

◆ **FIJI ISLANDS REVENUE AND  
CUSTOMS AUTHORITY ACT 1998**

*Revised to 1st January 2000*

---

◆ **TABLE OF LEGISLATION INCORPORATED IN THIS REVISED EDITION**

---

<i>Name</i>	<i>Act, Legal Notice or Publication Number</i>
Fiji Revenue and Customs Authority Act 1998 .....	Act No. 9 of 1998
Commencement Notice .....	Publication Notice No. 1704 of 1998
Public Finance Management Act 1999 .....	Act No. 9 of 1999
Appointment Notice .....	Publication Notice No. 680 of 1999
Delegation of Powers Notice .....	Legal Notice No. 85 of 1999
Delegation of Powers Notice .....	Legal Notice No. 86 of 1999
Public Finance Management (Deferral and Amendment) Act 1999 .....	Act No. 20 of 1999
Fiji Revenue and Customs Authority (Change of Name) Act 1999 .....	Act No. 30 of 1999
Commencement Notice .....	Publication Notice No. 2664 of 1999

FIJI [ISLANDS]<sup>1</sup> REVENUE AND CUSTOMS AUTHORITY ACT 1998

ARRANGEMENT OF SECTIONS

SECTION

Part I—PRELIMINARY

1. Short title and commencement
2. Interpretation

Part II—ESTABLISHMENT, MEMBERSHIP AND  
MEETINGS OF THE AUTHORITY

3. Establishment of the Authority
4. Membership of the Authority
5. Chairman of the Authority
6. Tenure of office
7. Resignation and revocation
8. Vacation of office
9. Remuneration of Members
10. Meetings
11. Authority may invite others to meetings
12. Disclosure of interest
13. Minutes
14. Common Seal
15. Validity of proceedings

Part III—TRANSFER OF ASSETS, LIABILITIES, AND EMPLOYEES

16. Transfer of assets and liabilities to the Authority
17. Transfer of employees
18. Rights of transferred employees
19. Existing contracts
20. Continuation of proceedings
21. No benefits in respect of abolition or reorganisation of office

Part IV—FUNCTIONS, DUTIES, AND POWERS OF AUTHORITY

22. Functions of the Authority
23. Powers of the Authority
24. Delegation of powers
25. Appointment of committees
26. Appointment of employees, agents and consultants
27. Appointment of Chief Executive Officer

28. Regulations with respect to discipline
29. Imposition of surcharge
30. Minister may give directions and require information
31. Limitation of liability
32. Public Servants

#### Part V—FINANCIAL PROVISIONS

33. Money to be appropriated by Parliament
34. Funds of the Authority
35. Bank Accounts
36. Grants
37. Investment
38. Power to borrow
39. Conservation of funds
40. Expenditure to be charged on funds of the Authority
41. Payment of surplus funds to State

#### Part VI—REPORTING AND ACCOUNTABILITY

42. Financial year
43. Half yearly reports
44. Annual report
45. Authority to have a corporate plan
46. Draft corporate plan
47. Authority to have statement of corporate intent
48. Draft statement of corporate intent
49. Commencement and notification of statement of corporate intent

#### Part VII—MISCELLANEOUS

50. No proceedings against Authority as agent of Government
51. Proceedings conducted by officers of Authority
52. Secrecy
53. Exemption from taxes and duties
54. Regulations
55. Repeals and amendments

SCHEDULE 1—Laws to be administered and enforced by the Authority.

SCHEDULE 2—Consequential repeals and amendments.

---

<sup>1</sup> Long title amended (by insertion) by §3(a) Act 30/1999 WEF 1st January 2000 [Commencement Notice 2664/1999]

## AN ACT

### TO ESTABLISH THE FIJI [ISLANDS]<sup>1</sup> REVENUE AND CUSTOMS AUTHORITY AND FOR RELATED MATTERS

---

<sup>1</sup> Inserted by §3(a) Act 30/1999 WEF 1st January 2000 [Commencement Notice 2664/1999]

[20th April 1998]

ENACTED by the Parliament of Fiji—

#### Part I—PRELIMINARY

##### *Short title and commencement*

**1.—(1)** This Act may be cited as the Fiji [Islands]<sup>1</sup> Revenue and Customs Authority Act 1998.

(2) This Act shall come into force on such date or dates as the Minister may, by notification in the *Gazette*, appoint<sup>2</sup>.

