



ANALYSIS

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1991, No. 110

An Act to—

- (a) Establish the New Zealand Tourism Board, define its object, functions, and powers, and provide for related matters; and**
- (b) Abolish the New Zealand Tourism Department, and provide for related matters**

[30 October 1991

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

1. Short Title and commencement—(1) This Act may be cited as the New Zealand Tourism Board Act 1991.

(2) This Act shall come into force on the 1st day of November 1991.

2. Act binds the Crown—This Act binds the Crown.

PART I

NEW ZEALAND TOURISM BOARD

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

“Board” means the New Zealand Tourism Board established by section 4 (1) of this Act:

“Commencement day” means the day on which this Act came into force:

“Department” means the New Zealand Tourism Department constituted (as the Tourist and Publicity Department) under the New Zealand Tourism Department Act 1963:

“Existing employee” means a person who, immediately before the commencement day, was an employee of the Department:

“Financial year” means a year ending with the close of the 30th day of June:

“Member” means a member of the Board; and includes a person co-opted under section 12 (1) of this Act:

“Minister” means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act:

“Ministry” means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act:

“Secretary” means the chief executive of the Ministry.

4. New Zealand Tourism Board established—(1) The New Zealand Tourism Board is hereby established.

(2) The Board is a body corporate with perpetual succession and a common seal.

(3) For the purposes of the Public Finance Act 1989, the Board is a Crown agency within the meaning of that Act.

(4) Notwithstanding section 1 (3A) of the Public Finance Act 1989, Part V of that Act applies to the Board as if it were in force on the commencement of this Act.

5. Board has powers of natural person—(1) Except as provided in this Act, the Board has—

(a) The rights, powers, and privileges of a natural person; and

(b) The power to do any thing it is authorised to do by—
 (i) This Act; or
 (ii) Any other enactment; or
 (iii) Any rule of law.

(2) The Board shall not exercise any of its rights, powers, or privileges except for the purpose of achieving its object or performing its functions.

6. Object of Board—The Board's object is to ensure that New Zealand is so marketed as a visitor destination as to maximise long-term benefits to New Zealand.

7. Functions of Board—(1) All the Board's functions shall be performed—

- (a) For the purpose of achieving its object; and
- (b) In every financial year, in accordance with the statements for the year for the time being approved under section 8 of this Act.

(2) Subject to subsection (1) of this section, the Board's functions are—

- (a) To develop, implement, and promote strategies for tourism; and
- (b) To advise the Government and the New Zealand tourism industry on matters relating to the development, implementation, and promotion of those strategies.

8. Annual statements of projected outputs, liabilities, and outcomes—(1) The Board shall, before the 1st day of June in every financial year, give the Minister a statement (in this section referred to as an annual statement) of—

- (a) The Board's projected outputs during the next financial year; and
- (b) The Board's best estimate of the cost to the Board of providing those outputs; and
- (c) The methods (including financial and non-financial performance measures) by which the Board intends to assess the extent to which it in fact provides those outputs; and
- (d) How the Board intends to report on the extent to which it in fact provides those outputs; and
- (e) Any liabilities the Board intends to incur during the next financial year.

(2) Every annual statement shall be accompanied by a statement of the Board's best estimate of—

- (a) The—
 - (i) Impacts of the outputs described in the annual statement on; and
 - (ii) Consequences of those outputs for,—
the number of visitors to New Zealand during the year to which the annual statement relates, and the amount of money they spend; and
- (b) The impacts of those outputs on and consequences of those outputs for the number of visitors to New

Zealand in later years, and the amount of money they spend.

(3) At any time during a financial year, the Board may give the Minister an amended version of its annual statement for that year.

(4) After receiving the Board's annual statement for a year or an amended version of it (whether for the first time or any later time), the Minister shall—

- (a) Subject to subsection (5) of this section, approve it; or
- (b) Send it back to the Board with directions to amend it; or
- (c) In the case of an amended version of a statement, refuse to approve it.

