

Reprint
as at 3 June 2017



Tourist Hotel Corporation of New Zealand Act 1989

Public Act	1989 No 130
Date of assent	12 December 1989
Commencement	see section 1

Tourist Hotel Corporation of New Zealand Act 1989: repealed, on 3 June 2017, by section 3(1) of the Statutes Repeal Act 2017 (2017 No 23).

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Treasury.

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An Act to enable the Tourist Hotel Corporation of New Zealand to dispose of any of its property or business and to enable the Corporation to be constituted as a company under the Companies Act 1955

1 Short Title and commencement

- (1) This Act may be cited as the Tourist Hotel Corporation of New Zealand Act 1989.
- (2) Except as provided in subsections (2) to (4), this Act shall come into force on the date on which this Act receives the Royal assent.
- (3) Sections 14 to 19 and section 21 shall come into force on a date to be appointed for the commencement of those sections by the Governor-General by Order in Council; and 1 or more Orders in Council may be made bringing different sections into force on different dates.
- (4) In the case of section 15 and section 19, a date may be appointed only where the Governor-General in Council is satisfied that on the date appointed for the coming into force of those sections, not all the ordinary shares in the capital of Tourist Hotel Corporation of New Zealand Limited will be held on behalf of Her Majesty the Queen.
- (5) In the case of section 17, a date may be appointed only where the Governor-General in Council is satisfied that on the date appointed for the coming into force of the section, at least 50% of the ordinary shares in the capital of Tourist

Hotel Corporation of New Zealand Limited will no longer be held on behalf of Her Majesty the Queen.

Section 1(3): sections 14, 16, 18, and 21 brought into force, on 23 March 1990, by clause 3 of the Tourist Hotel Corporation of New Zealand Act (Vesting and Commencement) Order 1990 (SR 1990/60).

Section 1(3): sections 15, 17, and 19 brought into force, on 15 June 1990, by the Tourist Hotel Corporation of New Zealand Act Commencement Order 1990 (SR 1990/132).

*Provisions enabling Tourist Hotel Corporation to sell or dispose of business
and property*
[Repealed]

Heading: repealed, on 15 January 1996, pursuant to section 15(2) of the Overseas Investment Amendment Act 1995 (1995 No 50).

2 Amendments to Tourist Hotel Corporation Act 1974

[Expired]

Section 2: expired, on 23 March 1990, by section 2(4).

3 Amendment to Land Settlement Promotion and Land Acquisition Act 1952

[Repealed]

Section 3: repealed, on 15 January 1996, by section 15(2) of the Overseas Investment Amendment Act 1995 (1995 No 50).

*Provisions enabling Tourist Hotel Corporation to be constituted as a company
under Companies Act 1955*

4 Interpretation

In this Act, unless the context otherwise requires,—

appointed day means the date appointed by the Governor-General by Order in Council under section 8 as the date on which the undertaking of the Corporation shall vest in the company

assets means any real or personal property of any kind, whether or not subject to rights, and without limiting the generality of the foregoing, includes—

- (a) any estate or interest in any land, including all rights of occupation of land or buildings:
- (b) all buildings, vehicles, plant, equipment, and machinery, and any rights therein:
- (c) all livestock, products from livestock, and crops:
- (d) all securities within the meaning of the Securities Act 1978:
- (e) all rights of any kind, including rights under Acts, deeds, agreements, or licences, planning rights, water rights, clean air licences, and liquor li-

cences, and all applications for and objections against applications for such rights:

- (f) all patents, trade marks, designs, copyright, and other intellectual property rights whether enforceable by Act or rule of law:
- (g) goodwill, and any business undertaking

company means the company formed and registered under section 6

Corporation means the Tourist Hotel Corporation of New Zealand constituted under the Tourist Hotel Corporation Act 1974

instrument includes—

- (a) any instrument (other than this Act) of any form or kind that creates, evidences, modifies, or extinguishes rights, interests, or liabilities or would do so if it or a copy of it were lodged, filed, or registered under any enactment; and
- (b) any judgment, order, or process of a court

land has the meaning assigned to it in section 2 of the Land Transfer Act 1952

liabilities means liabilities, debts, charges, duties, and obligations of every description, whether present or future, actual or contingent, and whether payable or to be observed or performed in New Zealand or elsewhere; and includes contingent liabilities

Ministers means the Minister for State Owned Enterprises and the Minister of Finance

rights includes powers, privileges, interests, licences, approvals, consents, benefits, and equities of any kind, whether actual, contingent, or prospective

securities has the meaning assigned to it by section 2 of the Securities Act 1978

undertaking means the assets, rights, and liabilities of the Corporation.

