

Fiji Mahogany Act 2003

FIJI ISLANDS

**FIJI MAHOGANY ACT 2003
ACT NO. 15 OF 2003**

I assent

[L.S.]

J.I. ULUIVUDA
President

[6 November 2003]

AN ACT

**TO MAKE PROVISIONS FOR THE DEVELOPMENT OF THE MAHOGANY
INDUSTRY IN FIJI, INCLUDING HARVESTING AND PROCESSING, TO ALLOW
FOR LANDOWNERS PARTICIPATION IN THE INDUSTRY AND FOR RELATED
MATTERS**

ENACTED by the Parliament of the Fiji Islands

Short title and commencement

1. This Act may be cited as the Fiji Mahogany Act 2003 and shall come into force on a date appointed by the Minister by notice in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires-

"Board of Trustees" means a Board appointed under section 5;

"Company" means the Fiji Hardwood Corporation Limited;

"forest-based trust" means a trust established under section 4(4);

"landowner" means the *mataqali* or other division or subdivision of Fijians whose native land is leased to the Company for mahogany forest plantations;

"mahogany station" means an administrative centre or estate which manages mahogany forest plantations for the Company;

"native land" has the same meaning given to it in the Native Lands Act and Native Land Trust Act;

"privatised company" means a Company which has been transformed under the Public Enterprise Act from a Government Commercial Company to a Company capable of offering shares to shareholders including Government;

"Trust" means the Fiji Mahogany Trust established under section 4;
"Trustee" means a person appointed or elected as a Trustee of the Trust under section 5;
"Trust Rules" means the Trust Rules made for the Trust under section 7 and includes Trust Rules made for forest based Trusts.

Fiji Hardwood Corporation Limited

3. (1) The Fiji Hardwood Corporation Limited, a Government Commercial Company declared under the Public Enterprise Act and incorporated under the Companies Act, shall be transformed into a privatised Company for the purposes of developing the mahogany industry in Fiji, including the harvesting and processing of mahogany forests.

(2) The Company shall actively encourage landowners participation in the development, including harvesting, processing and marketing, of the mahogany industry in Fiji.

Establishment of the Fiji Mahogany Trust

4. (1) There is hereby established a Trust called the Fiji Mahogany Trust for the benefit of landowners, and the Trust shall have such objects as set out in the Trust Rules.

(2) The Trust shall be a body corporate with perpetual succession under a common seal and may-

- (a) sue and be sued in such name;
- (b) on such terms as the Board thinks fit, acquire, purchase, take, hold and enjoy real and personal property of every description, may transfer, convey, assign, surrender and yield up, charge, mortgage or otherwise dispose of or deal with or in real or personal property vested in the Trust;
- (c) on such terms as the Board thinks fit, enter into contracts, borrow or lend money; and
- (d) do all other things, which a legal person can do in connection with its objects.

(3) The Trust shall be administered in the manner set out in the Trust Rules.

(4) Notwithstanding subsection (1), other forest-based trusts may be created under this Act for the benefit of mahogany landowners in respect of each mahogany station.

Board of Trustees

5. (1) There shall be a Board of Trustees of the Trust whose members shall be elected by the beneficiaries of the Trust in accordance with the Trust Rules:

Provided that the Minister shall appoint the first Trustees consisting of 14 Trustees to represent the landowners from each of the mahogany stations after consultations with the Board of Directors of the Company and the Native Land Trust Board.

(2) The first Trustees appointed by the Minister shall hold office until replaced under

subsection (3) or earlier removed, substituted or replaced in accordance with the Trust Rules.

(3) The beneficiaries of the Trust may elect their own Trustees in accordance with the Trust Rules within 12 months from the commencement of this Act.

Exclusion of Trustee Act and perpetuity rule

6. The provisions of the Trustee Act and the rules against perpetuity contained in any written or other law shall not apply to the Trust or other trusts created under this Act.

Trust Rules

7. (1) The Board of Trustees may, after consultations with the landowners and with the approval of the Minister, make the Trust Rules which may be subsequently varied from time to time in accordance with the Trust Rules.

(2) The Trust Rules and any amendment thereto must be published in the *Gazette*.

Regulations

8. The Minister may make regulations to give effect to the provisions of this Act.

Funding

9. The initial stages of the administration and operations of the Trust shall be funded by the State.

Passed by the House of Representatives this 15th day of October 2003.
Passed by the Senate this 28th day of October 2003.
