

CHAPTER 121

FIJIAN DEVELOPMENT FUND

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CHAPTER 121

FIJIAN DEVELOPMENT FUND

Ordinances Nos. 14 of 1965, 48 of 1966, Act No. 19 of 1972

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO
THE FIJIAN DEVELOPMENT FUND

[2nd March, 1966.]

Short title and application

1. This Act may be cited as the Fijian Development Fund and shall apply to the whole of Fiji except for Rotuma.

Interpretation

2. In this Act—

- “Board” means the Fijian Development Fund Board established under the provisions of this Act;
- “coconut” means mature coconuts or coconuts sold or capable of being sold or used for the same purpose as mature coconuts, with or without husk;
- “Coconut Board” means the Coconut Board established under the provisions of the Coconut Industry Act; *(Cap. 152)*
- “copra” means the kernel of a coconut grown in Fiji in its dried condition when it has been extracted from the coconut;
- “depositor” means a Fijian, a unit or a Fijian co-operative society;
- “Fijian” bears the meaning assigned to it in the Fijian Affairs Act; *(Cap. 120)*
- “Fijian co-operative society” means a co-operative society registered under the provisions of the Co-operative Societies Act, of which not less than eighty-five per cent of the natural persons being members are Fijians and includes a co-operative society all the members of which are co-operative societies as aforesaid *(Cap. 250)*
- “Fund” means the Fijian Development Fund established under the provisions of the Fijian Development Fund Ordinance (repealed by this Act) and continued under the provisions of this Act; *(Cap. 101 1955 Edition)*
- “licensed buyer” means a person licensed to buy copra under the provisions of the Coconut Industry Act; *(Cap. 152)*
- “secretary” means the secretary of the Board;
- “unit” means a mataqali or other sub-division of the Fijian people and includes a Fijian village community;
- “village community” in relation to any Fijian village means the body of persons for the time being entitled by Fijian law or custom to live in such village.

Establishment of Fund

- 3.—(1) There shall continue to be established a Fund to be known as the Fijian Development Fund.
- (2) There shall be paid into the Fund the following moneys:—
- (a) any cess paid to the Board in accordance with the provisions of the Act;
 - (b) any sum received by way of interest on or repayment of principal of loans made under the provisions of section 13;
 - (c) any income accruing to the Fund from investments made with the moneys of the Fund;
 - (d) any income accruing to the Fund arising out of the transactions of the Fund;
 - (e) any sum borrowed under the provisions of section 15;
 - (f) any sum contributed to the Fund under the provisions of section 10.
- (Amended by 19 of 1972 s. 2.)*

Management of the Fund

- 4.—(1) The Fund shall be managed and controlled by the Board and shall be held by the Board in trust for the payment of the moneys constituting the Fund in accordance with the provisions of this Act.

(2) The Fund or such part thereof as is not for the time being required for the purposes of the Fund shall be invested by the Board in such securities or be employed at interest in such manner as shall be approved from time to time by the Minister or, in the case of moneys remitted to London for investment, by the Crown Agents.

(3) The Board may, in respect of moneys invested in accordance with the provisions of subsection (2) vary, sell and transfer any such investments as may from time to time be necessary for the proper administration of the Fund.

Fijian Development Fund Board

5.—(1) There shall continue to be established a Board to be known as the Fijian Development Fund Board which shall continue to be a body corporate under that name and as such have perpetual succession and a common seal. The Board may sue and be sued in respect of matters whether relating to contract or tort or otherwise arising in connexion with the exercise of its powers or the carrying out of its functions under the provisions of this Act.

(2) The Board shall consist of nine members, of whom one shall be the Minister and not less than five shall be Fijians to be appointed by the Minister after consultation with the Fijian Affairs Board. (*Substituted by 48 of 1966, s. 2.*)

(3) A member of the Board appointed by the Minister under the provisions of subsection (2) shall hold office during the Minister's pleasure and may be paid such remuneration, if any, as may be determined by the Board with the approval of the Minister.

(4) The chairman of the Board shall be the Minister and in the absence of the chairman from any meeting the members present shall appoint a deputy chairman who shall have all the powers of the chairman.

