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ACT NO. 3 OF 2002

I assent.

[L.S.]

J. I. ULUIVUDA
President

[11 February 2002]

AN ACT

TO ESTABLISH THE FIJI ISLANDS AUDIO-VISUAL COMMISSION FOR THE PURPOSE OF DEVELOPING AND PROMOTING THE AUDIO-VISUAL INDUSTRY IN THE FIJI ISLANDS AND FOR RELATED MATTERS—

[18 May 2001]

ENACTED by the Parliament of the Fiji Islands—

Short title and commencement

1.—(1) This Act may be cited as the Fiji Islands Audio-Visual Commission Act 2002 and is deemed to have come into force on 18th May 2001.

Interpretation

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

“aim of the Commission” means the aim described in section 5(1);

“audio-visual industry” means the production and distribution of large format films, theatrical feature films, show films, documentary films, television programs, direct to video or video disk programs, radio audio recordings, and computer software and includes the establishment of interactive web sites and other electronic commerce business;

“Commission” means the Fiji Islands Audio-Visual Commission established by section 3.

Establishment of Commission

3.—(1) The Fiji Islands Audio-Visual Commission is established under this section as a body corporate with perpetual succession.

(2) The Commission has power to hold land and other property, to enter into agreements, to borrow or lend money, to mortgage, pledge, sell or otherwise encumber or dispose of its property, to employ and dismiss persons, to sue and be sued, and generally to do everything that a legal person can lawfully do to achieve the aim of the Commission.

Composition of the Commission

4.—(1) The Commission consists of —

- (a) a Chairperson;
- (b) the Permanent Secretary responsible for Finance or his or her nominee;
- (c) the Permanent Secretary responsible for Commerce or his or her nominee;
- (d) the Permanent Secretary responsible for Culture or his or her nominee;
- (e) the Permanent Secretary responsible for Communication or his or her nominee
- (f) 2 members nominated by bodies associated with the audio-visual industry;
- (g) a member to represent the wider public interest.

(2) The Chairperson and members nominated under paragraphs (1)(f) and (g) are appointed by the Minister.

(3) A nomination for appointment to the Commission may be made at any time in writing to the Minister by any person or body interested in audio-visual productions in the Fiji Islands and must have attached to it the written consent of the nominee to be appointed to the Commission.

(4) Members of the Commission appointed under paragraphs (1)(a), (f) and (g) may be appointed for any period up to 3 years and are eligible for re-appointment for a further term.

(5) Members of the Commission are entitled to allowances to be fixed by the Minister.

Aim and functions of the Commission

5.—(1) The aim of the Commission is to develop and promote the audio-visual industry in the Fiji Islands.

(2) The Commission may —

- (a) engage in any commercial activities relating to its aim which will, or are intended to, generate more income for the Commission;
- (b) subject to section 10, receive moneys from any source;
- (c) make grants and loans to any individual who is a citizen of the Fiji Islands or a company or body wholly owned by a citizen of the Fiji Islands and the company or body has its principal place of operation in the Fiji Islands for the purpose of achieving its aim;

- (d) perform the functions conferred on it by the Income Tax Act in connection with film-making and audio-visual tax incentives;
- (e) establish an Audio-Visual Collection to record the achievements of the audio-visual industry in the Fiji Islands;
- (f) establish an Audio-Visual School to provide training in all aspects of the audio-visual industry in consultation with the Fiji National Training Council;
- (g) perform other functions conferred on it by any other written law;
- (h) generally, do any other thing necessary to achieve its aim.

Grants and loans

6.—(1) In making grants or loans under section 5(2)(c), the Commission must give priority to individuals who are Fiji Islands citizens or companies or bodies wholly owned by a citizen of the Fiji Islands whose principal place of operation is in the Fiji Islands, which otherwise might have difficulty in raising money for audio-visual productions.

(2) The conditions of grants and the rate of interest on loans are as determined by the Commission generally or in particular cases.

Meetings of the Commission

7.—(1) The Commission must meet at least 4 times a year and may meet at other times as the Chairperson determines or the members decide.

(2) A quorum at a meeting of the Commission is 4 members.

(3) Decisions are taken by majority vote of the members present but if the votes are equal the Chairperson has the casting vote.

(4) A member of the Commission or a person invited under section 8 who has an interest in a matter before the Commission must declare his or her personal interest and must not participate in any discussion or voting on the matter.

(5) The Commission may conduct its business, other than decisions on grants or loans, by circulation of papers.

(6) If the Chairman is absent from a meeting, the members present may elect a member to preside at that meeting.

(7) The Commission must have a seal and the fixing of the seal witnessed by the signature of the Chairperson is sufficient evidence of any transaction entered into by the Commission or if the Chairperson is not available, the seal is to be witnessed by the chief executive officer.

Advice from other persons

8. The Commission may invite a person to advise it on any matters relating to its functions, either as members of a standing advisory panel or on an *ad hoc* basis.

Staff of the Commission

9.—(1) There shall be a chief executive officer appointed by the Commission in consultation with the Minister.

(2) The chief executive officer is responsible for the overall administration of the Commission subject to the directions of the Commission.

(3) The Commission may appoint other persons to assist the chief executive officer.

(4) The terms and conditions of service of persons appointed under this section are determined by the Commission.

(5) Public officers may be seconded to the Commission by the Public Service Commission.

Finances

10.—(1) The funds of the Commission consist of—

- (a) money appropriated by Parliament to finance the functions of the Commission;
- (b) money paid to the Commission by purchasers of its services or products;
- (c) the audio-visual production levy paid to the Commission under the Sixth Schedule to the Income Tax Act;
- (d) any donation or contribution from any source;
- (e) any money borrowed by the Commission;
- (f) interest on investments.

(2) The chief executive officer appointed under section 9(1) is the accounting officer for the Commission.

(3) The accounts of the Commission must be audited by the Auditor-General each year.

(4) The Commission may pay out as grants or loans 50% of its income in a financial year.

Annual report etc.

11.—(1) The Commission must provide to the Minister any information which the Minister requires relating to the activities and the financial position of the Commission.

(2) The Commission must send to the Minister within 6 months of the start of each financial year—

- (a) a statement of its audited accounts for the preceding year; and
- (b) a report on its activities, including details of the recipients of any grants or loans, during the preceding year.

(3) The reports and accounts referred to in subsection (2) must be tabled by the Minister in both Houses of the Parliament at the next meeting of Parliament after the Minister receives them.

Power to give directions

12. The Minister may, in consultation with the Commission, give specific or general policy directions to the Commission.

Power to delegate

13.—The Commission may, delegate to any person as it sees fit any of its functions under this Act except its power under this section or section 5(2)(c).

Regulations and rules

14.—(1) The Minister may make regulations prescribing —

- (a) the procedure for applying for grants or loans;
- (b) appeals from a review of decisions of the Commission;
- (c) matters necessary to regulate the establishment of the Audio-Visual Collection or the Audio-Visual School;
- (d) any other matter necessary to give effect to this Act.

(2) The Commission may make rules for the conduct of its meetings and for any other matter relating to its aims and functions.

Repeal and validation of acts

15.—(1) The Fiji Audio-Visual Commission Decree 2000 (Decree No. 29 of 2000) is repealed.

(2) Any act done or appointment made by virtue of the Fiji Audio-Visual Commission Decree 2000 is deemed to have been validated as if such act had been done under this Act.

Passed by the House of Representatives this 19th day of February 2002.

Passed by the Senate this 7th day of March 2002.