Compare: 1986 No 129 s 2; 1988 No 141 s 3

5 Act to bind the Crown

This Act binds the Crown.

Compare: 1986 No 129 s 3

6 Incorporation of company

- (1) Notwithstanding the Tourist Hotel Corporation Act 1974, any other enactment or rule of law, the Ministers may form and register, under the Companies Act 1955, a public company limited by shares that—
 - (a) has the name Tourist Hotel Corporation of New Zealand Limited; and
 - (b) has a memorandum of association and articles of association in such form as the Ministers may determine.

- (2) All the shares in the capital of the company shall, on its incorporation, be subscribed for by the Ministers on behalf of the Crown equally.
- (3) On the appointed day all the shares in the capital of the company subscribed for in accordance with subsection (2) and any other shares in the capital of the company issued to the Ministers before the appointed day shall be deemed to have been allotted as fully paid up to each Minister equally.
- (4) Nothing in section 60 of the Companies Act 1955 (which relates to returns of allotments and prescribes the documents that must be delivered to the Registrar of Companies when shares are allotted for a consideration other than cash) shall apply to shares which are deemed to have been allotted pursuant to subsection (3) of this section.
- (5) Nothing in section 134 of the Companies Act 1955 (which relates to statutory meetings) applies to the company.
- (6) Except as provided in this section, the Companies Act 1955 shall apply to the company and in the application of the Companies Act 1955 to the company, if the Ministers are the only persons who hold shares in the capital of the company, the following provisions of that Act shall be construed as if references to 7 members were references to 2 members:
 - (a) section 41, as to carrying on business when the number of members is reduced below the legal minimum:
 - (b) section 217(d), as to winding up by the court when the number of members is reduced below the legal minimum:
 - (c) section 219(1)(a)(i), as to the presentation of a winding-up petition by a contributory when the number of members is reduced below the legal minimum.
- (7) Nothing in this section prevents the name of the company being changed in accordance with the provisions of the Companies Act 1955.

Compare: 1986 No 129 s 4(1)–(3), (5)

7 Crown shareholding

- (1) Each Minister may, from time to time, on behalf of the Crown, subscribe for or otherwise acquire securities in the capital of the company in addition to the shares subscribed for under section 6.
- (2) Any money required to be paid by a Minister to subscribe for or acquire securities issued by the company shall be paid out of a Crown Bank Account from money appropriated by Parliament for the purpose.
- (3) Securities of the company in the name of a person described as the Minister for State Owned Enterprises or the Minister of Finance shall be held by the person for the time being holding the office of the Minister for State Owned Enterprises or the Minister of Finance, as the case may be.

- (4) Notwithstanding any other enactment or rule of law, it shall not be necessary to complete or register a transfer of securities issued by the company consequent upon a change in the person holding office as the Minister for State Owned Enterprises or the Minister of Finance, as the case may be.
- (5) Each Minister may exercise all the rights and powers attaching to securities issued by the company held by that Minister.

Compare: 1986 No 129 s 8; 1988 No 141 s 6

Section 7(2): amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

8 Undertaking of Corporation to vest in company

On a date to be appointed by the Governor-General by Order in Council, the undertaking of the Corporation shall, by virtue of this Act, vest in the company.

