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TERTIARY SCHOLARSHIP AND LOANS DECREE 2014
(DECREE NO. 2 OF 2014)

SECTION

PART 1—PRELIMINARY

1. Short title and commencement
2. Interpretation

PART 2—ESTABLISHMENT, FUNCTIONS AND POWERS

3. Establishment of the Board
4. Composition of the Board
5. Functions of the Board
6. Powers of the Board
7. Term of office
8. Vacation of office
9. Resignation and removal
10. Meetings and proceedings
11. Board may invite others to meetings
12. Disclosure of interest
13. Appeals Committee
14. Establishment of the Secretariat

PART 3—SCHOLARSHIP AND LOANS SCHEMES

15. Applications
16. Loan and bond agreements
17. Existing scholarships and loans
18. Fulfilment of loan or bond agreement
19. Limitation Act

PART 4—REPORTING AND ACCOUNTABILITY

20. Funds
21. Financial year
22. Annual Report
23. Audit

PART 5—MISCELLANEOUS

24. Exemption from liability
25. Regulations
26. Minister may amend Schedules
 - Schedule 1
 - Schedule 2

TERTIARY SCHOLARSHIP AND LOANS DECREE 2014
(DECREE NO. 2 OF 2014)

IN exercise of the powers vested in me as the President of the Republic of Fiji and the Commander in Chief of the Republic of Fiji Military Forces by virtue of the Executive Authority of Fiji Decree 2009 and section 165(2) of the Constitution of the Republic of Fiji, I hereby make the following Decree—

TO ESTABLISH THE TERTIARY SCHOLARSHIP AND LOANS BOARD FOR THE
ADMINISTRATION OF TERTIARY SCHOLARSHIPS AND LOANS IN FIJI.

Short title and commencement

1. This Decree may be cited as the Tertiary Scholarship and Loans Decree 2014 and shall be deemed to have come into force on 18 December 2013.

Interpretation

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

“Board” means the Tertiary Scholarship and Loans Board established under section 3;

“eligible institution” means an institution listed in Schedule 1;

“Minister” means the Prime Minister;

“schemes” means the tertiary scholarship and loans schemes set out in Schedule 2; and

“student” means any person who—

- (a) has completed Form 7 or equivalent Foundation studies in 2013 or any year thereafter;
- (b) is an existing student enrolled in an eligible institution; or
- (c) is a current scholarship holder.

PART 2—ESTABLISHMENT, FUNCTIONS AND POWERS

Establishment of the Board

3.—(1) This section establishes the Tertiary Scholarship and Loans Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal, and may—

- (a) sue and be sued;
- (b) acquire, hold, possess, dispose of or otherwise deal with any property;
- (c) enter into contracts; and
- (d) do all other acts that may be done in law by a body corporate.

Composition of the Board

4. The Board shall consist of the following members appointed by the Minister—

- (a) a member of the private sector who shall be the Chairperson;
- (b) the Permanent Secretary for Education, or his or her nominee;
- (c) the Vice-Chancellor of the University of the South Pacific, or his or her nominee;
- (d) the Vice-Chancellor of the Fiji National University, or his or her nominee; and
- (e) the Vice-Chancellor of the University of Fiji, or his or her nominee.

Functions of the Board

5. The Board shall—

- (a) process applications made for the schemes set out in Schedule 2;
- (b) assess the academic aspects of continuing scholarship holders and report to the Ministry of Finance;

- (c) develop processes for the eligible institutions to produce invoices to the Ministry of Finance for payments; and
- (d) in agreement with the Minister, develop processes with the Fiji Revenue and Customs Authority, the Immigration Department and other government agencies for the facilitation and enforcement of the schemes, loan repayments and any condition.

Powers of the Board

6. The Board shall have all such powers necessary for the performance of its functions, subject to the provisions of this Decree.

Term of office

7. A Board member may hold office for a term of 2 years and may be eligible for reappointment.

Vacation of office

8. The office of a Board member shall become vacant if that member—

- (a) has been absent, without leave of the Board, from 3 consecutive Board meetings;
- (b) becomes or has, in Fiji or elsewhere been declared bankrupt and has not been discharged;
- (c) has, in Fiji or elsewhere, been convicted of an offence that carries an imprisonment term of more than one year; or
- (d) has, in Fiji or elsewhere, been disqualified or suspended from practising his or her profession by any competent authority by reason of misconduct.

