

# **Native Lands (Amendment) Act 2002**

## **FIJI ISLANDS**

### **NATIVE LANDS (AMENDMENT) ACT ACT NO. 13 OF 2002**

[L.S.]

I assent.  
J. I. ULUIVUDA President  
[1 May, 2002]

### **AN ACT TO ALTER THE NATIVE LANDS ACT**

[30 November, 2000]

**ENACTED** by the Parliament of the Fiji Islands-

*Short title, etc.*

**1.** - (1) This Act may be cited as the Native Lands (Amendment) Act 2002 and is deemed to have come into force on 30 November 2000.

(2) In this Act, the Native Lands Act (Cap. 133) is referred to as the "principal Act".

(3) Any Act done in respect of matters set out in Sections 4 to 7 of this Act between 30 November 2000 and the publication of this Act in the *Gazette* is validated and deemed to have been done under the principal Act or other written law.

(4) At the date of publication of this Act in the *Gazette*, any unallotted vacant land (including any improvements on such land) occupied by the State for which no lease or other instrument or agreement has been issued remains to be vested and controlled by the State until such lease or other instrument or agreement has been issued by the Board.

#### *Interpretation*

**2.** Section 2 of the principal Act is amended-

(a) by inserting the following new definition-

" "Board" means the Native Land Trust Board established by section 3 of the Native Land Trust Act;";

(b) by repealing the definition of "native lands" and substituting-

" "native land" means land which is neither State (formerly Crown) land nor the subject of a State (formerly Crown) grant nor native grant but includes-

- (a) all vacant land including such land declared under section 19;
- (b) all land set aside by proclamation under section 18 of the Native Land Trust Act; and
- (c) all extinct *mataqali* land vested in the Board under section 19 of the Native Land Trust Act;".

#### *Vacant lands*

### 3. Section 19 of the principal Act is amended-

- (a) in subsection (1) by deleting everything after the first sentence;
- (b) by inserting after subsection (1) the following new subsections-  
 "(1A) Lands marked out and defined under subsection (1) must be-  
 (a) declared by the Minister by notice in the *Gazette* to be vacant lands under the control of the Board; and  
 (b) dealt with in all respects as native lands.  
 (1B) Income arising from unallotted vacant lands vested in the Board under this section (less not more than 15% for administration costs of the Native Land Trust Board) must be paid to the Fijian Affairs Board and used exclusively for the benefit of native Fijians in a manner and for purposes approved by the Minister on the advice of the Great Council of Chiefs.";
- (c) in subsection (2)-  
 (a) by deleting "subsection (1)" and substituting "subsection (1A)"; and  
 (b) by deleting "Crown" and substituting "native";  
 (d) by repealing subsection (3) and substituting the following subsections-  
 "(3) This section applies to all lands which were, before the commencement of the Native Lands (Amendment) Act 2002, or which are, after the commencement of that Act, found by the Commission under subsection (1) to be lands vacant at the date of cession."

#### *Transfer of leases*

### 4. - (1) Where a lease of any land was granted to any person by the Director of Lands under section 19 of the principal Act before the commencement of this Act-

- (a) the Director of Lands is replaced by the Board as lessor for all purposes; and
- (b) the income from the lease must be dealt with in accordance with the new section 19(1B) of the principal Act,

but otherwise the terms and conditions of the lease remain as before.

(2) All leases, deeds and instruments issued by in respect of any land allotted or otherwise dealt with under section 19 of the principal Act before the commencement of this Act and current at the commencement of this Act shall, until their expiry or earlier termination in accordance with their terms and conditions, be deemed to have been issued by the Board and governed by the Native Land Trust Act (Cap. 134).

*Transfer of contracts etc.*

**5.-(1)** All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings which-

- (a) were entered into by or made with and addressed to the Director of Lands (whether alone or with any other person);
- (b) were in force at the commencement of this Act; and
- (c) relate to land allotted or dealt with under section **19** of the principal Act before the commencement of this Act,

are binding and enforceable by or against the Board after the commencement of this Act.

(2) All documents and instruments brought into existence for the purpose of evidencing, recording or effecting the matters referred to in subsection (1) relating to the transfer of such property from the Director of Lands to the Board or the vesting of such property in the Board are exempt from stamp duty under the Stamp Duties Act and that Act does not-

- (a) apply to any agreement or instrument brought into existence for the purpose of recording, evidencing or effecting any transfer of such property from the Director of Lands to the Board or the vesting of any such property in the Board;
- (b) operate to impose or attract any duty, fine, penalty or assessment required or necessary to give effect to the purpose of this Act.

(3) Nothing in the State Acquisition of Lands Act, Forests Act, Land Sales Act, Land Transfer Act or any other written law invalidates or affects any mortgage, transfer, bill of sale or security given or made to the Director of Lands to which the Board is entitled to under this Act.

*Land titles*

**6.-(1)** The Registrar of Titles must, upon application and lodgement for registration made by the Board, make necessary entry on a certificate of title, mortgage, lease or any other instrument or document under his or her custody or control as a result of the vesting in the Board of vacant lands under section **19** of the principal Act as amended by this Act and the Board must notify the holder of the certificate of title, mortgage, lease, or other instrument or document to produce it to the Registrar of Titles for that purpose.

(2) The Registrar of Titles must, upon application and lodgement for registration made by the Board, make any other memorial or entry in any public record that is necessary or expedient to record the vesting of such land in the Board under the principal Act.

*Actions etc. not to abate*

7.-(1) At the commencement of this Act, any action, arbitration or proceeding pending by, against, or in favour of the Director of Lands, does not abate and is not discontinued or in any way prejudicially affected by this Act but may be prosecuted, continued and enforced by, against or in favour of the Director of Lands or the State as the case may be.

(2) For the avoidance of doubt, neither the Board nor the native owners are liable in any way whatsoever in respect of any cause of action which may accrue or has accrued (whether or not legal proceedings have begun) before the commencement of this Act in respect of vacant lands vested in the Board by virtue of this Act.

Passed by the House of Representatives this 12th day of April, 2002.

Passed by the Senate this 26th day of April, 2002.

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