

# SMALL AND MICRO ENTERPRISES DEVELOPMENT ACT 2002

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**ACT NO. 1 OF 2002**

I assent.

[L.S.]

J. I. ULUIVUDA  
President

[11 February 2002]

**AN ACT**

TO ESTABLISH A NATIONAL CENTRE FOR SMALL AND MICRO ENTERPRISES DEVELOPMENT TO DEVELOP, PROMOTE AND SUPPORT SMALL AND MICRO-ENTERPRISES AND FOR RELATED MATTERS—

[30 November 2001]

ENACTED by the Parliament of the Fiji Islands—

*Short title and commencement*

1.—(1) This Act may be cited as the Small and Micro Enterprises Development Act 2002 and is deemed to have come into force on 30th November 2001.

*Interpretation*

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

“Board” means the Board of Directors appointed under section 6;

“business” in relation to a small or micro enterprise, means a business enterprise in relation to manufacturing, processing, extraction, production, agriculture, agro-processing, tourism, wholesale and retail trade, service industries, cottage or home-based industries, export and other industrial or commercial activities;

“Centre” means the National Centre for Small and Micro Enterprises Development established by section 3;

- “co-operative” means a co-operative registered under the Co-operatives Act 1996;
- “enterprise” means any going concern by a group, an individual or entity which trades in goods or services for profit;
- “Fiji National Training Council” means the Council established under the Fiji National Training Act (Cap.93);
- “foreign investor” has the meaning given by the Foreign Investment Act 1999;
- “Managing Director” means the person appointed as such under section 11;
- “micro enterprise” means any enterprise which has a turnover or total assets not exceeding \$30,000 and employs not more than 5 employees;
- “private sector” means any person, or body or association of persons engaged in a business or any developmental efforts, operating in the Fiji Islands, of which the majority shareholder is not the Government;
- “small enterprise” means any enterprise which has a turnover or total assets between \$30,000 and \$100,000 and employs between 6 and 20 employees;
- “non-government organisation” means any non-profit organisation registered or incorporated under a written law which is not controlled by the Government or the private sector.

## Part 2—ESTABLISHMENT AND FUNCTIONS OF THE CENTRE AND THE BOARD

### *Establishment of the Centre*

3.—(1) This section establishes a National Centre for Small and Micro Enterprises Development.

(2) The Centre is to be a body corporate with perpetual succession and has power to hold land and any 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 do to achieve any of its functions or aims.

(3) The Centre is to have a common seal affixed by the Chief Executive Officer or a senior officer appointed by the Board and authenticated by the signature of the Chief Executive Officer or a senior officer appointed by the Board.

### *Aims of the Centre*

4. The aims of the Centre are—

- (a) to support and promote the establishment of small and micro enterprises especially for the benefit of economically or socially disadvantaged groups including women, youths and other persons;

- (b) to facilitate, through the establishment of adequate support structure and institution, the creation and promotion of an environment conducive to the development and viability of small and micro enterprises;
- (c) to intensify and expand programmes for training in entrepreneurship and business management;
- (d) to facilitate access to funds and to complement and supplement financing programmes for small and micro enterprises.

*Functions of the Centre*

5.—(1) The functions of the Centre are—

- (a) to prepare and co-ordinate training programmes in entrepreneurship and business management;
- (b) to provide consultancy services;
- (c) to gather and disseminate business information;
- (d) to provide advisory services or other services necessary for the formation and operation of small or micro enterprises;
- (e) to develop new business opportunities including running of pilot projects or new business opportunities;
- (f) to assist in the development of marketing facilities or services;
- (g) to undertake research for the proper carrying out of its functions and aims including the development of technology for the use of small and micro enterprises;
- (h) to provide or source loans or grants to small and micro enterprises;
- (i) to establish the mechanism for access to and transfer of technology required by small and micro enterprises;
- (j) to facilitate access by small and micro enterprises to an equitable share of contracts, incentives and preferences offered by the Government;
- (k) to institute safeguards for the protection and stability of the provision of credit to small and micro enterprises;
- (l) to promote linkages between small and micro enterprises and other local or foreign enterprises, by encouraging subcontracting arrangements;
- (m) to facilitate assistance of the private sector and non-government organisations in the enhancement of small and micro enterprise development through the promotion and participation of voluntary private organisations, viable industries and trade associations;
- (n) to establish an evaluation mechanism for a balanced and sustainable development through monitoring the economic contributions and environmental effects of small and micro enterprises;
- (o) to manage its resources, programmes, administrative and financial operations effectively and efficiently;
- (p) to carry out any other functions under this Act or any other written law;
- (q) to facilitate the issue of licences or registrations in respect of small and microenterprises.

