



ANALYSIS

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1988, No. 168

An Act to establish the New Zealand 1990 Commission as a body corporate, to specify the Commission's functions, powers, and duties, and to provide protection for the Commission's official emblem and certain words and expressions to be used in connection with certain anniversaries to be commemorated in 1990

[10 December 1988]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the New Zealand 1990 Commission Act 1988.

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

“Commission” means the New Zealand 1990 Commission established by section 3 of this Act;

“Emblem” means the official emblem of the Commission, which emblem is reproduced in the First Schedule to this Act;

“Minister” means the Minister of Internal Affairs;

“Protected expression” means any expression specified in section 11 (2) of this Act.

3. Establishment of Commission—(1) There is hereby established a commission to be called the New Zealand 1990 Commission.

(2) The Commission shall be a body corporate, having perpetual succession and a common seal, with power to purchase, take, hold, transfer, and lease property, to sue and be sued, and shall have all the rights, powers, and privileges of a natural person.

4. Members of Commission—The Commission shall comprise—

- (a) The Minister who shall chair the Commission; and
- (b) Not more than 14 other members who shall be appointed by the Minister.

5. Functions of Commission—The principal function of the Commission shall be to promote the commemoration in 1990—

- (a) Of the 150th anniversary of the signing of the Treaty of Waitangi; and
- (b) Of 1,000 years of known human habitation of New Zealand; and
- (c) Of the 75th anniversary of the landing of the Anzac Forces at Gallipoli; and
- (d) Of any other event or occasion that the Commission, with the agreement of the Minister, considers appropriate to commemorate in 1990.

6. Powers of Commission—The Commission shall have all such powers as may be reasonably necessary to enable it to perform its functions.

7. Procedure—Subject to the provisions of this Act, the Commission may regulate its procedure in such manner as it thinks fit.

8. Annual report—(1) The Commission shall in each year prepare a report on the work of the Commission during that year.

(2) As soon as practicable after a report is prepared under subsection (1) of this section, the Minister shall lay a copy of the report before Parliament.

9. Further provisions relating to Commission—The provisions set out in the Second Schedule to this Act shall apply in respect of the Commission.

10. Exemption from income tax—The income of the Commission shall be exempt from income tax.

11. Protection of emblem and expressions—(1) No person shall display or exhibit or otherwise use for any purpose whatever—

- (a) The emblem; or
- (b) Any representation that so closely resembles the emblem as to be likely to cause any person to believe that it is the emblem; or
- (c) Any expression to which this subsection applies; or
- (d) Any words that incorporate any expression, or any combination of expressions, to which this subsection applies,—

without the prior written consent of the Commission given under section 12 of this Act.

(2) Subsection (1) of this section applies to the following expressions:

- (a) "New Zealand 1990";
- (b) "1990 Commission";
- (c) "1990 The Challenge";
- (d) "Te Komihana o 1990";
- (e) "1990 Te Wero".

(3) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$15,000 who uses the emblem, or any representation, expression, or words referred to in subsection (1) of this section,—

- (a) Without the consent of the Commission given under section 12 of this Act; or
- (b) Without complying with each condition attached to that consent; or
- (c) For any purpose other than one in respect of which that consent was given.

(4) In any prosecution for an offence against this section it shall be for the defendant to prove that he or she acted with the prior written consent of the Commission.

(5) On the conviction of any person of an offence against this section, the Court may order that any articles involved in the offence be forfeited to the Crown.

(6) Nothing in this section shall limit or affect any other remedy that the Commission may have in respect of the unauthorised use by any person of the emblem or any representation that so closely resembles the emblem as to be likely to cause any person to believe that it is the emblem, or of any protected expression or any words that incorporate any protected expression or any combination of protected expressions.

12. Commission may consent to use of emblem, expression, etc.—(1) On written application to the Commission in that behalf, the Commission may consent to the use of the emblem or of any protected expression, thereafter or for such period as the Commission may specify, for any particular purpose.

(2) In any such case the Commission may give its consent on such terms and subject to such conditions as it thinks fit, including a condition requiring the applicant for consent to pay to the Commission such sum or sums as the Commission may think reasonable, whether by way of premium, royalty, or otherwise, and may from time to time, on the application or with the consent of the applicant, vary or revoke any such term or condition.

(3) The Commission shall signify its consent in writing, setting out the terms and conditions of the consent, and specifying each purpose in respect of which its consent is given.

(4) Where the Commission grants its consent and the person to whom the consent is granted subsequently commits an offence against section 11 of this Act, the Commission may revoke the consent.

(5) Nothing in subsection (4) of this section shall limit or affect the right of the Commission to revoke its consent in accordance with the terms of any contract entered into by the Commission with the person to whom the consent is granted.

13. Special provisions relating to New Zealand 1990 Promotions Limited—(1) In this section “the company” means New Zealand 1990 Promotions Limited, a private limited company which was duly incorporated under the Companies Act 1955 on the 9th day of August 1988.