(5) The Minister shall not, without the concurrence of the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Public Finance Act 1989, approve any part of an annual statement specifying liabilities the Board intends to incur.

(6) At any time during a financial year, the Minister may give the Board a written direction to amend its annual statement for that year.

(7) If the Minister—

- (a) Refers the Board's annual statement for any year or an amended version of it back to the Board with directions to amend it; or
- (b) During any financial year gives the Board a written direction to amend its annual statement for the year,—

the Board shall amend it and return it to the Minister.

(8) When the Board returns to the Minister an amended version of its annual statement for any financial year, it may also return an amended version of the statement under subsection (2) of this section for that year.

(9) Notwithstanding subsection (1) of this section, the Board shall give the Minister an annual statement for the year ending with the close of the 30th day of June 1992 as soon as is practicable after the commencement day.

9. Board to comply with Government policies—(1) The Board—

- (a) Shall, in performing its functions, have regard to the general policy of the Government in relation to tourism and the Board's functions as the Minister from time to time states it to the Board by written notice; and

- (b) Shall comply with all policy directions the Minister gives it by written notice.
- (2) As soon as is practicable after giving the Board a notice under subsection (1) (b) of this section, the Minister shall—
 - (a) Publish a copy in the *Gazette*; and
 - (b) Lay a copy before the House of Representatives.

10. Annual report—(1) As soon as is possible after the end of every financial year, the Board shall give the Minister a report on its operations during the year.

(2) The Board shall include in the annual report for any year—

- (a) The financial statements prepared by the Board in respect of the year under Part V of the Public Finance Act 1989; and
 - (b) The audit report and management statement relating to those statements; and
 - (c) A statement of the extent to which the impacts of the Board's outputs in that year and previous years on, and the consequences of those outputs for, the number of visitors to New Zealand during that year, and the amount of money they spent, matched the estimates contained in past statements (as finally approved by the Minister) under section 8 (2) of this Act; and
 - (d) A statement of the extent to which the Board's equal opportunities programme for the year was complied with.
- (3) Subsection (2) of this section does not limit or affect the generality of subsection (1) of this section.
- (4) In accordance with section 44 of the Public Finance Act 1989, the Minister shall table in the House of Representatives a copy of every annual report given to the Minister.

11. Membership of Board—(1) The Board shall have no fewer than 5 and no more than 9 members, appointed by the Minister by notice in the *Gazette*.

(2) Before appointing any member, the Minister shall consult—

- (a) The body that, on the commencement of this Act, was known as New Zealand Tourist Industry Federation Inc.; and
- (b) Other organisations and people that or who, in the Minister's opinion, have a substantial interest in the Board's operations.

(3) A failure to comply with subsection (2) of this section in respect of the appointment of any member does not affect the validity of the appointment.

(4) A person may hold office as a member concurrently with any other office.

12. Co-opted members—(1) Notwithstanding section 11 (1) of this Act, if satisfied that a person's qualifications or experience are likely to be helpful to the Board in dealing with any matter, the Board may co-opt the person to help the Board with the matter.

(2) A member co-opted to help the Board with any matter is entitled to take part in the Board's proceedings relating to the matter; but—

(a) Is not entitled to take part in any proceedings of the Board relating to any other matter; and

(b) Is not entitled to vote on any matter before the Board.

(3) The failure by a member co-opted to help the Board with any matter to take part in any proceedings of the Board relating to the matter (being proceedings at a meeting of the Board properly notified to the member) does not affect the validity of the meeting or the proceedings of the Board at the meeting.

13. Disclosure of interest—(1) A member who, otherwise than as a member, has a direct or indirect interest in—

(a) The Board's performance of any function or exercise of any power; or

(b) Any arrangement, agreement, or contract, made or entered into, or proposed to be made or entered into, by the Board,—

shall, as soon as is practicable after the relevant facts have come to the member's notice, disclose the nature of the interest in accordance with subsection (2) of this section.