---

<sup>1</sup> Inserted by §3(b) Act 30/1999 WEF 1st January 2000 [Commencement Notice 2664/1999]

<sup>2</sup> Appointed date – 1st January 1999 [Commencement Notice 1704/1998]

##### *Interpretation*

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

“Authority” means the Fiji [Islands]<sup>1</sup> Revenue and Customs Authority established by section **3**;

“Chairman” means the chairman of the Authority appointed under section **5** or of a committee appointed under section **25**;

“Chief Executive Officer” means the person appointed as such under section **27**;

“committee” means a committee appointed under section **25**;

“corporate plan” means the plan required by section **45(1)**;

“financial year” means the period specified in section **42**;

“funds” means the funds of the Authority as described in section **34**;

“member” means a member of the Authority or of a committee appointed under section 4(1) or 25 and includes the Permanent Secretary for Finance;

[“Ownership Minister” has the same meaning as in section 5 of the Public Finance Management Act 1999;]<sup>2</sup>

“statement of corporate intent” means the statement required by section 47(I);

“transferred” in relation to an asset or liability means vested in the Authority under section 16(I) and in relation to an employee means transferred to the service of the Authority under section 17(I).

<sup>1</sup> Inserted by §3(c) Act 30/1999 WEF 1st January 2000 [Commencement Notice 2664/1999]

<sup>2</sup> Definition inserted by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; §5 Act 9/1999 reads –

“ ‘Ownership Minister’, in relation to any government asset (including an equity investment in a public entity), means—

- (a) the Minister for Finance; or
- (b) if another Minister has been designated by the president, on the advice of the Prime Minister, as having the power to manage the State’s ownership interest in the asset, that Minister;”

## Part II—ESTABLISHMENT, MEMBERSHIP AND MEETINGS OF AUTHORITY

### *Establishment of Fiji [Islands]<sup>1</sup> Revenue and Customs Authority*

3. This section establishes the Fiji [Islands]<sup>2</sup> Revenue and Customs Authority as a body corporate with perpetual succession and a common seal which may—

- (a) sue and be sued;
- (b) purchase, acquire, hold or alienate real or personal property;
- (c) do or perform such other acts or things as bodies corporate may by law do and perform.

<sup>1</sup> Inserted by §3(d)(i) Act 30/1999 WEF 1st January 2000 [Commencement Notice 2664/1999]

<sup>2</sup> Inserted by §3(d)(ii) Act 30/1999 WEF 1st January 2000 [Commencement Notice 2664/1999]

### *Membership of the Authority*

4.—(1) The membership of the Authority shall consist of—

- (a) the Permanent Secretary for Finance; and
- (b) other members, not being less than 3 or more than 5 in number, appointed by the Minister.

(2) The members shall be persons who, in the opinion of the Minister, have adequate experience in public administration, or in financial, commercial, customs and excise, tax or legal matters.

(3) Before appointing a person as a member, the Minister shall have regard to any potential conflicts of interest that the person may have.

*Chairman of Authority*

**5.**—(1) The Permanent Secretary for Finance shall normally be the Chairman of the Authority, but the Minister may, if he thinks fit, appoint any other member as Chairman.

(2) The Chairman may, in concurrence with the Minister, authorise in writing any member to exercise any power or perform any function conferred on the Chairman by or under this Act.

*Tenure of Office*

**6.** A member appointed under section **4(1)(b)** shall hold office for a term not exceeding 3 years and is eligible for reappointment.

*Revocation and resignation*

**7.**—(1) The Minister may, at any time, revoke the appointment of a member, other than the Permanent Secretary for Finance.

(2) A member, other than the Permanent Secretary for Finance, may at any time resign his office by giving notice in writing to the Minister.

*Vacation of office*

**8.**—(1) The office of a member shall become vacant if the member—

- (a) has been absent, without leave of the Authority, from 3 consecutive meetings of the Authority;
- (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 involving dishonesty or an offence under any law specified in the First Schedule;
- (d) has, in Fiji or elsewhere, been disqualified or suspended from practising his profession by any competent authority by reason of misconduct.

