



ANALYSIS

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 2004, No. 6

An Act to amend the International Partnership Act 1984

(1 June 2004)

BE IT ENACTED by the Parliament of the Cook Islands and by the authority of the same, as follows:

1. Short Title - This Act may be cited as the International Partnership Amendment Act 2004 and shall be read together with and deemed part of the International Partnership Act 1984 (herein referred to as "the principal Act").
2. Application of other Acts - Section 72 of the principal Act is amended by -
 - (a) deleting from subsection (1), the words "Subject to subsection (2) and (3) of this section, no enactment other than this Act, the Cook Islands Monetary Board Act 1981, the Offshore Banking Act 1981, the International Companies Act 1981-82, the Offshore Insurance Act 1981-82 and the Trustee Companies Act 1981-82 shall:", and substituting the words "Subject to subsection (3) of this section, no enactment other than this Act, the Trustee Companies Act 1981-82, the International Companies Act 1981-82, the Offshore Insurance Act 1981-82, the Crimes Act 1969, the Criminal Procedure Act 1980-81, the Proceeds of Crime Act 2003, the Financial Supervisory Commission Act 2003, the Mutual Assistance in Criminal Matters Act 2003, the Extradition Act 2003, the Financial Transactions Reporting Act 2004 and the Terrorism Suppression Act 2004 shall:" and

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(b) deleting subsection (2).

3. Secrecy - The principal Act is amended by deleting section 74 and substituting the following new section -

"74. Privacy - (1) Except where the provisions of this Act require, and subject to this section, it shall be an offence for a person to disclose to any other person information relating to the establishment, constitution, business undertaking or affairs of an international partnership or a limited partnership.

(2) Subsection (1) shall not apply to a disclosure if:

- (a) the disclosure is required or authorised by the Court;
- (b) the disclosure is made for the purpose of discharging any duty performing any function or exercising any power under any Act;
- (c) the disclosure is made as required by or under a search warrant.

(3) All judicial proceedings other than criminal proceedings relating to an international partnership or a limited partnership shall, unless ordered otherwise by the Court, be heard in camera. The decision of the Court in any proceeding may unless ordered otherwise by the Court as to the whole or any part of the decision, be published.

(4) Notwithstanding subsection (3), a copy of every decision of the Court affecting an international partnership or a limited partnership shall be provided by the Registrar of the Court to the Financial Supervisory Commission.

(5) A partner or an officer or employee of an international partnership or a limited partnership or a trustee company may divulge or make available information relating to the establishment, constitution business undertakings or affairs of an international partnership or limited partnership to any person or class of persons as that partner or officer or employee or trustee company considers necessary from time to time, in its complete discretion, for carrying out the management and administration of the international partnership or limited partnership in the ordinary course of business including to a legal practitioner for the purpose of obtaining legal advice relating to establishment, constitution, business undertakings or affairs of an international partnership or limited partnership; or for the purpose of prosecuting or defending any litigation relating to the establishment, constitution, business undertakings or affairs of an international partnership or limited partnership."

4. Partnership records – the principal Act is amended by inserting after section the following new section –

“75A. Partnership records - (1) Any records, accounts or documents relating to a partnership and held by either the Registrar or a trustee company, including but not by way of limitation, the partnership instrument, may be established, kept or recorded in written, magnetic, electronic or any other data storage form, provided that the records can be readily produced in written form.

(2) When an international partnership or a limited partnership has been terminated, or a limited partnership has been terminated, or a partner is removed or has resigned, a trustee company shall ensure that any records in the possession of that trustee company in relation to the said partnership or any partner thereof are retained by it for a period of six years from the said date of termination, removal or resignation as the case may be, but thereafter the said records may be destroyed.

(3) The Registrar may cause any records or registers in his possession to be destroyed after the expiration of six years from the date of deregistration, or from the date of expiry of the last certificate of registration of that partnership under this Act.”

5. Power of exemption - The principal Act is amended by repealing section 77.

This Act is administered by the Financial Supervisory Commission