



Tuvalu

**VAlAKU LAGI HOTEL CORPORATION
ACT**

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Tuvalu

VAIAKU LAGI HOTEL CORPORATION ACT

Arrangement of Sections

Section

PART I - PRELIMINARY	5
1 Short title.....	5
2 Interpretation.....	5
PART II - ESTABLISHMENT, FUNCTIONS AND POWERS	6
3 Establishment of Corporation	6
4 Functions and powers	6
5 Ministerial directions	7
PART III - BOARD, MANAGEMENT AND EMPLOYEES	7
6 Board.....	7
7 Constitution of Board.....	7
8 Acting Directors.....	8
9 Chairman and Deputy Chairman	8
10 Meetings of Board	8
11 Disclosure of interest	9
12 Management.....	9
13 Officers and staff	10
PART IV - FINANCIAL PROVISIONS	10
14 Funds and property of Corporation.....	10
15 Vesting of Government assets etc in Corporation	11
16 Commercial conduct of business	11
17 Profits.....	11
18 Reserve Fund	11
19 Financial year.....	12
20 Estimates.....	12
21 Annual reports and accounts etc	12
21A Corporate Plans.....	12

21B	Contents of Corporate Plans.....	13
21C	Presentation of Corporate Plan to Minister	13
21D	Notification of certain matters.....	13
22	Audit.....	14

PART V - MISCELLANEOUS **14**

23	Regulations.....	14
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Supporting Documents

ENDNOTES **15**



Tuvalu

VAIAKU LAGI HOTEL CORPORATION ACT

AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND INCORPORATION OF THE VAIAKU LAGI HOTEL CORPORATION AND FOR CONNECTED PURPOSES¹

Commencement [1st January 1989]

PART I - PRELIMINARY

1 Short title

This Act may be cited as the Vaiaku Lagi Hotel Corporation Act.

2 Interpretation

In this Act, unless the context otherwise requires —

“**Board**” means the Board of Directors of the Vaiaku Lagi Hotel Corporation established under section 6;

“**Chairman**” means the Chairman of the Board appointed under section 9(1);

“**Corporation**” means the Vaiaku Lagi Hotel Corporation established by section 3(1);

“**Deputy Chairman**” means the Deputy Chairman of the Board appointed under section 9(1);

“**Director**” means a Director of the Board;

“**General Manager**” means the General Manager of the Corporation appointed under section 12(3).

PART II - ESTABLISHMENT, FUNCTIONS AND POWERS

3 Establishment of Corporation

- (1) There is established by this Act a Corporation to be called the Vaiaku Lagi Hotel Corporation.
- (2) The Corporation —
 - (a) shall be a body corporate with perpetual succession;
 - (b) shall have a common seal;
 - (c) subject to section 5 (restriction of alienation of native land) of the Native Lands Act,² may acquire, hold and dispose of property of every description;
 - (d) may sue or be sued in its corporate name; and
 - (e) may do anything which a body corporate may lawfully do and perform which is necessary or helpful to carry out its functions.

4 Functions and powers

- (1) The Corporation shall carry on the general business of hotels, which without limiting this generality may include the running and management of restaurants, refreshment rooms, tearooms, coffee shops, accommodation facilities, bars and entertainments.
- (2) Without in any way limiting the generality of subsection (1), in addition to any other powers conferred on it by this Act the Corporation shall have power —
 - (a) to buy, sell and import food, drink (including alcoholic drink), tobacco and other goods for use or sale in its business;
 - (b) to fit out and furnish any property for the purpose of letting it to visitors or guests;
 - (c) to carry on the business of launderers, cleaners and dry cleaners and to repair articles sent for cleaning;
 - (d) to do in Tuvalu or elsewhere, either alone or jointly with any other person, all things necessary or convenient to be done for or in connection with or consequential on any of its powers or functions;
 - (e) to make such charges for its services under this Act as the Board thinks fit; and
 - (f) to undertake such other activities in furtherance of its functions as the Minister may, after consultation with the Board of Directors allow by order.

