

LAWS OF FIJI

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CHAPTER 142

LAND DEVELOPMENT ACT

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Ordinances Nos. 19 of 1961,
14 of 1963,
37 of 1966,
Legal Notice No. 112 of 1970,
Acts Nos. 22 of 1975,
11 of 1983

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A LAND
DEVELOPMENT
AUTHORITY TO PROMOTE AND CARRY OUT PROJECTS FOR
LAND DEVELOPMENT,
IMPROVEMENT AND SETTLEMENT, FOR MAKING FUNDS
AVAILABLE THEREFOR, AND
PURPOSES CONNECTED THEREWITH.

[12 August 1961]

PART I – PRELIMINARY

Short title

1. This Act may be cited as the Land Development Act.

Interpretation

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

"Authority" means the Land Development Authority established under this Act;

"Chairman" means the Chairman of the Authority, and includes the Deputy Chairman and any temporary Chairman appointed under section 15;

"corporation" means a corporation established under section 23;

"financial year" means the calendar year;

"land" includes land covered by water within Fiji and the continental shelf as defined in the Continental Shelf Act; (Cap 149.)

"local development board" or "board" means a local development board established under section 26;

"member" or "member of the Authority" means any member of the Authority appointed under section 15, and includes the Chairman, Deputy Chairman, a temporary Chairman and any temporary member.
(Amended by Act 22 of 1975 s. 2.)

PART II - LAND DEVELOPMENT AUTHORITY

Establishment, duties and powers of Authority

3.- (1) There shall be established for the purposes of this Act a body, to be known as the Land Development Authority.

(2) It shall be the duty of the Authority to promote and assist the investigation, formation and carrying out of projects for the development, improvement and settlement of land.

(3) The Authority shall have power, for the purpose of the discharge of its duty under subsection (2)-

(a) to carry on all activities the carrying on whereof appears to it to be requisite, advantageous or convenient for or in connection with the discharge of its said duty;

(b) to appoint managing agents;

(c) to initiate and carry out by itself or through its managing agents or any corporation or local development board schemes for the development, improvement and settlement of land;

(d) to initiate and carry out by itself or through its managing agents or any corporation or local development board schemes for the processing and marketing of produce;

(e) to approve land development, improvement and settlement schemes and schemes for the processing and marketing of produce proposed by any public or private body or person, and to give assistance to any such body or person, including financial assistance by way of grant, loan or otherwise;

(f) to carry on any of the activities listed in paragraphs (a), (c), (d), (g) and (h) in association with any public or private body or person or as managing agents or otherwise on their behalf;

(g) to make loans, subject to such conditions including management by staff approved by the Authority, as the Authority may think fit, in accordance with the provisions of this Act;

(h) to do anything and to enter into any transaction (whether or not involving expenditure, borrowing in accordance with the provisions of this Act, receiving grants of land or money, holding land or money, investing money, granting loans of money, the acquisition, use and disposal of any real or personal property, including rights) which in its opinion is calculated to facilitate the proper discharge of its functions or is incidental or conducive thereto.
(Amended by Ordinance 37 of 1966, s. 92.)

(4) The Authority shall not promote, carry out, assist or participate in any such project or activity as is referred to in subsection (3), until such measures for consultation with the Government and all interested parties, including owners of land as appear to the Minister to be appropriate have been taken.
(Amended by Legal Notice 112 of 1970.)

Additional functions of the Authority

4. In addition to the duties imposed by this Act, the Authority may undertake such other functions and administer and expend such other monies for such purposes as the Minister may assign to the Authority, and in so doing the Authority shall be deemed to be fulfilling the purposes of this Act and the provisions of this Act shall apply to the Authority in respect of such functions and the administration and expending of such monies:

Provided that the accounts of such monies shall be kept separate and apart from the other accounts of the Authority and of every corporation.