(5) The chairman, or in his absence the deputy chairman, and three other members shall form a quorum at any meeting of the Board.

(Substituted by 48 of 1966, s. 2.)

(6) All orders given by the Board shall be made or given under the hand of the chairman.

(7) Service of any document on the chairman of the Board shall be deemed to be service on the Board.

(8) The Board may make rules governing its own procedure.

Employment of servants

6. The Board may appoint and employ on such terms and conditions as it may from time to time determine a secretary, accountant and such other officers and servants as it may consider necessary for the proper and efficient carrying out of the functions of the Board.

Banking account

7.—(1) The Board may for the purposes of the Fund open and keep a banking account with a bank to be from time to time selected by the Board and cheques and orders for the payment of money shall be signed by at least two members of the Board.

(2) The Board may, for the payment of administrative expenses, establish at the bank selected by the Board in accordance with the provisions of subsection (1) an imprest account and shall fix the maximum amount that may be held at any time in such imprest account. Notwithstanding the provisions of subsection (1), cheques and orders for payment of money out of the imprest account may be signed by—

- (a) the secretary and the accountant of the Board; or
- (b) the secretary or the accountant of the Board together with at least one member of the Board.

Cess

8.—(1) There shall be deducted by each licensed buyer in the manner hereinafter provided from the purchase price of copra or coconuts bought by him from any Fijian, unit or Fijian co-operative society a cess at such rate as may be fixed by the Board with the approval of the Minister and notified in the Gazette:

Provided that—

- (a) the rate of cess so fixed shall not exceed twenty dollars in respect of—
 - (i) every ton of copra; or
 - (ii) every fixed amount of coconuts which shall be such number of coconuts, as in the opinion of the Coconut Board, is required to make one ton of copra from any particular species of coconut;
- (b) in the event of no rate of cess being fixed by the Board such cess in respect of copra shall be at the rate of twenty dollars per ton and proportionally for any part of a ton;
- (c) different rates of cess may be fixed in respect of copra or coconuts produced in different areas.

(2) Each licensed buyer shall, within fourteen days of the end of every calendar month or within such greater period as the Board may either generally or in any particular case prescribe, pay to the Board to be paid into the Fund all amounts of cess which he was liable under the provisions of this Act to deduct during that month.

(3) The licensed buyer shall at the time of purchase fill in a statement which shall be in a form and contain the particulars prescribed by the Board and at the time of payment of the cess to the Board such licensed buyer shall furnish a copy of such statement to the Board and shall himself retain two copies thereof.

(4) The secretary or other officer authorised by him in writing shall be entitled to enter upon any lands, buildings or place owned, occupied or in the possession of a licensed buyer for the purpose of inspecting any statement for which provision is made by subsection (3) or any copy of any such statement and may require the production of any such statement or copy by any person in whose custody or control such statement or copy may be.

(5) Upon any licensed buyer ceasing to hold a licence under the provisions of the Coconut Industry Act, such buyer shall within fourteen days after the end of the calendar month during which he ceased so to be licensed or within such greater period as the secretary may specify in writing pay to the Board all amounts of cess which he was liable to deduct during that month and the Board may by notice in writing require such buyer to deliver up to the Board all forms of statement and all copies thereof, either blank or filled in, within fourteen days of the service of such notice upon him.

(Cap 152)

(6) Any person who—

- (a) being a licensed buyer, fails to deduct cess from the purchase price of copra or coconuts; or
- (b) being a licensed buyer, fails to account to the Board for cess collection by him within the period prescribed by subsection (2); or

- (c) being a non-Fijian, sells as his own, on behalf of a Fijian, copra or coconuts produced by such Fijian; or
- (d) obstructs or refuses to permit the secretary or other authorised officer to carry out any of his functions under the provisions of this section; or
- (e) unlawfully and without reasonable cause fails to produce to the secretary or other authorised officer any statement or copy thereof in contravention of the provisions of subsection (5); or
- (f) unlawfully and without cause fails to deliver up to the Board all statements and copies thereof, either blank or filled in, within fourteen days of the service upon him of a notice in accordance with the provisions of subsection (5),

shall be guilty of an offence and shall on conviction be liable to a fine of two hundred dollars or to imprisonment for a term of six months or to both such fine and imprisonment and for every default in complying with the provisions of subsection (5) to a fine of two dollars for every day during which such default continues.