5 Ministerial directions

In carrying out its powers, duties and functions under this Act the Corporation shall act in accordance with any policy directions (not inconsistent with this Act) in the national interest given to it from time to time in writing by the Minister, after consultation with the Board of Directors.

PART III - BOARD, MANAGEMENT AND EMPLOYEES

6 Board

- (1) There shall be a Board of Directors of the Corporation which —
 - (a) is the governing body of the Corporation with authority, in the name of the Corporation, to exercise and perform the powers, duties and functions of the Corporation under this Act; and
 - (b) shall, subject to this Act, be responsible for the policy, control and management of the Corporation.
- (2) It shall be the duty of the Board to ensure that the policy of the Corporation is directed towards the national interest.

7 Constitution of Board

- (1) The Board shall consist of Directors who shall be —
 - (a) ex-officio the Secretary of the Ministry for the time being responsible for the administration of this Act; and
 - (b) not more than four other Directors appointed by the Minister.
- (2) Directors shall be appointed for a period to be determined by the Minister but shall be eligible for reappointment.
- (3) No person shall be eligible for appointment as a Director, who —
 - (a) is a Member of Parliament;
 - (b) is an officer or employee of the Corporation;
 - (c) has been declared bankrupt or insolvent by a court in Tuvalu or elsewhere and has not received his discharge;
 - (d) is found lunatic or becomes of unsound mind; or
 - (e) has been convicted anywhere of an offence involving dishonesty.
- (4) A Director may resign his office by giving notice in writing to the Minister.
- (5) The Minister shall by notice terminate the appointment of a Director if —
 - (a) the Director is without the prior written permission of the Chairman absent from 3 consecutive meetings of the Board;

- (b) in relation to the Director any circumstances arise which, if he were not a Director, would make him ineligible for appointment under subsection (3).
- (6)
 - (a) The Minister, after consultation with the Board, may by notice terminate the appointment of any Director but shall inform that Director of the reasons for so doing.
 - (b) A Director shall not be entitled to compensation for loss of office.
- (7) Directors other than public officers shall be paid by the Corporation such fees and allowances as may be determined by the Board and approved by the Minister.

8 Acting Directors

- (1) If the Minister is satisfied that a Director of the Corporation is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister, may appoint a person to act for that Director during his incapacity.
- (2) An acting Director appointed under this section is, while he acts as such, deemed for all purposes to be a Director of the Corporation.

9 Chairman and Deputy Chairman

- (1) The Minister shall appoint two Directors to be Chairman and Deputy Chairman respectively of the Board for such periods as the Minister determines but such an appointment shall cease immediately on the Chairman or Deputy Chairman ceasing to be a Director.
- (2) The Chairman or Deputy Chairman may resign his appointment by giving notice in writing to the Minister.
- (3) The Minister may by notice terminate the appointment of the Chairman or Deputy Chairman but shall inform him of his reasons for so doing.

10 Meetings of Board

- (1) The Board shall meet as often as the business of the Corporation may require but not less frequently than once in every 2 months.³
- (2) Board meetings shall be at such times and places as the Board shall determine or as the Chairman, or, in his absence the Deputy Chairman, shall direct.
- (3) The Chairman or, in his absence the Deputy Chairman, shall be chairman at meetings of the Board and in the absence of both the Chairman and the Deputy Chairman from any meeting or any part of a meeting one of the other

Directors shall be appointed by the Board at or during the meeting to be chairman of that meeting or part of a meeting.

- (4) Three Directors shall form a quorum at a meeting of the Board.
- (5) Each Director shall have one vote.
- (6) Questions arising at a Board meeting shall be resolved by a simple majority of the votes of the Directors present and voting except that in the event of an equality of votes, the chairman of the meeting or part of a meeting shall have a second or casting vote.
- (7) The General Manager shall, unless otherwise directed by the Board or given leave of absence in writing by the Chairman of the Board, be present at all meetings of the Board but shall not be entitled to any vote.