Compare: 1986 No 129 s 5

9 Consequential provisions on vesting of undertaking

Without limiting the generality of section 8, the following provisions shall have effect on and from the appointed day:

- (a) a reference (express or implied) to the Corporation in any other Act, or in any regulation, order, or notice made or given under any enactment, or in any instrument, register, record, notice, security, document, or communication, made, given, passed, or executed before or after the appointed day, shall be read and construed as a reference to the company:
- (b) all contracts, agreements, conveyances, deeds, leases, licences, and other instruments, undertakings, and notices (whether or not in writing) entered into by, made with, given to or by, or addressed to the Corporation (whether alone or with any other person) before the appointed day and subsisting immediately before the appointed day shall, to the extent that they were previously binding on and enforceable by, against, or in favour of the Corporation, be binding on and enforceable by, against, or in favour of the company as fully and effectually in every respect as if, instead of the Corporation, the company had been the person by whom they were entered into, with whom they were made or to or by whom they were given or addressed, as the case may be:
- (c) any action, arbitration or proceedings or cause of action that, immediately before the appointed day, is pending or existing by, against, or in favour of the Corporation or to which the Corporation is a party may be prosecuted, and without amendment of any writ, pleading or other document, continued and enforced by, against, or in favour of the company:
- (d) the control of any hotel vested in the Corporation pursuant to any enactment or any Order in Council made under any enactment before the appointed day that continues to vest in the corporation immediately before the appointed day and any property granted, transferred, or assigned to

the Corporation pursuant to any enactment before the appointed day and that vests in or belongs to the Corporation immediately before the appointed day shall, on and after the appointed day, vest in or belong to the company, as the case may be.

Compare: 1986 No 129 s 6(1), (b), (h); 1988 No 141 s 5

10 Certain matters not affected by vesting of undertaking

Nothing effected or authorised by this Act shall—

- (a) be regarded as placing the Corporation, or the company, or any other person in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong; or
- (b) be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or
- (c) be regarded as placing the Corporation, or the company, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or the disclosure of any information; or
- (d) release any surety wholly or in part from any obligation; or
- (e) invalidate or discharge any contract or security.

Compare: 1986 No 129 s 6(g)

11 Books and documents to remain evidence

- (1) Any document, matter, or thing, which, if this Act had not been passed, would have been admissible in evidence in respect of any matter for or against the Corporation shall, on and after the appointed day, be admissible in evidence in respect of the same matter for or against the company.
- (2) In this section **document** has the same meaning as in section 2(1) of the Evidence Amendment Act (No 2) 1980.

Compare: 1986 No 129 s 10

12 Registers

- (1) No Registrar of Deeds or District Land Registrar or any other person charged with the keeping of any books or registers shall be obliged solely by reason of the foregoing provisions of this Act to change the name of the Corporation to that of the company in those books or registers or in any document.
- (2) The presentation to any registrar or other person of any instrument, whether or not comprising an instrument of transfer by the company,—
 - (a) executed or purporting to be executed by the company; and
 - (b) relating to any property held immediately before the appointed day by the Corporation; and

- (c) containing a recital that that property has become vested in the company by virtue of the provisions of this Act—

shall, in the absence of evidence to the contrary, be sufficient proof that the property is vested in the company.

Compare: 1986 No 129 s 11

13 Taxes and duties

- (1) For the purposes of the Inland Revenue Acts, and any other enactment that imposes or provides for the collection of a tax, duty, levy, or other charge—
- (a) the Corporation and the company shall be deemed to be the same person with effect at and from the appointed day; and
- (b) in respect of the liability for and the assessment, determination, or imposition of taxes, duties, levies, or other charges accruing as from the appointed day under any such enactment, all transactions entered into by, and acts of, the Corporation before the appointed day shall be deemed to have been entered into by, or to be those of, the company and to have been entered into or performed by the company at the time when they were entered into or performed by the Corporation.
- (2) For the purposes of the Goods and Services Tax Act 1985 the company is not a public authority as defined in section 2 of that Act.
- (3) For the purposes of subsection (1), the expression **Inland Revenue Acts** means the Acts specified in the Schedule of the Tax Administration Act 1994.
- (4) For the purposes of section 188 of the Income Tax Act 1976 (which relates to the carrying forward of losses) any loss incurred by the Corporation in any income year before the appointed day shall, so far as it has not been deducted from or set off against its assessable income in any subsequent income year, be deemed to have been incurred by the company and as if at all times during the period commencing with the beginning of the first income year in which any such loss was incurred and ending immediately before the appointed day, shares in the company carrying—
- (a) the right to exercise not less than 40% of the voting power in the company; and
- (b) the right to receive not less than 40% of the profits that may be distributed by the company; and
- (c) the right to receive not less than 40% of any distribution of the paid-up capital of the company,—

were held directly by the Ministers.