Funds of the Authority

5. The funds and resources of the Authority shall consist of-

(a) such sums as may be appropriated to the Authority by vote or resolution of Parliament;

(b) such other sums as may be given to the Authority by any public or private body or person;

(c) such sums as may be borrowed by the Authority for the purpose of meeting any of its obligations or discharging any of its duties;

(d) any property, investments, mortgages, charges or debentures acquired by or vested in the Authority and any monies earned or arising therefrom;

(e) all sums from time to time received by or falling due to the Authority in respect of the repayment of the principal of any loan made by the Authority or the interest payable in respect of any such loan;

(f) all other monies or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its powers and duties.
(Amended by Legal Notice 112 of 1970.)

Balancing of revenue account

6. It shall be the duty of the Authority so to exercise and perform its functions under this Act as to secure that the total revenues of the Authority are sufficient to meet all sums properly chargeable to its revenue account, including, without prejudice to the generality of that expression, provisions in respect of a reserve fund if established and depreciation and interest on capital, taking one year with another.

Reserve fund

7.- (1) The Authority may establish a reserve fund.

(2) The management of the reserve fund, and the sums to be paid from time to time to the credit thereof and the application thereof shall be as the Authority may determine:

Provided that no part of the reserve fund shall be applied otherwise than for purposes of the Authority.

Powers of expenditure

8. The Authority may from its funds and other resources-

(a) pay any expenses lawfully incurred by the Authority, including survey, legal and other fees and costs, and the remuneration of agents, technical advisers, officers or servants appointed by the Authority, including reimbursement for out of pocket expenses and contributions to any provident fund established by the Authority under the provisions of this Act or established by any other Act;

(b) pay any other expenses, costs or expenditure properly incurred or accepted by the Authority in the execution of its duty or in the discharge of its functions under this Act;

(c) purchase or hire plant, equipment, machinery, stores and any other materials and pay the cost of the acquisition of any land and the erection of any buildings and the carrying out of any works and undertakings in the execution of its duty or in the discharge of its functions under this Act;

(d) repay any monies borrowed under this Act and the interest due thereon or set apart any sum required to be transferred to a sinking fund for the purpose of making provision for the repayment of such monies and the interest thereon.

Borrowing powers

9. The Authority may from time to time borrow, with the consent of and upon such terms and conditions as the

Minister may approve, any sums required by it for meeting any of its obligations or discharging any of its duties.

(Amended by Legal Notice 112 of 1970.)

Temporary loans and overdraft

10. Without prejudice to the provisions of section 9, the Authority may borrow by way of temporary loan or overdraft from a bank or otherwise any sum which the Authority may temporarily require for the purpose of defraying the administrative expenses of the Authority:

Provided that the Authority shall not be empowered to borrow any sum so that the total indebtedness in respect of borrowings under this section shall at any one time exceed \$2,000.

Power to issue stock, etc.

11.- (1) The Authority may from time to time, with the approval of the Minister, borrow money by the issue of bonds, debentures or debenture stock, or raise capital by the issue of shares or stock of such class and value and upon such terms as it may deem expedient, for all or any of the following purposes:-

- (a) the provision of working capital;
- (b) the fulfilling of the duties of the Authority under this Act;
- (c) the fulfilling of such additional functions as may be undertaken by the Authority under this Act;
- (d) the redemption of any shares or stock which it is required or entitled to redeem;
- (e) any other expenditure properly charged to capital account.
(Amended by Legal Notice 112 of 1970.)

(2) The Authority may make rules not inconsistent with the provisions of this Act to provide for such matters in connection with shares, stock, bonds, debentures or debenture stock issued under this Act as may appear necessary or expedient to the Authority, and, in particular, for regulating the method of issue, transfer, redemption or other dealing with such shares, stock, bonds, debentures or debenture stock.

Investments

12. The funds of the Authority and any reserve fund, without prejudice to the provisions of section 3, and any sinking fund, may be invested in any securities authorised by law for the time being for the investment of trust

funds or in such other manner as the Minister may from time to time approve.

(Amended by Legal Notice 112 of 1970.)

