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An Act to—

- (a) **establish the Cook Islands Loan Repayment Fund; and**
- (b) **provide for matters in respect of the payment of government debt and debt for which the Government of the Cook Islands is a guarantor.**

The Parliament of the Cook Islands enacts as follows—

(14 April 2014)

- 1 **Title**
This Act is the Cook Islands Loan Repayment Fund Act 2014.

2 Commencement

This Act comes into force on 1 July 2014.

Part 1 Preliminary matters

3 Interpretation

In this Act, unless the context otherwise requires,—

Cook Islands Loan Repayment Fund, or **fund**, means the fund established in accordance with section 5

Crown Loan Reserve Fund 2001 means the public money account established in 2001 and known as the Crown Loan Reserve Fund

Financial Secretary means the person appointed under section 4 of the MFEM Act

financial year means a period of 12 months ending on 30 June

government debt—

(a) means any of the following amounts, whether at a future time or on the occurrence or non-occurrence of a future event—

(i) amounts owed by the Government of the Cook Islands in accordance with any agreement (however described);

(ii) amounts owed by any entity that is owned or controlled by the Government of the Cook Islands in accordance with any agreement (however described);

(iii) amounts owed by any entity that is partially owned or partially controlled by the Government of the Cook Islands in accordance with any agreement (however described);

(iv) amounts for which the Government of the Cook Islands is liable as guarantor in accordance with any agreement (however described);
and

(b) includes principal amounts, interest amounts, and any other amount payable in relation to an agreement referred to in paragraph (a)

MFEM Act means the Ministry of Finance and Economic Management Act 1995-96

Minister means the Minister of Finance

Ministry means the Ministry of Finance and Economic Management

new government debt or **proposed new debt** means a debt that, if incurred, would be a government debt

public money account means a bank account to which section 43 of the MFEM Act applies.

4 Act binds the Crown

This Act binds the Crown.

Part 2

Cook Islands Loan Repayment Fund

5 Cook Islands Loan Repayment Fund

- (1) The Financial Secretary must establish a fund, to be known as the Cook Islands Loan Repayment Fund.
- (2) The fund must be held in a bank account designated for that purpose.
- (3) The fund must be operated and managed in accordance with this Act, and—
 - (a) all government debt must be repaid from money held in the fund; and
 - (b) subject to section 9, money held in the fund must not be withdrawn or applied for any purpose other than the repayment of such debt.

6 Initial balance of fund

- (1) As soon as practicable after the commencement of this Act, the Financial Secretary must transfer the balance of the Crown Loan Reserve Fund 2001 to the fund.
- (2) This amount must be treated for all purposes as the initial balance of the fund.
- (3) The transfer required by subsection (1) may take place without further appropriation and without further authority than this section.

7 Annual contribution to fund

- (1) At the start of each financial year (other than the year in which this Act commences), the Financial Secretary must transfer to the fund, from 1 or more public money accounts, an amount sufficient to—
 - (a) pay any charges or costs incurred in operating the fund in the previous financial year; and
 - (b) ensure that the balance of the fund is no less than the projected amount of government debt due to be paid in that financial year (the **debt service requirements**).
- (2) In determining the debt service requirements, the Financial Secretary must take into account the following matters—
 - (a) calculation of the contribution must reflect the amortisation of existing government debt;
 - (b) calculation of the contribution must reflect estimates of the amortisation of proposed new debt;
 - (c) where government debt is payable in foreign currency, calculation of the contribution must reflect an amount that the Financial Secretary considers sufficient to offset fluctuations in exchange rates;
 - (d) where a premium (for risk or any other matter) is payable in relation to any government debt, calculation of the contribution must reflect an equivalent amount;
 - (e) any amount by which the fund has increased, including earnings to which section 8 applies;
 - (f) whether the calculations for the previous year's annual contribution resulted in an adequate balance in the fund.
- (3) The transfer required by subsection (1) may take place without further appropriation and without further authority than this section.