(7) Nothing in this Act shall require or authorise the deduction of cess from the purchase price of any copra or coconuts where the cess has already been deducted on a previous purchase of such copra or coconuts.

(8) Nothing in this Act shall require the deduction, by any unit approved by the Board, or any Fijian co-operative society, of cess from the purchase price of any coconuts purchased from any Fijian or from any other unit or Fijian co-operative society. (*Inserted by 48 of 1966, s. 3.*)

Credits in Fund

9.—(1) All cess paid to the Board under the provisions of section 8 shall be credited in the Fund to the depositor from whom the copra or coconuts the subject of the cess was bought unless at the time of sale such depositor directs that the moneys be credited to another depositor, in which case the moneys shall be credited in the Fund in the manner so directed.

(2) Moneys credited in the Fund shall bear interest at the rate of two per cent per annum or at such other rate as may be fixed from time to time by the Board:

Provided that not less than three months notice of any change in the rate of interest shall be published in the Gazette and in *Na Mata*.

(3) Interest shall not be payable on any amount of less than two dollars and shall not commence to accrue until the first day of the month next following the receipt of the moneys by the Board and shall cease on the last day of the month preceding that on which such moneys are withdrawn.

(4) Interest on any moneys shall, subject to the provisions of this section, be calculated to the 31st day of July in any year and shall then be added to and become part of the principal sum credited.

Voluntary contributions and contribution from Native Forest Regeneration Fund

10.—(1) Any depositor or any person on behalf of a depositor may with the consent of the Board deposit with the Board any sum of money and any sum so deposited shall be dealt with as if it were credited in accordance with the provisions of section 9.

(2) The Native Forest Regeneration Fund Board may, in accordance with the provisions of the Native Forest Regeneration Fund (Winding-up) Act, 1972,

deposit any sum of money with the Board and any such sum shall be dealt with as if it were credited in accordance with the provisions of section 9.

(Section amended by 19 of 1972, s. 3. No. 20 of 1972.)

Withdrawals from Fund

11.—(1) Any Fijian or any unit may with the consent of the Board and in accordance with the provisions of any regulations made by the Board withdraw the whole or any part of the moneys standing to the credit of such Fijian or unit, including any interest thereon, for the purpose of expending the sum withdrawn on a work or scheme or for any purpose approved by the Board.

(2) Any Fijian co-operative society may with the consent of the Board and for any purpose permitted by the objects of the society as defined in its by-laws, withdraw the whole or any part of the moneys standing to the credit of such society, including any interest thereon:

Provided that the purpose of the withdrawal shall first be approved by a resolution passed at a general meeting of the society.

(3) The grant or refusal of consent to any withdrawal shall be in the discretion of the Board:

Provided that in the case of refusal, the applicant shall be furnished with a written statement of the grounds of the refusal and shall have a right of appeal to the Minister.

Provision on death, cancellation or extinction

12.—(1) When a Fijian dies leaving moneys in the Fund standing to his credit, the Board shall as soon as possible after the death of such Fijian, pay to his personal representative any sum standing to the credit of such Fijian in the Fund:

Provided that where such sum does not exceed two hundred dollars and probate of the will, or letters of administration to the estate of the deceased Fijian is not produced to the Board within six months of the date of death, it shall be lawful for the Board in its discretion to pay and divide such sum to or among the widow or relatives of the deceased Fijian in such manner as it may deem proper.

(2) When the registration of a Fijian co-operative society is cancelled under the provisions of the Co-operative Societies Act the Board shall as soon as possible after the date of such cancellation pay to the liquidator of such society any sum standing to the credit of the society in the Fund. (Cap. 250)

(3) When any unit ceases to exist by reason of the extinction of the members thereof any moneys standing to the credit of such unit in the Fund shall accrue generally to the Fund.