Resignation and removal

9.—(1) A Board member may resign from his or her office by giving 30 days written notice to the Minister.

(2) A Board member under section 4(a) and (f) may be removed by the Minister for inability to perform the functions of the Board whether arising from infirmity of body or mind, absence or any other cause, or may be otherwise removed by giving one month's remuneration in lieu of notice.

Meetings and proceedings

10.—(1) The Chairperson shall preside over all meetings of the Board and in his or her absence, the Chairperson may appoint a person, whether or not a Board member, to preside as the Acting Chairperson.

(2) The Secretary shall be appointed by the Board.

(3) The Chairperson shall be responsible for convening meetings as and when the Chairperson deems necessary.

(4) At all meetings of the Board, 3 members shall form a quorum.

(5) Any issue raised or to be decided shall be decided upon by a majority of the votes of the members present and voting, and in the event of equality of votes, the Chairperson, or in his or her absence, the person presiding, shall have a casting vote.

Board may invite others to meetings

11. The Board may invite a person to attend a Board meeting for the purpose of advising it on any matter under discussion, but the person so attending shall have no vote at the meeting.

Disclosure of interest

12.—(1) A Board member shall immediately disclose any direct or indirect personal, pecuniary or other interest in any matter discussed or considered at any meeting of the Board.

(2) The Secretary shall record any disclosure under subsection (1) in the minutes of the Board meeting.

(3) A Board member who has made a disclosure under subsection (1)—

- (a) shall not take part in nor be present during any discussion, deliberation or decision of the Board; or
- (b) may be counted for the purpose of forming a quorum of the Board.

Appeals Committee

13.—(1) This section establishes the Appeals Committee which shall comprise the Solicitor-General and two other members as appointed by the Solicitor-General.

(2) Any person aggrieved by a decision of the Board, may appeal to the Appeals Committee provided however all decisions of the Board in relation to the awarding of scholarships and loans granted under this Decree shall be final and shall not be subject to an appeal.

(3) An appeal made under this section shall be required to be in writing stating clearly the grounds for appeal and shall be made within 14 days of notification to the appellant, of the decision appealed against.

(4) The decision of the Appeals Committee on an appeal made under subsection (2) shall be final and there shall be no further appeal.

Establishment of the Secretariat

14.—(1) This section establishes the Secretariat.

(2) Members of the Secretariat shall be appointed by the Board and shall include the Chief Executive Officer and such other members as the Board deems necessary.

PART 3—SCHOLARSHIP AND LOANS SCHEMES

Applications

15. Any student wishing to apply for a loan or scholarship under this Decree shall be required to make applications to the Board in the approved forms.

Loan and bond agreements

16.—(1) A student under a loan scheme shall be required to enter a loan agreement with the Board and provide a guarantor(s) for the same.

(2) A student who has been awarded a scholarship under this Decree shall be required to enter into a bond agreement with the Board and provide a guarantor(s) for the same.

(3) The loan or bond agreement under subsections (1) and (2) shall be *prima facie* evidence of a student's, and his or her guarantor's obligation to make loan repayments or fulfil bond conditions, which shall be deemed to be an obligation in law.

Existing scholarships and student loans

17.—(1) In this section—

“existing scholarship” means any PSC, Multi-Ethnic or *iTaukei* scholarship awarded to a student prior to 2014; and

“student loan” means any student loan granted to a student prior to 2014.

(2) Subject to subsection (3), any existing scholarship or student loan shall continue on the basis and conditions as when the scholarship was initially awarded or the student loan initially granted.

(3) The Board shall be responsible for the facilitation and enforcement of existing scholarships and student loans granted.

Fulfilment of loan or bond agreement

18.—(1) The Board shall take action on any student or guarantor of a student, who—

- (a) fails to make loan repayments or partial payments thereof; or
- (b) breaches or fails to fulfil any condition,

required by an agreement made under section 16(1) or (2).

(2) Pursuant to subsection (1), any action taken by the Board shall include—

- (a) issuing a written notice or directive to the Director of Immigration to place a stop order on the person leaving the country;

- (b) deduction from the person's salary;
- (c) acquisition of property used as security in the loan or bond agreement;
- (d) taking court action;
- (e) reporting to international credit bureaus or agencies; or
- (f) such other action as the Board deems necessary.

(3) Pursuant to subsection (2)(a), the Board shall issue a written notice or directive to the Director of Immigration for the prohibition or removal from prohibition, of any person under subsection (1), leaving the country.

