



ANALYSIS

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2008, No. 17

An Act to facilitate the 2009 Pacific Mini Games and to protect the media and intellectual property rights of the 2009 Pacific Mini Games Limited and other sporting events and organisations and for related purposes

(24 September 2008)

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

PART I
PRELIMINARY

1. Short title - (1) This Act may be cited as the 2009 Pacific Mini Games Act 2008.

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

"2009 Pacific Mini Games Limited" is duly incorporated company of the Cook Islands incorporated to facilitate the 2009 Pacific Mini Games;

"Act" means the 2009 Pacific Mini Games Act 2008;

"Court" means the High Court of the Cook Islands;

"CISNOC" means the Cook Islands Sports and National Olympic Committee or its successor, however styled, and in the event that CISNOC ceases to exist such organization or body representing sports organizations in the Cook Islands as may be nominated by the Minister;

"event" means any other event in the Cook Islands not being the Games;

"Games" means the 2009 Pacific Mini Games;

"Intellectual Property Rights" means the complete range of intangible property rights, including but not limited to patents, trademarks, design rights and copyright, in the names, titles, items, logos, matters, events and words, and any other combination or derivative of words as listed in the Schedule to the Act.;

"Media Rights" means the right to report, broadcast, film, photograph, record, publish, televise, or distribute any report, photograph, film, recording, publication or broadcast of any event or activity of the 2009 Mini South Pacific Games in the Cook Islands through any publicly accessible media, including, but not limited to, newspapers, radio, television, cinema, internet, books, magazines, recordings and any computer based technology;

"Minister" means the Minister of the 2009 Pacific Mini Games; and

"Secretary" means the Head of the Ministry of Youth and Sport.

PART II
PROTECTION OF MEDIA RIGHTS

3. Media Rights held by 2009 Pacific Mini Games Limited - (1) Despite the provisions of any law, 2009 Pacific Mini Games Limited holds the media rights to the Games.

(2) 2009 Pacific Mini Games Limited may grant a licence or other right, in writing, to a part or the whole of the media rights held by 2009 Pacific Mini Games Limited to any person on such terms as 2009 Pacific Mini Games Limited, in its absolute discretion, may determine.

4. Breach of Media Rights - (1) Any person who knowingly infringes the media rights of 2009 Pacific Mini Games Limited commits an offence.

(2) Any person who knowingly aids or abets another person or counsels or procures another person to commit an offence under subsection (1) commits an offence.

(3) Any person convicted of an offence under subsections (1) or (2) shall be liable to a fine not exceeding \$100,000 or imprisonment for one (1) year or both a fine and imprisonment.

5. Seizure of unlawful media materials - (1) Despite the provisions of any law, a police officer, acting on a written request from 2009 Pacific Mini Games Limited, may -

- (a) seize any document, photograph, recording, electronic record, film or other material from any person where such document, photograph, recording, electronic record, film or other material is believed on reasonable grounds to have been created or brought into existence as part of or as a consequence of a person committing an offence under this Act; or
- (b) seize any camera, recording device, computer, microphone or any piece of equipment from any person where such camera, recording device, computer, microphone or piece of equipment is believed on reasonable grounds to have been used or involved with the commission of an offence under this Act.

(2) Any item or object seized under this section shall be held in safe keeping by the Commissioner of Police Service and shall be disposed of in accordance with subsection (4).

(3) Any item or object seized under this section may be used in connection with a prosecution for an offence under this Act.

(4) Any item or object seized under this section which is found by the Court to have been used or involved with the commission of an offence under this Act or to have been created or brought into existence as part of or as a consequence of a person committing an offence under this Act shall be forfeited to the Cook Islands and in all other cases such item or object shall be made available by the Commissioner of Police Service for collection by the person from whom the item or object was seized and in the event that no person claims such item or object within one month after any court proceedings have been concluded or within one month after determination by the Attorney General that no charge shall be laid or prosecuted under this Act, whichever event applies, such item or object shall be forfeited to the Cook Islands.

PART III
PROTECTION OF INTELLECTUAL PROPERTY

6. Intellectual Property Rights held by 2009 Pacific Mini Games Limited -
(1) Despite the provisions of any other law, 2009 Pacific Mini Games Limited holds the intellectual property rights to the Games.

(2) 2009 Pacific Mini Games Limited may grant a licence or other right, in writing, to a part or the whole of the intellectual property rights held by 2009 Pacific Mini Games Limited to any person on such terms as 2009 Pacific Mini Games Limited, in its absolute discretion, may determine.

7. Breach of Intellectual Property Rights - (1) Any person who knowingly infringes the intellectual property rights of 2009 Pacific Mini Games Limited commits an offence.

(2) Any person who knowingly aids or abets or counsels or procures another person to commit an offence under subsection (1) commits an offence.