Accounts and audit

13.- (1) The Authority shall keep or shall cause to be kept proper accounts and other records in respect of its operations and of all corporations established by the Authority, and shall cause to be prepared statements of accounts in respect of each financial year.

(2) The accounts of the Authority and of each such corporation shall be audited by auditors appointed by the Authority.

Report

14.- (1) The Authority shall, as soon as conveniently possible after the end of each financial year, submit to the Minister a report containing-

(a) an account of its work during the year; and

(b) a statement of the accounts of the Authority duly audited in accordance with the provisions of section 13.

(2) A copy of the report together with a copy of the report of the auditors shall be laid before Parliament.

(Amended by Legal Notice 112 of 1970.)

Constitution of Authority

15.- (1) The Authority shall be a body corporate under the name of the Land Development Authority, and by that name shall have perpetual succession and may hold land and sue and be sued and may do all other matters and things incidental or appertaining to a body corporate and not inconsistent with the provisions of this Act.

(2) Service upon the Authority of any notice, order or document shall be effected by delivering the same or by sending it by registered post to the secretary of the Authority.

(3) The Authority shall consist of-

(a) a Chairman and a Deputy Chairman, who shall be appointed by the Minister for such term not exceeding three years as the Minister may determine; and

(b) not more than six nor less than three members, who shall be appointed by the Minister and of whom at least one shall be a person who in the opinion of the Minister represents Fijian interests and shall, subject to the provisions of this Act, hold office for such term not exceeding three years and subject to such conditions as the Minister may determine.
(Amended by Ordinance 14 of 1963, s. 2; Legal Notice 112 of 1970.)

(4) In the absence of the Chairman from any meeting the Deputy Chairman shall preside. In the absence of the Chairman and the Deputy Chairman from any meeting the members present shall appoint a temporary Chairman.

The Deputy Chairman and a temporary Chairman shall have all the powers of the Chairman for that meeting.

(5) The Minister may appoint any person to be a temporary member of the Authority during the temporary incapacity through illness or any other cause or during the temporary absence from Fiji of any member.
(Amended by Legal Notice 112 of 1970.)

(6) Any person ceasing to be a member of the Authority shall be eligible for re-appointment.

(7) The Minister may at any time accept the resignation of any member.
(Amended by Legal Notice 112 of 1970.)

(8) The Minister may at any time revoke the appointment of any member of the Authority, if he thinks it expedient so to do, without assigning any reason therefor.
(Amended by Legal Notice 112 of 1970.)

Common seal

16.-(1) The Authority shall have a common seal.

(2) The common seal shall be kept in safe custody and all deeds, documents and other instruments requiring the seal of the Authority shall be sealed with the seal of the Authority in the presence of the Chairman and of a member or an officer of the Authority, who shall sign every such deed, document or other instrument to which such seal is affixed and such signing shall be sufficient evidence that such seal was duly and properly affixed and that the same is the lawful seal of the Authority.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would

not be required to be under seal, may be entered into or executed on behalf of the Authority by any person generally or specially authorised by the Authority for that purpose.

(4) The seal of the Authority shall be officially and judicially noticed.

Remuneration of members

17. A member of the Authority may be paid and receive from the funds of the Authority such remuneration as may be approved by the Minister and such reimbursement for out of pocket expenses as the Authority may determine.
(Amended by Legal Notice 112 of 1970.)

Members not to vote on matters in which they are interested

18. -(1) A member shall not at any meeting of the Authority, or of a sub-committee thereof, vote in respect of any contract or arrangement proposed to be entered into by the Authority in which he or any company of which he is a director or manager or any firm in which he is a partner has directly or indirectly any interest.

(2) A member shall not be deemed to have a share or interest in any such contract or arrangement by reason only of his being a shareholder in a company with which it is proposed that the Authority should enter into such contract or arrangement unless he has a controlling interest in such company.

Quorum and voting

19. -(1) The quorum at meetings of the Authority shall be-

(a) three, if the total number of members appointed does not exceed five; and

(b) four, if the total number of members appointed exceeds five.