(2) The Authority may act notwithstanding a vacancy in its membership.

*Remuneration of members*

**9.**—(1) Members of the Authority or persons invited to attend a meeting of the Authority under section **11** are entitled to such remuneration as the Authority may fix.

(2) The total remuneration paid under subsection (1) in respect of any financial year shall not exceed an amount approved by the Minister for that purpose.

*Meetings*

**10.**—(1) The Authority shall meet as often as may be necessary for the performance of its functions.

(2) At any meeting the quorum of the Authority shall be a majority of the total members appointed at that time.

(3) Notice of a meeting of the Authority shall be given to each member and shall be delivered by hand or sent by post, telex, facsimile or other written message to an address supplied to the Authority for the purpose.

(4) Decisions at meetings of the Authority shall be by a simple majority of the members present and voting except that, in the case of an equality of votes, the Chairman or member presiding shall have a casting vote in addition to his original vote.

(5) Subject to this section, the Authority may regulate its procedure in such manner as it thinks fit.

*Authority may invite others to meetings*

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

*Disclosure of Interest*

**12.—(1)** A member of the Authority or of a committee who is, directly or indirectly, interested in a matter under discussion by the Authority or committee shall disclose to the Authority or committee the fact and nature of his interest.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the Authority or committee.

(3) After a disclosure under subsection (1) the member in question—

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

(4) A member who fails to disclose his interest as required by subsection (1) commits an offence and, is liable on conviction to a fine of \$10,000.00 and to imprisonment for 7 years.

*Minutes*

**13.—(1)** The Authority and every committee shall keep minutes of all its meetings in a proper form.

(2) Any minutes, if duly signed by the Chairman or person presiding, shall, in any legal proceedings, be admissible as evidence of the facts stated in them and a meeting of the Authority or committee in respect of which minutes have been so signed is deemed to have been duly convened and held and the members present at it to have been duly appointed to act.

*Common Seal*

**14.—**(1) The Authority shall have a common seal of such design as it may decide.

(2) The common seal shall be kept by the Chairman and its affixing shall be authenticated by any two members generally or specifically authorised by the Authority for the purpose, or by one such member and the Chairman.

(3) All deeds, documents, and other instruments purporting to be sealed with the common seal and authenticated in accordance with subsection (2) shall, unless the contrary is proved, be presumed to have been validly executed.

(4) The common seal of the Authority shall be officially and judicially noticed for all purposes.

*Validity of Proceedings*

**15.** The validity of any proceedings or act of the Authority or of a committee shall not be affected by any defect in the appointment of any member.

**Part III—TRANSFER OF ASSETS, LIABILITIES AND EMPLOYEES**

*Transfer of assets and liabilities to the Authority*

**16.—**(1) As from the commencement of this Act<sup>1</sup>, all movable property vested in the State immediately before that date and used or managed by the Inland Revenue Department or Customs and Excise Department, and all assets, interests, rights, privileges, liabilities and obligations of the State relating to those Departments shall be transferred to and shall vest in the Authority without any conveyance, assignment, or transfer.

(2) Every right and liability vested under subsection (1) in the Authority may, on and after the commencement of this Act, be sued on, recovered or enforced by or against the Authority in its own name and it shall not be necessary for the Authority or the State to give notice to any person whose right or liability is affected by the vesting.

(3) On and after the commencement of this Act<sup>2</sup>, any agreement relating to any property, rights and liabilities transferred to and vested in the Authority under subsection (1) to which the State was a party immediately before the commencement of this Act, whether in writing or not, and whether or not of such a nature that rights and liabilities could be assigned by the State, shall have effect as if the Authority had been a party to the agreement.

(4) If a question arises as to whether any particular property, asset, interest, right, privilege, liability, or obligation has been transferred to or vested in the Authority under subsection (1), a certificate signed by the Minister shall be conclusive evidence that the property, asset, interest, right, privilege, liability or obligation was or was not so transferred or vested.

