



# PARLIAMENT OF THE COOK ISLANDS

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## AGRICULTURE BILL 2020

### EXPLANATORY NOTE

The Agriculture Bill provides for the functions, powers, and administration of the Ministry of Agriculture under modern reformed governance arrangements and aims to ensure that the ministry can more effectively manage the agriculture sector and facilitate its sustainable development into the future.

**Clause 1** states that the Title of the Bill is the Agriculture Bill 2020.

**Clause 2** provides that the Bill (once enacted) comes into force on 1 July 2020.

### **Part 1** **Preliminary matters**

**Clause 3** sets out the purposes of the Bill. Those are to—

- provide for the development of sustainable agricultural practices;
- provide for new data collection powers and procedures to be used in relation to agriculture;
- regulate the agriculture industry;
- provide for inspections and specify their powers and the procedures they must follow;
- enable the regulatory regime in the Bill to apply throughout the Cook Islands;
- enable the establishment of the specific advisory committees to assist with the carrying out of functions under this Bill.

**Clause 4** deals with the application of the Bill once enacted. The Bill will apply to all of the Cook Islands.

**Clause 5** relates to interpretation. Key new terms include adverse effect on agriculture or the agriculture sector, agricultural production, data collector, input to agriculture, Minister or responsible Minister, ministry, responsible ministry, and stakeholder.

**Clause 6** provides that the Act binds the Crown.

### **Part 2** **Responsible ministry and its committees** Subpart 1—The ministry

**Clause 7** sets out the purpose of the ministry.

**Clause 8** sets out the functions of the ministry. Key new functions are:

- encouraging sustainable agricultural production including—
  - the production of crops, livestock, and pollinators:
  - managing crop and livestock genetic resources:
  - protecting the welfare of livestock and other farmed animals:
- formulating and implementing plans, policies, and strategies for the agricultural sector:
- formulating and implementing agricultural projects, programmes, and initiatives:
- developing quality certification schemes and value claims for the agricultural sector.

**Clause 9** sets out guiding principles that the ministry must have regard to, to the extent reasonably practicable and appropriate in the context, when performing its functions. A key guiding principle is the need for input from stakeholders in agriculture, including—

- Island Governments and others in the Pa Enua with an interest in agriculture; and
- stakeholders in partnership with the ministry into planning, decision making, and project or programme implementation.

**Clause 10** sets out the functions of the head of the ministry.

**Clause 11** provides that the ministry, as a department of State, is subject to the provisions of the Public Service Act 2009 and the Ministry of Finance and Economic Management Act 1995-96

#### Subpart 2—Committees of the ministry

**Clause 12** enables the head of the ministry to establish committees for the purposes of the Act and other relevant Acts (other than the Biosecurity Act 2008, which contains its own provisions about committees). This is different from the current arrangements under the Ministry of Agriculture and Fisheries Act 1978, which requires the ministry to set up committees.

**Clause 13** enables the head of the ministry to determine the purpose, functions, and membership of each committee.

**Clause 14** provides for the remuneration of committee members from the ministry's funds at a rate set by the head of the ministry. However, no remuneration is payable to members who are concurrently public servants or members of a board of a public body.

**Clause 15** requires the giving of public notice about the establishment or dissolution of a committee.

### **Part 3** **Data collection**

**Clause 16** sets out the method of appointment of data collectors and their role, which is to collect data for the ministry for 1 or more of the purposes in *clause 17*.

**Clause 17** provides that the purpose of data collection is to enable the collection of information so that the ministry can—

- measure agricultural production:
- identify or measure a risk to agricultural production:
- take informed responses to invasive species outbreaks or other plant or animal emergencies.

**Clause 18** gives data collectors the power to require persons or entities to produce information or records held by the person or entity, that are reasonably necessary to be provided or produced for 1 or more of the purposes in *clause 17*. That information or those records must be immediately returned to the relevant person or entity once notes or copies are taken or sufficient time reasonably required to take those notes or copies has elapsed. The ability to require the production of information or records does not extend to commercially confidential or privileged information or records.

**Clause 19** limits the use of notes or copies of information or records required to be produced to the purpose for which they were made. The clause also prohibits the disclosure of related information to the public, subject to any contrary order of the High Court.