Loans

13.—(1) The Board may in its discretion make loans out of the moneys in the Fund to any Fijian or unit, on such terms as the Board considers fit, for the purpose of expending the amount of such loan on a work or scheme approved by the Board:

Provided that no loan shall be made whereby the total amount of loans outstanding shall exceed twenty per cent of the total amount of the moneys standing to the credit of depositors in the Fund.

(2) The Board may in its discretion and subject to such terms and conditions as it may prescribe and for such purposes as it may approve, make loans out of the moneys of the Fund, other than moneys standing to the credit of depositors therein, to officers or servants of the Board.

Expenses of administration

14.—(1) Subject to the provisions of subsection (2) all expenses incurred by the Board in the carrying out of its functions under the provisions of this Act or of any regulations made thereunder may be met from moneys in the Fund.

(2) All costs and expenses incurred of or incidental to any application for a withdrawal or loan from the Fund, including any investigation into a proposed work or scheme required under the provisions of this Act for the purpose of determining whether any approval should be given, shall be paid by the applicant.

(3) The Board may in its discretion permit an applicant for a withdrawal or loan to withdraw from the Fund such sums as may be required by the applicant to pay the costs and expenses referred to in subsection (2).

Borrowing powers of Board

15. The Board may borrow for the purposes of the administration of the Fund such sums as may be approved by the Minister and moneys borrowed under the provisions of this section may be secured by deposit of any of the investment securities of the Fund.

Payments from the Fund

16. The Board may pay out of the Fund—

- (a) sums withdrawn under the provisions of sections 11, 12 and 14;
- (b) sums lent under the provisions of section 13;
- (c) sums in repayment of moneys borrowed under the provisions of section 15;
- (d) sums in payment of expenses incurred in the administration of the Fund including the remuneration of and the payment of pensions, gratuities or retiring allowances to officers and servants of the Board or their dependants;
- (e) sums in payment of remuneration to appointed members of the Board.

Audit and accounts

17.—(1) As soon as possible after the close of the financial year of the Board—

- (a) the accounts of the Board shall be audited by an auditor, appointed by the Minister, and be published with the auditors' report thereon in such manner as the Minister shall direct;
- (b) the Board shall furnish each depositor credited with any moneys in the Fund with a statement showing the amount standing to the credit of such depositor and of any interest outstanding thereon.

Annual Report

18. The Board shall not later than the 31st day of December in each year submit to the Minister and publish in a newspaper published and circulating in Fiji a report on the operations of the Fund during the twelve months immediately preceding the 31st day of July in that year.

Income tax

19. The income of the Fund shall be exempt from income tax.

Regulations

20. The Board may make regulations—

- (a) prescribing the procedure for the deduction, payment and collection of cess and for the forms to be used in connexion therewith;
- (b) regulating withdrawals from the Fund;
- (c) regulating the making of loans from the Fund;
- (d) regulating and ensuring the proper expenditure of moneys withdrawn from the Fund or loaned therefrom under the provisions of this Act;
- (e) providing for the issue of passbooks to depositors and the making of entries therein;
- (f) providing for the charging of a fee not exceeding one dollar per annum for keeping the account of a depositor;
- (g) prescribing anything required or authorised to be prescribed under the provisions of this Act.

Protection of Board

21. No act or thing done by the Board or by any member thereof or by any officer or servant thereof or by any person acting under the direction of the Board shall if the act was done bona fide and without negligence for the purpose of carrying out the provisions of this Act, subject him personally to any liability, claim or demand whatsoever.

Moneys not to be assignable, etc.

22. Except with the prior approval of the Board, no moneys credited in the Fund to a depositor shall be assignable or transferable by such depositor nor shall any such moneys be attached, sequestrated or levied upon for or in respect of any claim against or debt of such depositor other than a debt due to the Board.

Validation of past transactions

23. Where prior to the commencement of this Act any moneys have been credited in the Fund in the name of a Fijian village such moneys shall be deemed to be and always to have been validly credited to the Fijian village community of such village.

Controlled by Ministry of Fijian Affairs and Rural Development