11 Disclosure of interest

- (1) Where a Director has any interest, direct or indirect, in any matter before the Board he shall fully disclose that interest to the Board —
 - (a) at any meeting during the course of which he becomes aware of the relevant facts; or
 - (b) at the first meeting after he becomes aware of the relevant facts.
- (2) After a Director has under subsection (1) disclosed any interest in any matter before the Board, he shall not take part in any further deliberation or in any decision of the Board on that matter:

Provided that the holding of any such interest shall not disqualify the interested Director for the purpose of constituting a quorum at any meeting or part of a meeting.

12 Management

- (1) The chief executive of the Corporation shall be the General Manager who shall be responsible to the Board for the effective operation of the day to day activities of the Corporation including supervision and direction of the staff of the Corporation.
- (2) In exercise of his functions under this Act the General Manager shall act in accordance with such directions as he may, from time to time, receive from the Board.
- (3) The General Manager shall be appointed by the Board with the approval of the Minister.
- (4) The General Manager shall hold office for a period not to exceed 5 years on such terms and conditions as may be determined by the Board, subject to the approval of the Minister.

- (5) The General Manager is eligible for reappointment.
- (6) The General Manager shall devote the whole of his services to the Corporation and shall not while holding office, without the approval of the Minister, —
 - (a) receive any remuneration from any office or any employment other than with the Corporation;
 - (b) hold any other office or employment, whether for remuneration or not, except as a nominee of the Corporation.
- (7) Where the General Manager is prevented by illness, absence from Tuvalu or any other cause from exercising his functions as General Manager, the Board with the approval of the Minister may appoint an acting General Manager who shall act as the General Manager until the General Manager is able to resume his functions.
- (8) The Board may by resolution authorise a Director, the General Manager or another officer of the Corporation to act, to enter into contracts and to sign instruments and documents, all on behalf of the Corporation.
- (9) The General Manager shall be paid by the Corporation such salary and allowances as are determined by the Board and approved by the Minister.

13 Officers and staff

- (1) The Board shall appoint or employ such other officers and staff as may be reasonably necessary for the purposes of or in connection with the business of the Corporation under this Act on such terms and conditions as the Board may determine.
- (2) The Board may provide for the training, career development and discipline of the officers and staff of the Corporation.
- (3) The officers and staff shall be under the administrative control of the General Manager.

PART IV - FINANCIAL PROVISIONS

14 Funds and property of Corporation

The funds and property of the Corporation shall consist of —

- (a) money appropriated by an Appropriation Act and paid to the Corporation;
- (b) rights, interests, assets or liabilities of the Government vested in the Corporation under section 15;

- (c) all moneys received by the Corporation for goods or services provided under this Act;
- (d) money paid to the Corporation by way of grants, subsidies, donations, loans, rent and repayments of principal or interest;
- (e) money from the sale of property held by or on behalf of the Corporation;
- (f) sums due on any investment made by the Corporation;
- (g) other money and property lawfully received by the Corporation for the purposes of the Corporation; and
- (h) accumulations of income derived from any money or property of the Corporation.

15 Vesting of Government assets etc in Corporation

- (1) The Cabinet may authorise the vesting in the Corporation of any rights, interests, assets or liabilities of the Government.
- (2) The Minister shall thereafter take any further action necessary to vest or transfer to the Corporation any rights, interests, assets and liabilities authorised to be vested under subsection (1) and any titles thereto.

16 Commercial conduct of business

The Corporation shall conduct its business in accordance with prudent commercial principles and shall ensure so far as possible that its revenue is sufficient both to meet its expenditure properly, chargeable to revenue and to derive a profit.

17 Profits

- (1) The net profits of the Corporation in any financial year shall be determined by the Board after allowing for the expenses of operation during that year and making such provisions for depreciation, repayment of any advances, a credit to the reserve fund under section 18(1), and such contingencies and other purposes as are usually made by hotels.
- (2) The net profits of the Corporation in any financial year shall be allocated as the Board, with the approval of the Minister, determines.

18 Reserve Fund

- (1) The Corporation shall have a reserve fund which shall consist of such sums as are placed to the credit of the reserve fund as the Board, with the approval of the Minister, determines.

- (2) There may be transferred from time to time from the reserve fund to the working capital of the Corporation such sums as the Board, with the approval of the Minister, determines.

19 Financial year

- (1) The financial year of the Corporation shall end on 31st December in each year.
- (2) The Minister may amend subsection (1) by order.