(2) A member required by subsection (1) of this section to disclose the nature of an interest shall disclose it—

(a) To the Minister, if—

(i) The person is the Board's Chairperson; or

(ii) The person is the Board's Deputy Chairperson, and for the time being the Board has no Chairperson; and

(b) To the Board's Chairperson or Deputy Chairperson, in any other case.

(3) After becoming required by subsection (1) of this section to disclose the nature of an interest, a member—

- (a) Shall disclose to the members present at any meeting of the Board at which any deliberation or decision of the Board relating to the matter takes place or is made that the member has an interest in the matter; and
- (b) Shall not take part in any deliberation or decision of the Board relating to the matter in which the member has the interest.

(4) A member required by subsection (1) of this section to disclose the nature of an interest in any matter shall be disregarded in determining whether or not there is a quorum of the Board present for any part of a meeting of the Board during which a deliberation or decision of the Board relating to the matter takes place or is made.

14. Other provisions applying to Board—The First Schedule to this Act applies to the Board.

PART II

ABOLITION OF NEW ZEALAND TOURISM DEPARTMENT

15. New Zealand Tourism Department abolished—The Department is hereby abolished.

16. Employees of Department—(1) On the commencement day, every existing employee shall become an employee of the Board.

(2) Terms and conditions of employment that immediately before the commencement day applied to an existing employee as an employee of the Department—

- (a) Subject to paragraph (b) of this subsection, shall on and after the commencement day apply to the employee as an employee of the Board; and
- (b) May be varied accordingly.

(3) For the purposes of every enactment, law, award, determination, contract, and agreement at any time relating to the employment of an existing employee,—

- (a) The employee's contract of employment with the Department shall be deemed to have been unbroken by the employee's having become an employee of the Board; and
- (b) Any period recognised by the Department as continuous service in the employment of the Department shall be deemed to have been a period of continuous service in the employment of the Board.

(4) No existing employee is entitled to any payment or other benefit by reason only of having ceased to be an employee of the Department.

17. Savings—(1) Where, before the commencement day, the Minister of Tourism, the Department, or any officer of the Department (in relation to the conduct of the Department's affairs), has become a party to any proceedings, the proceedings may be continued, completed, and enforced as if the Minister were that party.

(2) Where, before the commencement day, the Minister of Tourism, the Department, or any officer of the Department (in relation to the conduct of the Department's affairs), has begun an action under the authority of any enactment formerly administered by the Department, the action may be continued, completed, and enforced as if the Minister had begun it.

(3) Every consent, licence, permit, approval, and remission, before the commencement day given or granted by the Minister of Tourism or the General Manager of the Department shall, unless its terms or the circumstances otherwise require, continue in force until amended, transferred, modified, or revoked by the Minister or the Secretary.

18. Consequential amendments—(1) In every Act, regulation, and other enactment, and every contract, agreement, deed, instrument, application, licence, notice, and other document, passed, made, enacted, entered into, granted, given, or executed, before the commencement day,—

- (a) Every reference to the Minister of Tourism shall be read as a reference to the Minister; and
- (b) Every reference to the Department shall be read as a reference to the Ministry; and
- (c) Every reference to the General Manager of the Department shall be read as a reference to the Secretary.

(2) The enactments specified in the Second Schedule to this Act are hereby consequentially amended in the manner indicated in that schedule.

19. Repeals and saving—(1) The enactments specified in the Third Schedule to this Act are hereby repealed.

(2) Notwithstanding the repeal by subsection (1) of this section of section 8 of the New Zealand Tourism Department Act 1963, the Minister may from time to time, on behalf of the Crown, take any action under or in respect of any lease,

sublease, contract, or agreement, granted or entered into before the commencement of this Act under the authority of subsection (2) of that section.

(3) Nothing in subsection (2) of this section limits or affects the generality of section 17 of this Act.

SCHEDULES

Section 14

FIRST SCHEDULE

OTHER PROVISIONS APPLYING TO BOARD

1. Term of office—(1) Every member—

(a) Shall be appointed for a term (not exceeding 3 years) specified in the notice appointing the member; and

(b) Shall take office on the day the notice is published, or a later day specified in it; and

(c) Is eligible for reappointment.