Limitation Act

19. The Limitation Act (Cap. 35) shall not apply to the provisions of this Decree, for the recovery from any student or his or her guarantor of any repayment to the State or fulfilment of any condition, made pursuant to—

- (a) an agreement under section 17(1) or (2); or
- (b) terms and conditions of any existing scholarship or student loan agreement.

PART 4—REPORTING AND ACCOUNTABILITY

Funds

20. The Funds of the Board shall consist of—

- (a) any money appropriated by Government;
- (b) fees or other charges received by or on behalf of the Board by virtue of this Decree; and
- (c) any other money received by or on behalf of the Board.

Financial year

21. The Board's financial year shall be from 1 January to 31 December of each year.

Annual Report

22.—(1) Within 3 months after the end of each financial year, the Board shall be required to prepare a report of its activities during that financial year.

(2) The Board shall be required to submit a copy of the Annual Report to the Minister who shall cause it to be laid before Parliament.

(3) The Annual Report required under subsection (1) shall contain—

- (a) an audited statement of accounts prepared in accordance with generally accepted accounting practice as determined by the Fiji Institute of Accountants;
- (b) a statement of financial performance, including a statement of the financial position of the Board;
- (c) a statement of cash flows;
- (d) a copy of the auditor's report; and
- (e) such other information required for the purposes of indicating the Board's financial affairs.

Audit

23.—(1) The Board shall be required to be audited at least once a year.

(2) The audit under subsection (1) shall, as determined by the Minister, be carried out—

- (a) in accordance with the Audit Act (Cap. 70) and the Financial Management Act 2004;
- (b) by an independent auditor appointed by the Minister; or
- (c) by an independent auditor as so directed by the Minister for Finance.

(3) In this section “independent auditor” means a qualified accountant holding a current Certificate of Public Practice issued by the Fiji Institute of Accountants.

PART 5—MISCELLANEOUS

Exemption from liability

24. The Board shall not be liable for any act done or decision made in good faith and without gross or wilful negligence in respect of the performance of any function or the exercise of any power by the Board under this Decree.

Regulations

25. The Minister may, upon recommendation from the Board, make Regulations to give effect to the provisions of this Decree, including—

- (a) operating procedures of the Board;
- (b) operating procedures of the tertiary scholarship and loan schemes including—
 - (i) approval for expenditure of funds;
 - (ii) selection of students;
 - (iii) study programmes;
 - (iv) continuation of awards; and
 - (v) termination of awards; and
- (c) procedures for receiving and processing of applications.

Minister may amend Schedules

26. The Minister may amend the Schedules to this Decree upon recommendation from the Board or as and when he or she deems necessary.

Given under my hand this 16th day of January 2014.

EPELI NAILATIKAU
President of the Republic of Fiji

SCHEDULE 1
(Section 2)

Eligible Institutions

1. Centre of Appropriate Technology Department
2. Corpus Christi Teachers College
3. Fulton College
4. Fiji National University
5. Sangam Institute of Nursing
6. University of Fiji
7. University of the South Pacific

SCHEDULE 2
(Section 2)

Tertiary Scholarship and Loans Schemes

1. National Toppers Scheme (NTS)
Full scholarships for the top 600 applicants from Form 7 (and equivalent in Foundation studies) in the previous year, for priority areas established by Government.
2. Tertiary Education Loans Scheme (TELS) for all other new students
All other students who have completed Form 7 (or Foundation studies) in the previous year can take low-interest loans (or interest-free loans in the case of students whose parental income is less than \$25,000 per annum) under this scheme to cover university tuition fees if students study on a full-time basis.
Loans will be available as per the eligibility criteria.
3. Tertiary Education Loans Scheme (TELS) for existing tertiary students
This scheme shall apply to all students who were enrolled in tertiary institutions in the previous year and who need tuition funding for the completion of studies.
4. Accommodation Support Scheme (ASS)
This scheme is for full-time students who can borrow at nominal interest rates to support accommodation costs (hostel or rental), food expenses, and bus fares if traveling from home or rented premises.
5. Continuing Scholarships
This includes both local and overseas scholarships where existing continuing scholarship awards shall be on the basis and conditions as when the scholarship was initially offered.
6. Overseas Scholarships
This scheme shall be for programs that are facilitated by foreign governments and shall also deal with foreign scholarships awarded to Fijian students.