---

<sup>1</sup> 1st January 1999 [Commencement Notice 1704/1998]

<sup>2</sup> See Note 1

*Transfer of Employees*

**17.**—(1) As from the commencement of this Act<sup>1</sup>, persons employed immediately before that date in the Inland Revenue Department or in the Customs and Excise Department whose services are required by the Authority for the performance of its functions under this Act shall be transferred to the service of the Authority on terms not less favourable than those enjoyed by them immediately prior to their transfer.

(2) Until such time as terms and conditions of service, including rules as to the conduct and discipline of its employees, are drawn up by the Authority, the terms and conditions of service of State employees, including rules as to the conduct and discipline of State employees, shall continue to apply to every person transferred under subsection (1).

(3) Nothing in this Act shall affect the rights, duties, or obligations of an employee not transferred to the Authority.

---

<sup>1</sup> 1st January 1999 [Commencement Notice 1704/1998]

*Rights of transferred employees*

**18.** For the purposes of every enactment, law, award, determination, contract, and agreement relating to the employment of a transferred employee, the contract of employment of that employee is deemed to have been unbroken and the period of service with the State is for all purposes deemed to have been a period of service with the Authority.

*Existing Contracts*

**19.** All deeds, bonds, agreements, instruments and arrangements to which the State is a party subsisting immediately before the commencement of this Act<sup>1</sup> and relating to the Inland Revenue Department or Customs and Excise Department or to any transferred employee shall continue in force after that date and shall be enforceable by or against the Authority as if the Authority had been named therein or had been a party thereto instead of the State.

---

<sup>1</sup> 1st January 1999 [Commencement Notice 1704/1998]

*Continuation of proceedings*

**20.** Any action, arbitration, proceedings or cause of action that relates to a transferred asset, liability, or employee and that immediately before the commencement of this Act<sup>1</sup> is pending or existing by, against, or in favour of the State or to which the State is a party, may be prosecuted and, without amendment of any writ, pleading or other document, continued and enforced by, against, or in favour of the Authority.

---

<sup>1</sup> 1st January 1999 [Commencement Notice 1704/1998]

*No benefits in respect of abolition or reorganisation of office*

**21.** A person who is transferred to the service of the Authority is not entitled to claim any benefit on the ground that he has been retired from the service of the State on account of abolition or reorganisation of office in consequence of the establishment and incorporation of the Authority.

## Part IV—FUNCTIONS, DUTIES AND POWERS OF AUTHORITY

### *Functions of the Authority*

**22.** The functions of the Authority are:

- (a) to act as agent of the State and to provide services in administering and enforcing the laws specified in the First Schedule;
- (b) generally to exercise all functions and perform all duties carried out by the Inland Revenue Department and Customs and Excise Department immediately prior to the commencement of this Act;
- (c) to advise the State on matters relating to taxation and customs and excise and to liaise with appropriate Ministries and statutory bodies on such matters;
- (d) to represent the State internationally in respect of matters relating to taxation or customs and excise; and
- (e) to perform such other functions as the [Ownership]<sup>1</sup> Minister may assign to the Authority.

---

<sup>1</sup> Inserted by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]

### *Powers of the Authority*

**23.—**(1) The Authority shall have all such powers as may be reasonably necessary or convenient for the purpose of carrying out its functions under this Act and regulating its own procedure.

(2) The powers of the Authority do not include the powers of the Commissioner of Inland Revenue or of the Comptroller of Customs and Excise conferred by section 27 on the Chief Executive Officer.

### *Delegation of Powers*

**24.—**(1) The Authority may from time to time, by writing under the hand of the Chairman, delegate to any person or committee any of the Authority's powers under this Act.

(2) A delegation under this section may be made to a specified person or committee or to the holder for the time being of a specified office or to the holders of offices of a specified class.

(3) A delegation may be made subject to such restrictions and conditions as the Authority thinks fit, and may be made either generally or in relation to any particular case or class of cases.

(4) Any person or committee purporting to exercise any power of the Authority by virtue of a delegation under this section shall, when required to do so, produce evidence of his or its authority to exercise the power.