(2) At any meeting of the Authority the Chairman, and when presiding, the Deputy Chairman or a temporary Chairman shall have a deliberative vote and in the case of equality of votes shall also have a casting vote.

Officers of the Authority

20. -(1) The Authority, or if management agents are appointed under paragraph (b) of subsection (3) of section 3,

the managing agents, may appoint such officers and servants as it or they consider necessary for the proper and efficient carrying out of the functions of the Authority.

(2) The salary to be paid to the person appointed to serve as chief executive officer of the Authority shall be as determined from time to time by the Higher Salaries Commission.

(3) Subject to the provisions of the Higher Salaries Commission Act, the salary to be paid to any other officers and servants appointed under subsection (1) shall be determined by the Authority.

(Substituted by Act 11 of 1983, s. 27, Sch. 2.)
(Cap. 2A.)

Delegation

21. -(1) Subject to any rules made under the provisions of section 22, the Authority may delegate to any subcommittee, member or members of the Authority the power and authority to carry out on its behalf such duties, powers or functions as the Authority may determine.

(2) The Authority may at the time of delegating any power or authority under subsection (1) to any subcommittee, member or members or at any time thereafter give directions as to the manner in which such delegated power or authority is to be exercised and may at any time revoke, modify or increase such delegation.

Rules

22. The Authority may make rules not inconsistent with the provisions of this Act-

- (a) defining the relations of the Authority with corporations;
- (b) prescribing the system of management of the Authority and the responsibilities and control of officers and servants of the Authority;
- (c) imposing fees in such cases as may be determined by the Authority;
- (d) regulating the opening, keeping, closing and audit of accounts of corporations;
- (e) generally for the exercise of its powers and duties under the provisions of this Act.

PART III - CORPORATIONS

Power to establish corporations

23.- (1) The Authority, with the approval of the Minister, may from time to time by order published in the Gazette establish a corporation by such name as may be specified in the order to carry out and have the charge, conduct and management of any project, scheme or enterprise which has been planned or undertaken by the Authority in execution of its duty or discharge of its functions under this Act, and may in like manner cancel, vary or amend any such order.

(Amended by Legal Notice 112 of 1970.)

(2) An order under the provisions of subsection (1) shall, in addition to the matters referred to in section 24, make provision in respect of the following matters:-

- (a) the constitution of the corporation;
- (b) the finances of the corporation;
- (c) the repayment of loans to the corporation;
- (d) the accounts to be kept by the corporation and the audit of the accounts;
- (e) the purposes and objects for which the corporation is established;
- (f) the rights, powers, duties and functions of such corporation;
- (g) the terms of office and duties of the Chairman and members of the corporation.

PART IV - REGULATION AND INCORPORATION OF CORPORATIONS

Regulation and winding up

24. -(1) Subject to the provisions of this Act, the Authority may, by the order by which a corporation is established, make provision in respect of the following:-

- (a) the delegation of the duties, powers or functions of the corporation;
- (b) the quorum, proceedings and meetings of the corporation;
- (c) the execution of instruments and the mode of entering into contracts by and on behalf of the

corporation and the proof of documents purporting to be executed,
issued or signed by the corporation or
a member or officer thereof;

(d) the ensuring of the proper application of monies lent by the
corporation;

(e) the relations between the corporation and the Authority and the
rights of control over such corporation
by the Authority;

(f) the system of management thereof;

[(g)*****]

(Amended by Act 11 of 1983, s. 27, Sch. 2.)

(2) Subject to the provisions of this Act and to any provision made under
subsection (1), a corporation shall have
power to regulate its own procedure.

(3) Nothing in this section shall be deemed to authorise the Authority to
establish any corporation for any purpose
or object more extensive in scope than the purposes or objects for which the
Authority was constituted or to
confer on any corporation any right, duty, power or function which is not
within the rights, duties, powers or
functions of the Authority under this Act.

(4) The Authority, with the approval of the Minister, may by order
published in the Gazette direct that any
corporation established by it shall be wound up and dissolved.
(Amended by Legal Notice 112 of 1970.)