(2) The Centre may charge prescribed service fees in carrying out any of the functions referred to in subsection (1) or its aims under section 4.

*Board of directors*

6.—(1) There is to be a Board of directors for the Centre appointed by the Minister consisting of—

- (a) a chairperson;
- (b) 2 members to represent the employers;
- (c) 2 members to represent the employees;
- (d) 2 members to represent non-government organisations; and
- (e) 2 Government representatives.

(2) The chairperson is to be a person with wide experience in economic, financial or commercial field.

(3) The other members appointed under paragraphs (1) are to have experience in the economic, financial, or industrial field.

(4) The members of the Board may be appointed for a term of 3 years and are eligible for re-appointment to a further term.

(5) The Chief Executive Officer must attend all the meetings of the Board but must not vote on any deliberations of the Board.

*Functions of the Board*

7.—(1) The Board is to promote, stimulate, facilitate and enhance the development of small and micro enterprises for the benefit especially of disadvantaged groups including women, youths and other persons.

(2) In carrying out its functions under subsection (1), the Board is to —

- (a) advise the Government on policies on any matter relating to small and micro enterprises;
- (b) approve loans or grants to small or micro enterprises;
- (c) monitor, review and assess the progress of the activities carried out by the Centre;
- (d) oversee the design of strategies for the implementation of financial incentives for small and micro enterprises;
- (e) ensure that a network and an information system are established on small and micro enterprises;
- (f) carry out any other functions assigned to it under this Act or any other written law.

*Meetings of the Board*

8.—(1) The Board must meet at least 6 times every year.

(2) If the chairperson is absent from a meeting of the Board, the members present at the meeting are to elect another member to preside at that meeting.

(3) The Board may request a person to attend a meeting of the Board for the purpose of assisting or advising the Board but the person is not entitled to vote on any of the matters discussed at the meeting.

(4) A quorum at a meeting of the Board is 6 members.

(5) The decision of the Board is by a majority vote and in the case of an equality of votes, the person presiding at the meeting has a casting vote.

*Remuneration for members of the Board*

9. The members of the Board are entitled to allowances fixed by the Minister.

*Resignation and removal*

10.—(1) A member of the Board may resign by notice in writing addressed to the Minister and the resignation takes effect from the date the notice is received by the Minister or by such other person as may be authorised by the Minister to receive it.

(2) The Minister may remove a member of the Board for misconduct or misbehaviour or for any other good reason that may warrant the removal of a member.

(3) The Minister may, within 3 months of the removal of a member under subsection (2), appoint a replacement member of the Board.

Part 3—MANAGEMENT AND ADMINISTRATION

*Chief Executive Officer and other employees*

11.—(1) There is to be a Chief Executive Officer appointed by the Board who is responsible for the management of the Centre.

(2) The Chief Executive Officer is responsible to the Board.

(3) The Board may employ other persons, including employees on secondment from other organisations, on terms and conditions that the Board considers appropriate.

(4) The Board may designate an employee to be the Secretary to the Board.

(5) A Public officer may, with the approval of the Public Service Commission, be seconded to the Centre on terms and conditions agreed to between the Board and the Public Service Commission.

(6) A person appointed under this Act including a member of the Board who has an interest in a small or micro enterprise that has been or is seeking assistance from the Centre must declare his or her interest to the Board.