**Clause 20** limits the use in proceedings to which such information or records may be put to proceedings under the Bill. Use of that information for the purpose of assessing or levying taxes is explicitly excluded.

**Clause 21** provides for the issue of a written notice to provide or produce information or records if an oral request for information is refused.

**Clause 22** provides that the failure to comply with a notice issued under *clause 21* is an offence punishable, in the case of an individual, by a fine not exceeding \$10,000 and or in any other case (eg, an entity that is a body corporate), by a fine not exceeding \$50,000.

#### **Part 4 Inspectors**

**Clause 23** describes the application of Part 4. It provides that if a matter may be dealt with under the Pesticides Act 1987 or the Biosecurity Act 2008, it must be dealt with under that Act, rather than this Bill.

**Clause 24** provides for the appointment of inspectors.

**Clause 25** sets out the powers of inspectors. Broadly those powers include—

- for the purposes of testing and analysis, to take samples and photographs of anything that may be reasonably considered to have had, to be having, or to be likely to have an adverse effect on agriculture or the agricultural sector:
- to investigate agricultural incidents (eg, damage to crops caused by the spread of paraquat in high winds):
- to undertake an assessment of damage caused by an agricultural incident:
- to undertake remediation of the damage:

- to require, in relation to any person doing anything that may be reasonably considered to have had, to be having, or likely to have, an adverse effect on agriculture or the agricultural sector, the person's name and address, or to require the production of information or records about anything having or likely to have, an adverse effect on agriculture or the agricultural sector:
- to make orders about anything that may be reasonably considered to have had, to be having, or to be likely to have an adverse effect on agriculture or the agricultural sector to remove, prevent, or minimise its adverse effects. Persons and entities affected are entitled to be compensated or reimbursed for their reasonable costs or expenses in complying with those orders.

**Clause 26** provide for the issue of precautionary notices. Notices may include a variety of requirements designed to avoid or decrease an adverse or likely adverse risk on agriculture or the agricultural sector.

**Clause 27** provides for the issue by the head of the ministry of a notice to cease an act or activity that is reasonably considered to be having or to be likely to have an adverse effect on agriculture or the agricultural sector.

**Clause 28** sets out penalties for offences against the Bill. Those offences are punishable by a maximum fine of \$10,000 in the case of an individual. In other cases (eg, offences by body corporates), the maximum fine is \$50,000. There are also additional daily fines for continuing offences of \$100 a day for an individual and \$500 in other cases.

## **Part 5 Minor offences**

**Clause 29** provides that inspectors and data collectors may issue minor offence notices in respect of minor offences. Minor offences, and the fines that apply to them, are prescribed by regulations. A person may elect to pay the fine and then will not be liable to any further prosecution in respect of the offence.

**Clause 30** provides that a person who does not pay the fine for a minor offence can be prosecuted for the offence and is liable on conviction to a fine of up to \$500.

## **Part 6 Miscellaneous**

**Clause 31** deals with the relationship between the ministry and Island Governments. It provides for the ministry to work collaboratively or in partnership with Island Governments, and provides for delegation of functions and powers under the Public Service Act 2009 to employees and representatives of Island Governments.

**Clause 32** requires notices under the Bill to be given in both the Maori and English languages.

**Clause 33** enables the head of the ministry to conduct inquiries into any matter connected with the functions of the ministry.

**Clause 34** provides for the issue of a search warrant by the High Court to authorise entry into a place if there are reasonable grounds to—

- suspect that an offence against the Bill has been, is being, or will be committed; and
- believe that evidence of that offence will be found in the dwelling place or vehicle.

**Clause 35** enables the head of the ministry and any office of the ministry to give evidence in court by certificate.

**Clause 36** provides that acts done under this Bill after an appointment has lapsed are valid.

**Clause 37** protects a number of listed classes of persons from civil or criminal liability for good faith actions taken under the Bill.

**Clause 38** provides for the making of regulations.

**Clause 39** repeals the Ministry of Agriculture and Fisheries Act 1978.

**Clause 40** provides that other Acts are amended in the manner set out in *Schedule 2*.

**Clause 41** deals with savings and transitional provisions.

**Schedule 1** lists the Acts administered by the ministry.

**Schedule 2** consequentially amends other Acts.

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