(5) Upon the dissolution of any corporation under this section the assets of
the corporation after payment of all
liabilities shall be transferred to and vested in the Authority.

(6) The winding up of a corporation under this section shall be conducted in
such manner as may be prescribed.

Officers and servants

24A. -(1) A corporation may appoint a General Manager and such other
officers and servants as it may consider
necessary for the proper and efficient carrying out of the purposes of the
corporation.

(2) A General Manager appointed under subsection (1) shall be paid such
salary as is determined from time to
time by the Higher Salaries Commission.

(3) Subject to the provisions of the Higher Salaries Commission Act, other officers and servants appointed under subsection (1) shall be paid such salaries as the corporation from time to time determines.

(Cap. 2A.)

(Inserted by Act 11 of 1983, s. 27, Sch. 2.)

Incorporation

25. -(1) Every corporation shall be a body corporate by such name as shall be specified by the Authority in the order by which such corporation is established, and by that name shall have perpetual succession and may hold land and sue and be sued and may do all other matters and things incidental or appertaining to a body corporate and not inconsistent with the provisions of this Act and subject to such restrictions or limitations as may be prescribed by the Authority by the order by which such corporation is established.

(2) Every such corporation shall have a common seal.

(3) The common seal shall be kept in safe custody and all deeds, documents and other instruments requiring the seal of such corporation shall be sealed with the seal of such corporation in the presence of such persons as the corporation shall direct, who shall sign every such deed, document or other instrument to which such seal is affixed and such signing shall be sufficient evidence that such seal was duly and properly affixed and that the same is the lawful seal of such corporation.

(4) The seal of every corporation shall be officially and judicially noticed.

PART V - LOCAL DEVELOPMENT BOARDS

Establishment of local development boards

26. -(1) The Minister may by order under his hand with the advice of the Authority from time to time establish local development boards in any part of Fiji with such membership and constituted for such purposes and objects not more extensive in scope than the purposes and objects for which the Authority was constituted, and with such rights, powers, duties and functions, not greater than those which are or may be conferred on the Authority by or under the provisions of this Act, as he shall think fit; and any such local development board shall have and may exercise and perform such rights, powers, duties and functions accordingly.

(Amended by Legal Notice 112 of 1970.)

(2) An order under subsection (1) shall make provision in respect of the following:-

(a) the purposes and objects for which any local development board is established;

(b) the rights, powers, duties and functions of such local development board;

(c) the terms of office and duties of the chairman and members of such local development board;

(d) the quorum, proceedings, and meetings of such local development board;

(e) the relations between such local development board and the Authority and the rights of control over such local development board by the Authority.

(3) The Minister may, with the advice of the Authority, by order under his hand cancel, vary or amend any order made under subsection (1) and may similarly direct that any local development board be wound up and dissolved.

(Amended by Legal Notice 112 of 1970.)

PART VI – LOANS

Suspension of payment and power to extend time, compound or release

27. The Authority may-

(a) postpone, for any period not exceeding ten years, the payment of any sum due for principal and interest or for either principal or interest to it in respect of a loan made by it upon such terms and conditions for the carrying out of the purposes for which such loan was made and for the ultimate repayment of such principal or payment of such interest as it may deem necessary;

(b) from time to time extend the period for the repayment of any loan, or compound or release any loan or any part thereof subject to such terms and conditions as it may deem fit.

Enquiry as to application of moneys lent

28.- (1) When the Authority has made a loan of money under the provisions of this Act it may-

(a) from time to time, make or cause to be made such enquiry as may be necessary to ensure that the loan is being applied to the purposes for which it was made;

(b) require financial statements in such detail as it may determine to be submitted by the person, body or authority in receipt of the loan bi-annually or at shorter intervals at the discretion of the Authority and such person, body or authority shall comply with such request.

(2) The Authority may authorise in writing any of its officers or any other person to make the enquiry referred to in paragraph (a) of subsection (1), and the person, body or authority in receipt of the loan shall produce to such officer or person all the relevant books, documents and other matters and things necessary for the purposes of the inquiry.

