parts A and B of the Pearl rules (which relate to the Pearl Marketing Revolving Credit Fund)—
- (a) cease to have effect on the commencement of this Act; but
- (b) despite paragraph (a), may be carried out or exercised respectively by the Ministry of Finance and Economic Development, on and after that commencement to the extent required to—
- (i) wind up the Revolving Credit Fund; and
- (ii) deposit any net assets from that Revolving Credit Fund into a Crown bank account.

Part 4

Amendments to other Acts

- 14 Amendment to the Official Information Act 2008**
Schedule 1 of the Official Information Act 2008 is amended by deleting “Cook Islands Pearl Authority” from the list of organisations in that Schedule.

Schedule

Transitional, savings, and related provisions

Provisions relating to this Act as enacted

1 Proceedings and effect of Act

- (1) All proceedings or any other matters involving the Authority that are yet to be determined or completed at the commencement of this clause are to be determined or completed by the Ministry as if the Ministry were the Authority.
- (2) Nothing done or authorised by this Act—
 - (a) places the Authority, the Ministry, or any other person in breach of contract or confidence, or makes any of them liable for a civil wrong; or
 - (b) entitles a person to terminate or cancel an agreement, lease, or arrangement, or to accelerate the performance of an obligation, or to impose a penalty or an increased charge; or
 - (c) places the Authority, the Ministry, or any other person in breach of an enactment, a rule of law, or a provision of an agreement, lease, or arrangement that prohibits, restricts, or regulates the assignment or transfer of property or the disclosure of information; or
 - (d) invalidates or discharges an agreement, lease, or arrangement.

2 Registers

- (1) Any person charged with keeping books or registers is not required to change the name of the Authority to the Ministry in the books or registers, or in a document, solely because of the provisions of this Act.
- (2) If the Ministry presents an instrument referred to in **subclause (3)** to any person for registration or other form of processing, the presentation of that instrument by the Ministry is, in the absence of proof to the contrary, sufficient evidence that the property is vested in the Ministry.
- (3) For the purposes of this clause, the instrument need not be an instrument of transfer but must—
 - (a) be executed or purport to be executed by the Ministry; and
 - (b) relate to a property held by the Authority immediately before the commencement of this clause; and
 - (c) be accompanied by a certificate by the Ministry indicating that the property became vested in the Ministry by virtue of the provisions of this Act.

3 References to Authority

- (1) This clause applies to—
 - (a) things that are in force or existing immediately before the commencement of this clause; and
 - (b) references in any thing, including (without limitation) enactments, rules, bylaws, deeds, agreements, leases, licence arrangements, proceedings, instruments, documents, and notices.
- (2) Unless the context otherwise requires, a reference in any thing specified in **subclause (1)** to the Authority is to be read as a reference to the Ministry.

This Act is administered by the Ministry of Marine Resources.
Printed under the authority of the Cook Islands Parliament—2019.