(2) The succeeding provisions of this section shall apply notwithstanding anything to the contrary in the Companies Act 1955 or in the articles of association of the company; and, in

particular, nothing in section 41 or section 217 (d) of that Act shall apply in respect of the company.

(3) On the commencement of this Act, all the shares in the company shall become vested in the Commission; and thereafter the Commission shall be the sole shareholder and it shall not be lawful for any other person to hold any shares in the company.

(4) As soon as practicable after the 31st day of March 1991, the Commission shall take all necessary steps to wind up the company; and for the purpose of the winding up of the company the provisions of Part VI of the Companies Act 1955, so far as they are applicable and with any necessary modifications, shall apply as if the company had resolved on that date by special resolution that the company be wound up voluntarily.

14. Dissolution of Commission—On the expiry of this Act in accordance with section 16 of this Act, the Commission shall be deemed to be dissolved, and the property of the Commission remaining after satisfaction of all its debts and liabilities shall be vested in the Crown.

15. Ombudsmen Act 1975 amended—The First Schedule to the Ombudsmen Act 1975 is hereby amended by inserting in Part II, after the item "The New Zealand Naval Forces", the following item:

"The New Zealand 1990 Commission."

16. Expiry—This Act shall expire with the close of the 31st day of December 1991.

SCHEDULES

FIRST SCHEDULE

Section 2

THE OFFICIAL EMBLEM OF THE NEW ZEALAND 1990 COMMISSION



**New Zealand
1990**

Section 9

SECOND SCHEDULE

FURTHER PROVISIONS APPLYING TO COMMISSION

1. Remuneration, allowances, and expenses of members of Commission, advisory groups, and committees—(1) There shall be paid to the members of the Commission (other than the Minister), and to the members of any advisory group or committee appointed by the Commission under clause 4 of this Schedule, out of the funds of the Commission, such remuneration by way of fees, salary, wages, or allowances as the Commission may from time to time determine with the approval of the Minister.

(2) The Commission is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(3) There shall be paid to the members of the Commission, and to the members of any advisory group or committee appointed by the Commission under clause 4 of this Schedule, travelling allowances and travelling expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly.

2. Meetings of Commission—(1) Subject to the succeeding provisions of this clause, the Minister shall convene such meetings of the Commission as the Minister thinks necessary for the efficient performance of the functions of the Commission.

(2) Meetings of the Commission shall be held at such places as the Commission or the Minister from time to time appoints.

(3) The Minister shall preside at all meetings of the Commission at which the Minister is present.

(4) In the absence of the Minister from any meeting, the member nominated by the Minister for the purpose shall chair the meeting, or, failing such a nomination, the members present shall appoint 1 of their number to chair that meeting.

(5) At any meeting of the Commission, the quorum necessary for the transaction of business shall be a majority of the members.

(6) All questions arising at any meeting of the Commission shall be decided by a majority of votes of the members present and voting.

(7) The presiding member shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(8) The Commission may meet in private or in public, as the Commission from time to time decides.

(9) The Commission shall cause such notice as it thinks fit to be given of any public meeting of the Commission to persons likely to be interested in the subject-matter of the meeting.

3. Assent to resolution without a meeting—A resolution in writing signed, or assented to by letter, facsimile, telegram, cable, or telex message by all the members of the Commission who are for the time being in New Zealand shall be as valid and effectual as if it had been passed at a meeting of the Commission duly called and constituted.

4. Commission may establish advisory groups and committees—

(1) The Commission may from time to time appoint such advisory groups and committees as it thinks desirable to enable it to carry out its functions efficiently.

SECOND SCHEDULE—*continued***FURTHER PROVISIONS APPLYING TO COMMISSION—*continued***

(2) The Commission may appoint any person, whether a member of the Commission or not, to be a member of any such advisory group or committee.

5. Commission may authorise chief executive officer, advisory groups, and committees to perform and exercise Commission's functions and powers—Notwithstanding anything in this Act, the Commission may from time to time authorise the chief executive officer, or any advisory group or committee appointed by the Commission under clause 4 of this Schedule, to perform any of the Commission's functions or to exercise any of its powers on behalf of the Commission; and every act of the chief executive officer, or of that advisory group or committee, in relation to any such matter shall be deemed for all purposes to be the act of the Commission.

6. Employees of Commission—(1) Subject to the succeeding provisions of this clause, the Commission may from time to time appoint such officers and employees, including acting or temporary or casual officers and employees, as it thinks necessary for the efficient performance and exercise of its functions and powers under this Act or any other enactment.

(2) The number of officers and employees who may be appointed under subclause (1) of this clause, whether generally or in respect of any specified duties, shall from time to time be determined by the Minister.

(3) Officers and employees appointed under subclause (1) of this clause shall be employed on such terms and conditions of employment and shall be paid such salaries and allowances as the Commission may from time to time determine.