(3) Any person who fails to comply with any requirement made under the provisions of paragraph (b) of subsection (1) or with the provisions of subsection (2), shall be guilty of an offence and shall be liable to a fine not exceeding \$100.

Order upon such enquiry

29. Where upon an enquiry made under the provisions of section 28 or under any order establishing or regulating a corporation it appears to the Authority or the corporation that any sum, being the whole or any part of the loan, has not been applied for the purposes for which the loan was made, it may order that any such sum be, within the time mentioned in the order, applied to such purposes or that such sum together with any interest due thereon on the date of the order be repaid to the Authority or corporation within the time mentioned in the order, and any sum with the interest thereon so ordered to be repaid to the Authority or corporation shall thereupon become a debt due to the Authority or corporation.

Misapplication of loan

30.- (1) If any loan made under the provisions of this Act or any part of such loan has been misapplied, the Authority or a corporation may-

(a) when such loan has been secured by charge or mortgage, by notice in writing addressed to the charger or mortgagor, recall the said loan or any part thereof and may require the loan or that part together with any interest due on the date of the notice to be repaid on a date to be specified in the notice and in default of payment on such specified date any security given for the purpose of the loan may thereupon be realized;

(b) when such loan has been secured otherwise than by way of charge or mortgage, by notice addressed to the borrower, request the loan or any part thereof together with any interest due on such loan or part thereof on the date of the notice to be repaid on a date to be specified in the notice and in default of payment on such specified date any security given for the purpose of the loan may thereupon be realized.

(2) The provisions of subsection (1) shall be in addition to any other proceedings under the provisions of any other Act.

(Amended by Ordinance 37 of 1966, s. 92.)

Offences in respect of loans

31. Any person who-

(a) in the course of applying for a loan from the Authority or a corporation wilfully fails to disclose any material information within his knowledge or wilfully makes any statement which he knows to be false or does not believe to be true;

(b) wilfully applies any loan made to him by the Authority or a corporation under the provisions of this Act to any purpose other than the purpose for which the loan was made;

(c) having obtained a loan from the Authority or a corporation under the provisions of this Act wilfully destroys any security given in relation to any such loan,

shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding \$1,000 or to both such imprisonment and fine.

Special defence

32. In any criminal proceedings in respect of an offence under paragraph (b) of section 31 it shall be a good

defence for the person accused to prove that he acted in good faith and without knowledge that he was not entitled so to apply the loan or any part thereof.

PART VII – GENERAL

Power to employ agents

33. The Authority and every corporation may employ and pay agents and technical advisers whether barristers and solicitors, bankers, stockbrokers, surveyors or valuers or other persons, to transact any business or to do any act required to be transacted or done in the execution of the duties of the Authority or corporation or for the better carrying into effect the purposes of this Act and may pay all charges and expenses so incurred.

Compromise

34. The Authority and any corporation may compound or compromise for or in respect of any claim or demand made against it, for such sums of money or other compensation as it deems sufficient.

Bad debts

35. The Authority and any corporation may write off bad debts.

Exemptions

36. The Authority and every corporation shall be exempt from the payment of stamp duties and income tax.

Personal liability of members, officers and servants of the Authority or corporation

37. No member, officer or servant of the Authority or of any corporation shall be personally liable for any act, neglect or default done or omitted to be done in good faith in the course of the operations of the Authority or of such corporation.

Protection of Authority and corporation

38. No act done or proceeding taken under this Act shall be questioned on the ground-

(a) of the existence of any vacancy in the membership of, or any defect in the constitution of, the Authority or any corporation; or

(b) of any omission, defect or irregularity not affecting the merits of the case.

Minutes receivable in evidence

39. Any minutes made of meetings of the Authority or any corporation shall, if duly signed, be receivable in evidence in all legal proceedings without further proof, and every meeting of the Authority or any corporation in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereat to have been duly qualified to act.