Compare: 1986 No 129 s 17

Section 13(3): amended, on 1 April 1995 (applying with respect to the tax on income derived in 1995–96 and subsequent income years), by section YB 1 of the Income Tax Act 1994 (1994 No 164).

14 Amendment to Income Tax Act 1976

[Repealed]

Section 14: repealed on 15 June 1990, by section 15(2).

15 Further amendment to Income Tax Act 1976

[Repealed]

Section 15: repealed, on 1 April 1995 (applying with respect to the tax on income derived in 1995–96 and subsequent income years), by section YB 3(1) of the Income Tax Act 1994 (1994 No 164).

16 Amendment to Official Information Act 1982

[Repealed]

Section 16: repealed, on 15 June 1990, by section 17(2).

17 Further amendment to Official Information Act 1982

Amendment(s) incorporated in the Act(s).

18 Amendment to State-Owned Enterprises Act 1986

[Repealed]

Section 18: repealed, on 15 June 1990, by section 19(2).

19 Further amendment to State-Owned Enterprises Act 1986

Amendment(s) incorporated in the Act(s).

20 Provisions relating to public reserves and National Park land administered by Corporation

- (1) Where, immediately before the appointed day, land comprised in a public reserve or a National Park was being administered by the Corporation pursuant to an Order in Council made under section 20 of the Tourist Hotel Corporation Act 1974, the company shall not, by virtue of any provision contained in this Act, continue to administer that land, and, without limiting the generality of the foregoing,—
 - (a) the company shall not be the administering body of any public reserve land; and
 - (b) the company shall not be entitled to the representation on any National Park Board to which the Corporation was entitled.
- (2) Where, immediately before the appointed day, any land that is part of a National Park is being administered under the Tourist Hotel Corporation Act 1974 by virtue of section 10 of the National Parks Act 1980, or an order made under that section, the company shall not, by virtue of any provision contained in this Act, administer that land.

21 Repeals and consequential amendments

- (1) The enactments specified in Schedule 1 are hereby repealed.

- (2) The enactments specified in Schedule 2 are hereby amended in the manner indicated in that schedule.

Schedule 1
Enactments repealed

s 21(1)

Tourist Hotel Corporation Act 1974 (1974 No 59) (RS Vol 23, p 869)

Tourist Hotel Corporation Amendment Act 1976 (1976 No 31) (RS Vol 23, p 887)

Tourist Hotel Corporation Amendment Act 1978 (1978 No 69) (RS Vol 23, p 888)

**Tourist Hotel Corporation Amendment Act 1982 (1982 No 127) (RS Vol 23,
p 889)**

Schedule 2
Enactments amended

s 21(1)

National Parks Act 1980 (1980 No 66)

Amendment(s) incorporated in the Act(s).

Reprints notes

1 *General*

This is a reprint of the Tourist Hotel Corporation of New Zealand Act 1989 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Statutes Repeal Act 2017 (2017 No 23): section 3(1)

Overseas Investment Amendment Act 1995 (1995 No 50): section 15(2)

Income Tax Act 1994 (1994 No 164): sections YB 1, YB 3(1)

Tourist Hotel Corporation of New Zealand Act Commencement Order 1990 (SR 1990/132)

Tourist Hotel Corporation of New Zealand Act (Vesting and Commencement) Order 1990 (SR 1990/60): clause 3

Tourist Hotel Corporation of New Zealand Act 1989 (1989 No 130): sections 2(4), 15(2), 17(2), 19(2)

Public Finance Act 1989 (1989 No 44): section 65R(3)