(4) Any determination under subclause (3) of this clause shall take effect on such date (whether the date of the determination or any earlier or later date) as may be specified in the determination.

(5) If no date is so specified, the determination shall take effect on the date of the determination.

7. Employment of experts—(1) The Commission may, as and when the need arises, appoint any person, who in its opinion possesses expert knowledge or is otherwise able to assist in connection with the exercise of its functions, to make such inquiries or to conduct such research or to make such reports as may be necessary for the efficient performance of any functions of the Commission.

(2) The Commission shall pay persons appointed by it under this clause, for services rendered by them, fees or commission or both at such rates as it thinks fit, and may separately reimburse them for expenses reasonably incurred in rendering services for the Commission.

8. Application of certain Acts to members and staff of Commission—No person shall be deemed to be employed in the service of Her Majesty for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason of that person's appointment as a member of the Commission, or an officer or employee of the Commission, or under clause 7 of this Schedule.

SECOND SCHEDULE—*continued*FURTHER PROVISIONS APPLYING TO COMMISSION—*continued*

9. Existing superannuation rights preserved—(1) Notwithstanding anything in clause 8 of this Schedule, any person who, immediately before becoming an officer or employee of the Commission, is a contributor to the Government Superannuation Fund under Part II or Part IIa of the Government Superannuation Fund Act 1956 shall be deemed for the purposes of that Act to be employed in the Government service so long as that person continues to be an officer or employee of the Commission; and that Act shall apply to that person in all respects as if that person's service as such an officer or employee were Government service.

(2) Subject to the Government Superannuation Fund Act 1956, nothing in subclause (1) of this clause shall entitle any such person to become a contributor to the Government Superannuation Fund after the person has once ceased to be a contributor.

(3) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subclause (1) of this clause, to a person who is in the service of the Commission, whether as an officer or employee, and is a contributor to the Government Superannuation Fund, the term "controlling authority", in relation to any such person, means the Commission.

10. Funds of Commission—The funds of the Commission shall consist of the following:

- (a) Any money appropriated by Parliament for the purposes of the Commission and paid to the Commission for the purposes of the Commission;
- (b) All other money lawfully received by the Commission for the purposes of the Commission;
- (c) All accumulations of income derived from any such money.

11. Members and employees not personally liable—No member or employee of the Commission, or of any advisory group or committee appointed by the Commission under clause 4 of this Schedule, shall be personally liable for any act done or omitted to be done by the Commission or any member or employee of the Commission, or by any such group or committee or any member of any such group or committee, in good faith in pursuance or intended pursuance of the powers and authorities of the Commission, or of such group or committee.

12. Bank accounts—(1) The Commission shall open at any bank or banks such accounts as are necessary for the exercise of its functions and powers.

(2) All money received by the Commission, or by any employee of the Commission, shall, as soon as practicable after it has been received, be paid into such bank accounts of the Commission as the Commission from time to time determines.

13. Accounts and audit—(1) The Commission shall keep full and correct accounts of all its financial transactions, assets, liabilities, and funds; and its accounts shall be audited by the Audit Office which for that purpose shall have and may exercise all such powers as it has under the Public Finance Act 1977 in respect of public money and stores.

SECOND SCHEDULE—*continued***FURTHER PROVISIONS APPLYING TO COMMISSION—*continued***

(2) The financial year of the Commission shall end on the 31st day of March or on such other date as may from time to time be directed by the Minister.

(3) At the end of each financial year, the Commission shall prepare an income and expenditure account showing its financial transactions for that year, together with a balance sheet as at the last day of the financial year.

(4) As soon as practicable after the end of its financial year, the Commission shall submit its income and expenditure account and balance sheet to the Audit Office for audit.

(5) A copy of the audited accounts of the Commission together with the Audit Office report thereon shall be laid before Parliament no later than 6 months after the end of the financial year, and may be incorporated in the annual report of the Commission prepared under section 8 of this Act.

14. Investment of money—Any money that belongs to the Commission and that is not immediately required for expenditure by the Commission may be invested by the Commission—

(a) On deposit with—

(i) Any registered bank (within the meaning of section 2 (1) of the Reserve Bank of New Zealand Act 1964); or

(ii) Any trustee bank's successor company (within the meaning of section 2 of the Trustee Banks Restructuring Act 1988); or

(b) In any public securities (within the meaning of section 2 (1) of the Public Finance Act 1977); or

(c) In such other securities as the Commission may from time to time determine with the approval of the Minister of Finance.

15. Crown may provide services for Commission—The Crown, acting through any Government department, may from time to time, at the request of the Commission, execute any work or enter into arrangements for the execution or provision by the department for the Commission of any work or service, or for the supply to the Commission of any goods, stores, or equipment, on and subject to such terms and conditions as may be agreed.

This Act is administered in the Department of Internal Affairs.