20 Estimates

- (1) For each financial year the Board shall prepare and submit to the Minister, not later than such date as the Minister directs, estimates of the income and expenditure of the Corporation, including its capital budget, for the coming financial year and for any longer period required by the Minister.
- (2) The Board shall cause to be kept all proper books and records of account of its income, expenditure, assets and liabilities.

21 Annual reports and accounts etc⁴

- (1) The Board shall as soon as practicable after the end of each financial year and in any event not later than 6 months from the end of the financial year, prepare —
 - (a) a report on the operations of the Corporation during that year; and
 - (b) accounts and financial statements, in the appropriate forms in respect of that year.
- (2) The report prepared under subsection (1) shall —
 - (a) include details of the financial performance and effectiveness of the Corporation as judged by performance measures that are relevant to the hotel industry in Tuvalu and are prescribed by the Minister by notice; and
 - (b) be submitted to the Minister as soon as practicable after it is prepared.

21A Corporate Plans⁵

- (1) The Board shall prepare corporate plans.
- (2) The first corporate plan —
 - (a) shall be for a period of not less than 3 years and not more than 5 years; and

- (b) shall be prepared and submitted to the Minister no later than 30 September, 1996.
- (3) Each subsequent corporate plan shall be for a period of not less than 3 years and not more than 5 years, beginning immediately after the period of the previous corporate plan.
- (4) The Board may review and revise a corporate plan at any time.

21B Contents of Corporate Plans⁶

Each corporate plan prepared under section 21A shall —

- (a) set out the objectives of the Corporation;
- (b) outline the overall strategies and policies that the Corporation will follow to achieve its objectives and discharge its functions;
- (c) include a forecast of the revenue and expenditure of the Corporation, including capital expenditure;
- (d) include such performance indicators and targets as the Board considers appropriate;
- (e) summarise aid-funded assistance received and planned; and
- (f) include such other matters as may be prescribed by the Minister.

21C Presentation of Corporate Plan to Minister⁷

- (1) As soon as practicable after the Board prepares or revises a corporate plan it shall submit a copy of the corporate plan to the Minister.
- (2) Not later than 90 days after receipt of a corporate plan the Minister may direct the Board to review and revise the corporate plan in accordance with government policies and priorities as communicated by the Minister to the Board.

21D Notification of certain matters⁸

If the Board forms the opinion that matters have arisen which may —

- (a) prevent, or significantly affect, the achievement of the objectives in a corporate plan;
- (b) significantly affect the strategies and policies that are to be followed under the corporate plan; or
- (c) prevent or significantly affect the forecasts of revenue and expenditure under a corporate plan,

the Board must immediately notify the Minister of its opinion and of the reasons for that opinion.

22 Audit

- (1) The Auditor-General shall inspect and audit and report at least once in every financial year to Parliament on the accounts finances and property of the Corporation.
- (2) The Auditor-General shall satisfy himself that the accounts of the Corporation have been properly prepared in accordance with sound accounting principles and in his report he shall state —
 - (a) whether the accounts and statements have been properly prepared in accordance with the books and records of the Corporation and give a true and fair view of the financial operations and the current financial position of the Corporation;
 - (b) whether the books and records of the Corporation have been properly kept and contain information adequate for the purposes of the audit;
 - (c) whether the financial affairs of the Corporation have been properly conducted; and
 - (d) all other matters arising out of the accounts and statements which he considers should be made known to the Minister and to Parliament.

PART V - MISCELLANEOUS**23 Regulations**

The Minister may make regulations for the better carrying out of the objects and purposes of this Act.

ENDNOTES

¹ 1990 Revised Edition, Cap. 101 - Act 6 of 1988

Amended by Act 2 of 1996, commencement 15 April 1996, (by Act 4 of 2009)

² Cap. 46.20

³ Amended by Act 2 of 1996

⁴ Amended by Act 2 of 1996

⁵ Inserted by Act 2 of 1996

⁶ Inserted by Act 2 of 1996

⁷ Inserted by Act 2 of 1996

⁸ Inserted by Act 2 of 1996