(7) A person referred to in subsections (5) and (6) must not take part in the discussion or deliberation or vote on any matter before the Board or any decision on the matter for which the person has an interest.

(8) The acquisition of an interest in a small or micro enterprise that is entitled to be assisted by the Centre is not a ground for terminating an appointment of a person under this Act.

*Centre to provide training programmes*

12. The Centre is to provide training programmes in consultation with the Fiji National Training Council for entrepreneurship, business management and development of small and micro enterprises.

*Eligibility for benefits for small and micro enterprises*

13.—(1) A small or micro enterprise is eligible for assistance, incentives, promotion or have access to training services under this Act if it meets the following requirements –

- (a) in the case of a co-operative, self-funded enterprise, association or single proprietorship, the enterprise is wholly owned by a Fiji Islands citizen;
- (b) in the case of a company, 100% of the voting share of the company vests in a Fiji Islands citizen;
- (c) the enterprise is engaged in a business;
- (d) the enterprise must not be a branch or subsidiary of an enterprise which is not a small or micro-enterprise;
- (e) the enterprise is established by or for the purpose of benefiting economically or socially disadvantaged persons including women, youths and other persons.

(2) Notwithstanding paragraph (1)(e), a small or micro enterprise may carry out contracts derived from another enterprise that is not a small or micro enterprise.

## Part 4— FINANCIAL PROVISIONS

*Finances*

14.—(1) The funds of the Centre consists of—

- (a) money appropriated by Parliament;
- (b) any donations or contributions;
- (c) any money borrowed under section 16;
- (d) interest on investments under section 16;
- (e) any fees charged for carrying out any of its functions;
- (f) any other money payable to the Centre.

*Accounts and audits*

15. The Board must keep proper accounts of the operations of the Centre and such accounts are to be audited every year by the Auditor-General or any other independent auditor appointed by the Board.

*Power to borrow and invest*

16.—(1) The Board may, with the approval of the Minister of Finance—

- (a) borrow money from any source for the operations of the Centre or for the proper carrying out of its functions or functions and aims of the Centre; or

(b) invest funds of the Centre in any type of investment.

(2) At the commencement of the Public Finance Management Act, the provisions relating to auditing, borrowing of money and investment in that Act apply to this Act.

*Minister may request information*

17. The Board must provide to the Minister any information which the Minister requests in writing in connection with the activities and the financial position of the Board or Centre.

Part 5—MISCELLANEOUS

*Minister may give policy directions*

18. The Minister may, in consultation with the Board, give general policy directions to the Board about the operations of the Centre or for the proper carrying out of its functions or the functions and aims of the Centre.

*Exemption from personal liability*

19. No member or employee of the Board is personally liable for any act that was done or omitted to be done in good faith in carrying out any of the functions, duties or powers under this Act.

*Annual Report*

20.—(1) The Board must prepare and forward to the Minister within 6 months of the start of each financial year—

- (a) a statement of its accounts for the preceding year, audited under section 15; and
- (b) a report on its activities, during the preceding year.

(2) The reports and accounts required by subsection (1) must be tabled by the Minister in both Houses of Parliament at the next meeting of Parliament after the Minister receives them.

*Power to delegate functions*

21. The Board may delegate any of its functions or the functions or aims of the Centre to the Chief Executive Officer or to any other senior officer to carry out its functions or the functions or aims of the Centre except its power under this section.

*Regulations*

22.—(1) The Minister may make regulations to give effect to the provisions of this Act and in particular to prescribe—

- (a) procedures for applying for, issuance, and conditions of loans or grants;
- (b) the fees to be charged for the purposes of this Act;
- (c) the management or operations of the Centre.



*Transitional and validation*

23.—(1) Any small or micro enterprise currently established and assisted by the Government before the commencement of this Act is entitled to the benefits under this Act and deemed to have come under the authority and administration of the Centre and the Board established under this Act.

(2) The Small and Micro Enterprise Development Decree 2001 (Decree No. 3 of 2001) is repealed.

(3) Any act done or appointment made by virtue of the Small and Micro Enterprises Development 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 18th day of February 2002.

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