*Appointment of Committees*

**25.**—(1) At the beginning of each financial year the Authority shall appoint an Audit Committee which shall have the following functions:

- [(a) to recommend to the Minister the name of an auditor of the Authority's accounts;]<sup>1</sup>
- (b) to develop a programme for the internal auditing of the Authority's accounts and practices;
- (c) to investigate allegations of corruption against members or employees of the Authority and to report its findings to the Authority, whereupon the Authority shall submit a copy of the report to the Minister.

(2) The Authority may—

- (a) establish other committees to assist the Authority in the performance of its functions under this Act;
- (b) appoint any person to be a member of a committee established under subsections (1) or (2)(a); and
- (c) appoint a chairman of any such committee.

(3) Persons who are disqualified by this Act from being members of the Authority shall also be disqualified from being members of a committee.

(4) A committee established under this section may regulate its own procedure but shall be subject to section 13 and to any directions given by the Authority.

(5) Subject to subsection (4), a committee established under this section shall meet at such times and places as the chairman may determine.

(6) A committee may invite any person to attend any meeting for the purpose of advising it on any matter and a person so invited is not entitled to vote.

(7) Members of a committee and persons invited under subsection (6) to attend are entitled to such allowances and expenses as the Authority may fix.

*Appointment of employees, agents and consultants*

**26.** The Authority may appoint on such terms and conditions as it thinks fit such employees, agents, or consultants as may be necessary or expedient for carrying out its functions and duties.

*Appointment of Chief Executive Officer*

**27.**—(1) The Authority may, after consultation with the [Ownership]<sup>2</sup> Minister, by notification in the *Gazette*, appoint a Chief Executive Officer<sup>3</sup> on such terms and conditions as the Authority may determine.

- (2) The Chief Executive Officer shall—
- (a) hold office as the Commissioner of Inland Revenue and Comptroller of Customs and Excise under the Income Tax Act and Customs Act respectively;
  - (b) be responsible to the Authority for the proper administration and management of the functions and affairs of the Authority in accordance with the policy laid down by the Authority;
  - (c) be responsible to the Authority for the administration and enforcement of, and collection of revenue under, the laws specified in the First Schedule;
  - (d) perform such other functions or duties as the Authority, from time to time, may determine;
  - (e) not be removed from office without the consent of the [Ownership]<sup>4</sup> Minister.

(3) If the Chief Executive Officer is temporarily absent from Fiji, or is temporarily unable to perform his duties for any other reason, the Authority may, after the Chairman has consulted the Minister, appoint a person to act in the place of the Chief Executive Officer during that period.

(4) Notwithstanding anything in any other written law, the Chief Executive Officer may delegate<sup>5</sup> to any other officer or employee of the Authority any of his powers under this Act or under the laws specified in the First Schedule except the power of delegation under this subsection.

<sup>1</sup> Repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]

<sup>2</sup> Inserted by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]

<sup>3</sup> See Publication Notice 680/1999

<sup>4</sup> See Note 2

<sup>5</sup> See LN 85/1999; LN 86/1999

*Regulations with respect to discipline*

**28.**—(1) The Authority may make regulations with respect to the conduct and discipline of its officers and employees.

- (2) Regulations made under this section may, amongst other things, provide for—
- (a) interdiction with reduction in salary or in other remuneration; and
  - (b) suspension without salary or other remuneration;

of an officer or employee of the Authority while disciplinary proceedings against the officer or employee are pending.

(3) The regulations made under this section shall provide for an opportunity to be given to the officer or employee concerned to make representations before a decision is arrived at by the Authority.

*Imposition of surcharge***29.—(1) If—**

- (a) the Authority is satisfied that any officer or employee—
  - (i) is or was responsible for the improper payment of moneys or for the payment of such moneys which is not duly vouched; or
  - (ii) is or was responsible for any deficiency in, or for the destruction of, moneys, securities, stores or other property of the Authority; and
- (b) if a satisfactory explanation is not furnished within a period specified by the Authority,

the Authority may surcharge against the officer or employee a sum not exceeding the amount of any such payment, deficiency or loss, or the value of the property destroyed, as the case may be.