8 Certain earnings to remain with fund

- (1) Any interest earned on the fund must remain with the fund.
- (2) Any other amounts earned in relation to the fund must remain with the fund, including—
 - (a) any return on investment of the fund or any part of it; and
 - (b) any gains resulting from amounts included in the fund for the purposes of offsetting foreign currency fluctuations; and
 - (c) any repayments by a person where, as guarantor of a debt, the Government of the Cook Islands has paid any amount for which that person was liable under the relevant principal agreement; and
 - (d) any premium paid to the Government in accordance with an agreement to which section 13 applies.

9 Financial Secretary may invest fund or part of it

The Financial Secretary with the concurrence of the Minister of Finance may invest, or cause to be invested, the whole or a part of the fund for the period and on the terms and conditions that he or she thinks fit, but subject to any relevant policies of the Government specified in accordance with Part II of the MFEM Act.

10 Financial Secretary must keep proper accounting records

The Financial Secretary must ensure that there are kept at all times accounting records that—

- (a) correctly record and explain transactions in relation to the fund; and
- (b) at any time enable the state of the fund to be determined with reasonable accuracy; and
- (c) enable the financial health of the fund to be readily and properly audited.

Part 3**Miscellaneous provisions****11 Reporting requirements**

- (1) The Minister must include, in each statement or update required under sections 11, 15, and 16 of the MFEM Act, a report on the fund that includes statements in respect of—
 - (a) the balance of the fund; and
 - (b) the composition of the fund; and
 - (c) an analysis of the sustainability of the fund.
- (2) In addition, the Minister must provide, in each financial year, a first-quarter and third-quarter year report on the fund as if each report were a report required under subsection (1) for the purposes of section 16 of the MFEM Act.

12 Ministry must report on proposed new government debt

- (1) This section applies if the Government proposes to incur new government debt.

- (2) Before the Government binds itself under any agreement in relation to the proposed new debt, the Ministry must provide to the Cabinet a report on the proposal that includes information on the following matters—
 - (a) how the proposed new debt fits within the current economic, financial, or fiscal policies of the Government provided and publicised for the purposes of, and in accordance with, the MFEM Act, including any relating to loans and securities:
 - (b) amortisation estimates:
 - (c) how the service burden over the life of the proposed new debt will affect the Government's overall financial well-being:
 - (d) an assessment of the sustainability of overall government debt, taking into account the proposed new debt.
- (3) The Ministry must also—
 - (a) provide a summary of the report to Parliament and the Public Accounts Committee; and
 - (b) publicly notify a summary of the report.

13 Premium must be included if new government debt relates to certain guarantees

- (1) This section applies if the Government proposes to incur new government debt in relation to which the Government will be liable as guarantor of a concessional loan.
- (2) The Government must not incur the proposed new debt unless the relevant agreement that establishes the guarantor relationship includes a term that an annual specified amount, determined by the Minister, be paid to the Government as a premium.
- (3) The Minister must determine the premium amount, which must be no less than 0.5% of the total amount of the Government's liability as guarantor, taking into account the following matters—
 - (a) the level of risk associated with the guarantee:
 - (b) the financial well-being of the party in whose favour the guarantee is granted:
 - (c) the relevant financial planning and business management documents of the party in whose favour the guarantee is granted.

14 Fund to be audited by Audit Office

The Cook Islands Audit Office must annually audit and provide a report to Parliament on the following matters in respect of the fund—

- (a) the financial health of the fund; and
- (b) the adequacy of its balance; and
- (c) the adequacy of the calculations used for the purposes of determining the debt service requirements in section 7(2), including the assumptions, estimates, and other underlying factors on which the calculations are based.

15 Crown Loan Reserve Fund 2001 to be wound up

After transferring the balance of the Crown Loan Reserve Fund 2001 in accordance with section 6, the Financial Secretary must cause the Crown Loan Reserve Fund 2001 to be wound up and prepare any final reports necessary or desirable in accordance with the MFEM Act.

16 Regulations

The Queen's Representative may, by Order in Executive Council, make regulations providing for any matters necessary for the administration of this Act or necessary for giving it full effect.

This Act is administered by the Ministry of Finance and Economic Management.

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