(2) Notwithstanding subclause (1) of this clause, a member whose term of office has expired shall continue to hold office until—

(a) The member vacates office under clause 2 of this Schedule; or

(b) The member is reappointed; or

(c) The Minister gives the member written notice that a successor has been, or is not to be, appointed.

2. Extraordinary vacancies—(1) The Minister may at any time, by written notice to a member, remove the member from office for disability affecting performance of duty, bankruptcy, neglect of duty, or misconduct, proved to the Minister's satisfaction.

(2) As soon as is practicable after removing a member from office, the Minister shall publish in the *Gazette* a notice that the Minister has done so, and the Minister's reasons for doing so.

(3) Any member may at any time resign office by written notice to the Minister.

3. Chairperson and Deputy Chairperson—(1) From time to time, as the offices become vacant, the Minister shall appoint one appointed member to be Chairperson of the Board, and another appointed member to be Deputy Chairperson.

(2) The Minister may appoint an existing member or a new member.

(3) The Chairperson or Deputy Chairperson may at any time, without resigning office as a member, by written notice to the Minister resign office as Chairperson or Deputy Chairperson.

4. Meetings—(1) Meetings of the Board shall be held at times and places appointed by the Board or its Chairperson (or, where there is for the time being no Chairperson, its Deputy Chairperson).

(2) The quorum necessary for the transaction of business at a meeting of the Board is 5 appointed members.

5. Chairperson to preside at meetings—(1) If present at a meeting of the Board, and not interested in the deliberation or decision before it, the Chairperson shall preside.

(2) If—

(a) Either—

(i) The Chairperson is not present at a meeting of the Board or is interested in the deliberation or decision before it; or

(ii) There is no Chairperson for the time being appointed; and

(b) The Deputy Chairperson is present, and is not interested in the deliberation or decision before the Board,—

the Deputy Chairperson shall preside.

FIRST SCHEDULE—*continued*OTHER PROVISIONS APPLYING TO BOARD—*continued*

(3) If—

(a) Either—

(i) The Chairperson is not present at a meeting of the Board or is interested in the deliberation or decision before it; or

(ii) There is no Chairperson for the time being appointed; and

(b) Either—

(i) The Deputy Chairperson is not present at the meeting or is interested in the deliberation or decision before it; or

(ii) There is no Chairperson for the time being appointed,—
the other appointed members present shall elect an appointed member present (being a member who is not interested in the deliberation or decision before the Board) to preside.

(4) For the purposes of this clause, a member is interested in a deliberation or decision if required by section 13 (3) (b) of this Act not to take part in it.

6. Voting at meetings—(1) All matters arising at a meeting of the Board shall be decided by a majority of the votes cast by the appointed members present.

(2) The member presiding at a meeting of the Board when any matter is decided has a deliberative vote; and where the number of deliberative votes for and against the matter are equal, also has a casting vote.

(3) Subject to section 13 (3) of this Act, a written resolution—

(a) Signed; or

(b) Assented to by letter, telegram, facsimile transmission, or telex, by all appointed members of the Board,—

is as valid and effectual as if passed at a meeting of the Board duly called and constituted.

7. Procedure—Except as provided in this Act, the Board may regulate its own procedures.**8. Delegations**—The Board may, in writing, delegate any of its functions or powers to any appointed member or to any employee of the Board.**9. Remuneration of members**—(1) The Board is a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

(2) Every member is entitled to receive, out of the Board's funds,—

(a) Remuneration by way of fees, salary, or allowances, for the member's services as a member:

(b) Payment of travelling allowances or expenses in respect of time spent travelling in the service of the Board.

10. Board to appoint chief executive—(1) Subject to subclause (2) of this clause, the Board shall from time to time appoint a chief executive of the Board, on terms and conditions agreed by the Board and the person appointed.