**(2) If—**

- (a) the Authority is satisfied that any officer or employee—
  - (i) being or having been an accounting officer, fails or has failed to keep proper accounts or records; or
  - (ii) has failed to make any payment, or is or was responsible for any delay in the payment, of moneys from the Authority to any person to whom such payment is due under any contract, agreement or arrangement entered into between that person and the Authority; and
- (b) a satisfactory explanation is not furnished within a period specified by the Authority,

the Authority may surcharge against the said person such sum as the Authority may think fit.

(3) Upon a surcharge being made under subsection (1) or (2), the Chairman shall notify the person surcharged.

(4) The Authority may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made.

(5) The amount of any surcharge imposed under subsection (1) and not withdrawn under subsection (3) shall be a debt due to the Authority from the person against whom it is imposed and may be sued for and recovered in any court at the suit of the Authority and may also be recovered by deduction from the salary or pension of the person surcharged by equal monthly instalments not exceeding one quarter of that person's total monthly salary or pension.

*Minister may give directions and require information*

**30.**—(I) The Minister may, in writing, give to the Authority directions of a general character not inconsistent with this Act relating to the performance of the Authority's functions and the Authority shall give effect to such directions.

(2) The Authority shall provide to the Minister such returns, accounts, and other information as he may, from time to time, require.

*Limitation of liability*

**31.**—(1) No proceedings, civil or criminal, shall lie against the Authority for anything it may do or fail to do in the course of the exercise or intended exercise of its functions, unless it is shown that it did not act in good faith or with reasonable care.

(2) No proceedings, civil or criminal, shall lie against any member, officer, or employee of the Authority for anything done or said, or any failure to do or say anything in the course of the operation of the Authority, unless it is shown that the person did not act in good faith or with reasonable care.

*Public Servants*

**32.** All members of the Authority and any of its committees and all officers, employees, or agents of the Authority, while discharging their duties, shall be deemed to be public servants within the meaning of the Penal Code.

## Part V—FINANCIAL PROVISIONS<sup>1</sup>

---

<sup>1</sup> Part V repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

*Money to be appropriated by Parliament*

**33.**<sup>1</sup> All sums payable to the Authority for services rendered to the State as its agent under this Act shall be payable out of money to be appropriated by Parliament for the purpose.

---

<sup>1</sup> Part V repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

*Funds of the Authority*

**34.**<sup>1</sup> The funds of the Authority shall consist of—

- (a) money appropriated by Parliament and paid to the Authority for services rendered to the State as its agent;
- (b) money received by it for services rendered by the Authority to any other persons;
- (c) money received by the Authority by way of grants;
- (d) money derived from the disposal, lease or hire of, or any other dealing with, any property vested in or acquired by the Authority;
- (e) money borrowed by the Authority in accordance with this Act;

- (f) income from investments by the Authority made under this Act;
- (g) fees or other charges imposed by the Authority under this Act or authorised under any of the laws specified in the First Schedule and payable to the Commissioner of Inland Revenue or Comptroller of Customs and Excise;
- (h) other money which may become payable to the Authority in respect of any matter incidental to its functions and powers.

---

<sup>1</sup> Part V repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

#### *Bank accounts*

**35.**<sup>1</sup>—(1) The Authority shall open at one or more banks such accounts as are necessary for the exercise of its functions and powers.

(2) Money received by the Authority or by any officer or employee on behalf of the Authority shall, as soon as practicable after it has been received, be paid into such bank accounts opened under subsection (1) as the Authority from time to time determines.

(3) Subsection (2) does not affect any requirement of any other Act that revenue and other moneys raised for the purpose of Government be paid into the Consolidated Fund.

(4) The withdrawal or payment of money from an account opened under subsection (1) shall be authorised by prior resolution of the Authority or shall be submitted to the Authority for confirmation in a meeting as soon as practicable after the withdrawal or payment.

(5) The withdrawal or payment of money from an account opened under subsection (1) shall be effected only by such person or persons as the Authority may from time to time authorise.

---

<sup>1</sup> Part V repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

#### *Grants*

**36.**<sup>1</sup> For the purpose of enabling the Authority to carry out its functions, the Minister may, from time to time, make grants-in-aid to the Authority of such sums as the Minister may determine out of moneys provided by Parliament.