(3) Any person convicted of an offence under subsections (1) or (2) shall be liable a fine not exceeding \$100,000 or imprisonment for one (1) year or both a fine and imprisonment.

8. Seizure of material produced in breach of 2009 Pacific Mini Games Limited Intellectual Property Rights - (1) Despite the provisions of any law, a police officer, acting on a written request from 2009 Pacific Mini Games Limited, may seize any item or object or other material where such item or object or other material is believed on reasonable grounds to have been created or brought into existence as part of or as a consequence of a person committing an offence under this Act.

(2) Any item or object or material seized under this section shall be held in safe keeping by the Commissioner of Police Service and shall be disposed of in accordance with subsection (4).

(3) Any item or object or material seized under this section may be used in connection with the prosecution for an offence under this Act.

(4) Any item or object or material seized under this section which is found by the Court to have been created or brought into existence as part of or as a consequence of a person committing an offence under this Act shall be forfeited to the Cook Islands and in all other cases such item or object or material shall be made available by the Commissioner of Police for collection by the person from whom the item or object or material was seized and in the event that no person claims such item or object or material within one month after any court proceedings have been concluded or within one month after determination by the Attorney General that no charge shall be laid or prosecuted under this Act, whichever event applies, such item or object or material shall be forfeited to the Cook Islands.

9. Protection from liability - A matter or thing done or omitted by -
- (a) 2009 Pacific Mini Games Limited, its servants or agents, or
 - (b) the Commissioner of Police, or
 - (c) any police officer, or
 - (d) any person acting in an official capacity in connection with this Act,

does not subject 2009 Pacific Mini Games Limited, its servants and agents or any person referred to in (b) or (c) or (d) to any action, liability, claim or demand, if the matter or thing was done or omitted in good faith for the purpose of executing this Act.

PART IV **MISCELLANEOUS**

10. The Minister may amend the Schedule - (1) The Minister, with the consent of Cabinet, may amend the Schedule from time to time by notice in the Gazette.

(2) The Minister, with the consent of Cabinet, may amend the Schedule to include and allow for the protection of the Intellectual Property Rights and Media Rights relating to any other event or organisation in the Cook Islands.

11. Power to delegate - (1) 2009 Pacific Mini Games Limited may delegate to any person any function or power of 2009 Pacific Mini Games Limited, other than this power of delegation.

(2) A delegate may sub-delegate to any person any function or power delegated by 2009 Pacific Mini Games Limited if the delegate is authorized in writing to do so by 2009 Pacific Mini Games Limited.

12. Disclosure and misuse of information - (1) A person must not disclose any information obtained in connection with the administration or execution of this Act unless the disclosure is made -

- (a) with the consent of the person from whom the information was obtained; or
- (b) in connection with the administration or execution of this Act; or
- (c) for the purpose of any legal proceedings arising out of this Act or of any report of any such proceedings; or
- (d) in accordance with a requirement of the Official Information Act 2008, Ombudsman Act 1984 or the Ministry of Finance and Economic Management Act 1995-96; or
- (e) with lawful excuse.

(2) Any person who breaches subsection (1) commits an offence and upon conviction is liable to a penalty of a fine not exceeding \$10,000.

(3) A person must not use, either directly or indirectly, commercial information acquired by the person in the administration or execution of this Act for the purpose of gaining either directly or indirectly any financial advantage for the person, the person's spouse or de facto partner, a relative of the person or any other associate of the person.

(4) Any person who breaches subsection (3) commits an offence and upon conviction is liable to a penalty of a fine not exceeding \$100,000.

(5) For the purposes of subsection (3) commercial information is information that is not generally known but if generally known might reasonably be expected to affect the market value of any land or to influence materially any contract with or tender for a contract with 2009 Pacific Mini Games Limited.

13. Regulations - (1) The Queen's Representative, acting on the advice of Cabinet, may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act including, but not limited to, the prescribing of offences for which the penalty may include a fine not exceeding \$100,000 or imprisonment for up to one (1) year or both a fine and imprisonment.

This Act is administered by the 2009 Pacific Mini Games Limited

SCHEDULE
(see section 2)

INTELLECTUAL PROPERTY RIGHTS

1. 2009 Pacific Mini Games
2. 2009 Mini South Pacific Games
3. 2009 Pacific Games
4. 2009 Cook Islands –Pacific Mini Games
5. 2009 South Pacific Games
6. Pacific Mini Games - The Cook Islands 2009
7. Pacific Mini Games
8. Pacific Mini Games 2009
9. Pacific Mini Games - The Cook Islands
10. The Cook Islands –Pacific Mini Games
11. Pacific Games 2009
12. Pacific Games 2009
13. South Pacific Games 2009
14. “Share the Moments”
15. Logo shown below.



**PACIFIC
GAMES 2009**

C O O K I S L A N D S

Share the moments