(2) The Board shall not agree any conditions of employment for a chief executive of the Board without—

(a) Consulting the State Services Commission; and

FIRST SCHEDULE—*continued*OTHER PROVISIONS APPLYING TO BOARD—*continued*

- (b) Having regard to all recommendations the State Services Commission makes to the Board about them within a reasonable time of being consulted.

11. Other employees—(1) The Board's chief executive may from time to time appoint any employees necessary or desirable to enable the Board to perform its functions.

(2) Subject to subclause (3) of this clause, for the purposes of subclause (1) of this clause, Part VI of the State Sector Act 1988 shall have effect as if—

- (a) The Board is a department specified in the First Schedule to that Act; and
 (b) Every reference in those Parts to the chief executive of a department is a reference to the Board's chief executive; and
 (c) Every reference in those Parts to the State Services Commission is a reference to the Board.

(3) Before entering into negotiations under Part VI of the State Sector Act 1988 in respect of the conditions of employment of employees or prospective future employees (other than the chief executive) of the Board, the chief executive shall consult the State Services Commission on the conditions to be negotiated.

12. Personal liability—No member or employee of the Board is personally liable for any act done or omitted by the member or employee, or the Board,—

- (a) In good faith; and
 (b) In pursuance or intended pursuance of the Board's object.

13. Board to be good employer—The Board shall operate a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring—

- (a) Good and safe working conditions; and
 (b) The impartial selection of suitably qualified people for appointment; and
 (c) Recognition of—
 (i) The aims and aspirations of Maori; and
 (ii) The employment requirements of Maori; and
 (iii) The need for greater involvement of Maori as employees of the employer operating the personnel policy; and
 (d) Opportunities for the enhancement of the abilities of individual employees; and
 (e) Recognition of the aims and aspirations, and the cultural differences, of ethnic and minority groups; and
 (f) Recognition of the employment requirements of women; and
 (g) Recognition of the employment requirements of people with disabilities.

14. Equal employment opportunities programme—(1) In each financial year, the Board shall—

- (a) Develop and publish an equal employment opportunities programme for the Board; and

FIRST SCHEDULE—*continued*OTHER PROVISIONS APPLYING TO BOARD—*continued*

(b) Ensure that the programme is complied with.

(2) For the purposes of this clause, an equal employment opportunities programme is a programme aimed at identifying and eliminating all aspects of policies, procedures, and other institutional barriers, that cause or perpetuate, or tend to cause or perpetuate, inequality in respect of the employment of any people or group of people.

15. Superannuation or retiring allowances—(1) For the purpose of providing superannuation funds or retiring allowances for employees of the Board, sums by way of subsidy may from time to time be paid into any scheme registered under the Superannuation Schemes Act 1989.

(2) Notwithstanding anything in this Act, a person who, immediately before becoming an employee of the Board, is a contributor to the Government Superannuation Fund under Part II or Part II_A of the Government Superannuation Fund Act 1956 shall, for the purposes of that Act, be deemed to be employed in the Government service so long as that person continues to be an employee of the Board; and that Act shall apply to that person in all respects as if that person's service as an employee of the Board is Government service.

(3) Nothing in subclause (2) of this clause entitles any person to become a contributor to the Government Superannuation Fund after that person has once ceased to be a contributor.

(4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subclause (2) of this clause, to an employee of the Board who is a contributor to the Government Superannuation Fund, the term "controlling authority", in relation to that employee, means the Board.

16. Application of certain Acts to members and employees excluded—No person shall be deemed to be employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 by reason only of that person's appointment or co-option as a member or appointment as an employee of the Board.

17. Funds—The funds of the Board comprise—

- (a) Money appropriated by Parliament, and paid to the Board, for the purposes of the Board; and
- (b) Other money lawfully received by the Board for the purposes of the Board; and
- (c) Income derived from funds of the Board.

18. Bank accounts—(1) The Board shall open and maintain all bank accounts necessary for the performance of its functions.