---

<sup>1</sup> Part V repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

#### *Investment*

**37.**<sup>1</sup> The Authority may invest part of its funds in so far as the funds are not required to be expended by the Authority.

---

<sup>1</sup> Part V repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

*Power to borrow*

**38.**<sup>1</sup>—(1) The Authority may borrow, upon such terms and conditions as the Minister may approve, any sums required by the Authority to meet any of its obligations or to perform any of its functions.

(2) Borrowings under subsection (1) require the approval of the Minister, except for overdraft facilities required for working capital purposes.

---

<sup>1</sup> Part V repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

*Conservation of funds*

**39.**<sup>1</sup> The Authority shall conserve its funds by performing its functions and exercising its powers under this Act so as to ensure that the total revenues of the Authority are sufficient to meet all sums properly chargeable to its revenue account including depreciation and interest on capital.

---

<sup>1</sup> Part V repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

*Expenditure to be charged on funds of the Authority*

**40.**<sup>1</sup> The funds of the Authority shall be expended for the purposes of—

- (a) paying any expenditure lawfully incurred by the Authority in the performance of its functions or the exercise of its powers under this Act;
- (b) discharging any obligations and liabilities of the Authority and making any payments which the Authority is required or authorised to make;
- (c) generally paying any expenses for carrying into effect the provisions of this Act.

---

<sup>1</sup> Part V repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

*Payment of surplus funds to State*

**41.**<sup>1</sup>—(1) Subject to subsection (2) but notwithstanding any other Act or any rule of law the Minister may at any time or times, by written notice to the Authority, require the Authority to pay into the Consolidated Fund such amount as the Minister specifies in the notice and any such amount shall become the property of the State.

(2) The Minister may not give notice under subsection (1) until he has consulted the Authority as to the appropriate amount and is satisfied that the payment will not materially disadvantage any creditor of the Authority or materially impede the Authority in performing its functions or satisfying its obligations.

---

<sup>1</sup> Part V repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

## Part VI—REPORTING AND ACCOUNTABILITY<sup>1</sup>

---

<sup>1</sup> Part VI repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

### *Financial Year*

**42.**<sup>1</sup> The Authority's financial year shall be from the 1st day of January to the 31st day of December of each year.

---

<sup>1</sup> Part VI repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

### *Half yearly reports*

**43.**<sup>1</sup>—(1) The Authority shall furnish the Minister with a report on its activities for the first half of each financial year (in this Part referred to as the half yearly report).

(2) The half yearly report shall be given to the Minister by the end of August or on such a later date as may be agreed between the Authority and the Minister.

(3) The half yearly report shall include the information required by the Authority's statement of corporate intent to be given in the report.

---

<sup>1</sup> Part VI repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

### *Annual Report*

**44.**<sup>1</sup>—(1) Within 4 months after the end of each financial year the Authority shall in accordance with its statement of corporate intent prepare a report of its activities during that financial year (in this Part referred to as the Annual Report).

(2) The Authority shall send a copy of the Annual Report to the Minister who shall cause it to be laid before each House of the Parliament as soon as practicable.

(3) The Annual Report required by subsection (1) shall contain, among other things:

- (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 Authority;
- (c) a statement of cash flows;
- (d) such other information as is required to give a true and fair view of the Authority's financial affairs; and
- (e) a copy of the auditor's report.

(4) The Annual Report shall include the information required by the Authority's statement of corporate intent to be given in it.

(5) The statement of accounts of the Authority shall be audited by such auditor as the Minister appoints upon the recommendation of the Audit Committee as provided for by section **25(1)(a)**.

---

<sup>1</sup> Part VI repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

*Authority to have a corporate plan*

**45.**<sup>1</sup>—(1) The Authority shall in each year publish a corporate plan setting out plans for the future operations of the Authority and shall act in accordance with it.

(2) The Minister may issue guidelines as to the format and content of the corporate plan and the Authority shall comply with the guidelines except as otherwise agreed in writing by the Minister.

(3) A corporate plan shall, except as otherwise agreed in writing by the Minister, contain—

- (a) a forecast of profit and loss accounts, balance sheets and cash flows for the current and following 2 financial years; and
- (b) a statement of the assumptions on which the forecasts are based.