(2) The Board shall ensure that all money received by or on behalf of the Board is banked as soon as is practicable after being received.

(3) The Board shall ensure that no money is withdrawn from or paid out of any of its bank accounts without the Board's authority.

19. Investment of money—The Board may, in accordance with section 25 of the Public Finance Act 1989, invest any funds of the Board until they need to be spent.

FIRST SCHEDULE—*continued*OTHER PROVISIONS APPLYING TO BOARD—*continued*

20. Seal—The Board's common seal shall for all purposes be judicially noticed by all Courts and persons acting judicially.

21. Exemption from income tax—The Board's income is exempt from income tax under the Income Tax Act 1976.

SECOND SCHEDULE
CONSEQUENTIAL AMENDMENTS

Section 18 (2)

Enactment	Amendment
<p>1908, No. 194—The Tourist and Health Resorts Control Act 1908 (R.S. Vol. 11, p. 545)</p>	<p>By repealing the definition in section 2 of the term “Minister” (as amended by section 2 (3) of the Tourist and Publicity Department Act 1967), and substituting the following definition:</p> <p style="padding-left: 40px;">“ ‘Minister’ means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.”</p> <p>By adding to section 2 the following definition:</p> <p style="padding-left: 40px;">“ ‘Secretary’ means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.”</p> <p>By omitting from the proviso to section 8 the words “General Manager of the Tourist and Publicity Department”, and substituting the word “Secretary”.</p>
<p>1963, No. 51—The New Zealand Maori Arts and Crafts Institute Act 1963 (R.S. Vol. 8, p. 835)</p>	<p>By repealing the definition in section 2 of the term “Minister” (as amended by section 2 (3) the Tourist and Publicity Department Amendment Act 1967), and substituting the following definition:</p> <p style="padding-left: 40px;">“ ‘Minister’ means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.”</p> <p>By adding to section 2 the following definition:</p> <p style="padding-left: 40px;">“ ‘Secretary’ means the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.”</p> <p>By repealing section 3.</p> <p>By repealing section 5 (1) (a), and substituting the following paragraph:</p> <p style="padding-left: 40px;">“(a) The Secretary.”</p>

SECOND SCHEDULE—*continued*
CONSEQUENTIAL AMENDMENTS—*continued*

Enactment	Amendment
1975, No. 9—The Ombudsmen Act 1975 (R.S. Vol. 21, p. 657)	By omitting from the First Schedule the item “Tourist and Publicity Department”.
1977, No. 66—The Reserves Act 1977	By inserting in Part II of the First Schedule, in its appropriate alphabetical order, the item “New Zealand Tourism Board”. By omitting from paragraphs (b) and (c) of section 122 (1) the words “General Manager of the Tourist and Publicity Department”, and substituting, in each case, the words “chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of the Tourist and Health Resorts Control Act 1908”. By omitting from the proviso to section 122 (1) (b) the words “the General-Manager”, and substituting the words “the chief executive”. By omitting from section 122 (1) the words “Minister of Tourism”, in both places where they appear, and substituting, in each case, the words “Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of the Tourist and Health Resorts Control Act 1908”.
1988, No. 20—The State Sector Act 1988	By omitting from the First Schedule (as substituted by section 28 (1) of the State Sector Amendment Act (No. 2) 1989) the item “Tourist and Publicity Department”.

THIRD SCHEDULE

Section 19

REPEALS

- 1963, No. 30—The New Zealand Tourism Department Act 1963. (R.S. Vol. 13, p. 753.)
- 1967, No. 24—The New Zealand Tourism Department Amendment Act 1967. (R.S. Vol. 13, p. 760.)
- 1989, No. 44—The Public Finance Act 1989: So much of the First Schedule as relates to the New Zealand Tourism Department Act 1963.
- 1989, No. 129—The New Zealand Tourism Department Amendment Act 1989.
- 1990, No. 87—The New Zealand Tourism Department Amendment Act 1990.

This Act is administered in the Ministry of Commerce.