(4) The corporate plan shall be consistent with the Authority's statement of corporate intent.

---

<sup>1</sup> Part VI repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

*Draft corporate plan*

46.<sup>1</sup>—(1) The Authority shall, not later than 3 months before the commencement of each financial year, prepare a draft corporate plan.

(2) The draft corporate plan shall, as soon as possible, be sent to the Minister, who shall within 1 month give his comments in writing or inform the Authority that he has no comments.

(3) If the Minister has no comments on the draft corporate plan, the plan shall be treated as approved.

(4) If the Minister comments on the draft corporate plan, the Authority shall give effect to the comments and deliver the finalised corporate plan to the Minister, within 1 month after receiving them, for approval.

---

<sup>1</sup> Part VI repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

*Authority to have statement of corporate intent*

47.<sup>1</sup>—(1) The Authority shall, in each year, publish a statement of corporate intent containing a summary of the corporate plan and setting out the financial and non-financial performance targets of the Authority for that year.

(2) In addition to the matters mentioned in subsection (1), the statement of corporate intent shall include—

- (a) an outline of the objectives of the Authority;
- (b) an outline of the nature and scope of the activities proposed to be undertaken by the Authority;
- (c) an outline of the Authority's main undertakings;
- (d) an outline of the borrowings made and proposed to be made by the Authority, and the corresponding sources of funds;
- (e) an outline of the Authority's policies and procedures relating to the acquisition and disposal of major assets;
- (f) a description of the Authority's accounting policies;
- (g) a description of the financial information to be given to the Minister in the half yearly report and Annual Report;
- (h) a description of measures by which the performance of the Authority may be judged in relation to its objectives, in addition to the performance targets required by subsection (1);
- (i) such other matters as are agreed by the Minister and the Authority or are directed by the Minister to be included in the statement of corporate intent.

(3) The Minister may, in writing, exempt the Authority from including in its statement of corporate intent any matter, or any aspect of a matter, mentioned in subsection (2).

---

<sup>1</sup> Part VI repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

*Draft statement of corporate intent*

**48.**<sup>1</sup>—(1) The Authority shall, not later than 3 months before the commencement of each financial year, prepare a draft statement of corporate intent.

(2) The draft statement of corporate intent shall, as soon as possible, be sent to the Minister who shall, within 1 month, give his comments in writing on the draft statement of corporate intent or inform the Authority that he has no comments.

(3) If the Minister has no comments on the draft statement of corporate intent, the statement shall be treated as approved.

(4) If the Minister comments on the draft statement of corporate intent, the Authority shall give effect to the comments and deliver the finalised statement of corporate intent to the Minister, within one month after receiving them, for approval.

---

<sup>1</sup> Part VI repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

*Commencement and modification of corporate plan and statement of corporate intent*

**49.**<sup>1</sup>—(1) The corporate plan and the statement of corporate intent come into effect when approved by the Minister.

(2) A corporate plan or a statement of corporate intent may, with the agreement of the Minister, be modified during the relevant financial year.

(3) The Minister may, in writing, direct the Authority to modify its corporate plan or statement of corporate intent during the relevant financial year.

---

<sup>1</sup> Part VI repealed by §115(4) and Schedule 13 Act 9/1999 WEF day to be appointed by Minister of Finance in *Gazette* under §2(5) Act 9/1999 [see Act 20/1999]; on repeal Act 9/1999 to apply

**Part VII—MISCELLANEOUS**

*No proceedings against Authority as agent of Government*

**50.** No action or legal proceedings shall be brought against the Authority in respect of any matter relating to any tax or duty payable under any law specified in the First Schedule and for which the Authority is acting as agent of the State.

*Proceedings conducted by officers of Authority*

**51.** Any officer or employee of the Authority authorised in writing by the Chief Executive Officer may—

- (a) conduct any prosecution in the Magistrates Court of any offence under this Act or under the laws specified in the First Schedule.
- (b) appear in any civil proceedings in the Magistrates Court for the recovery of any tax or duty payable under the laws specified in the First Schedule.

*Secrecy*

**52.—**(1) No person who is or has been a member, officer, employee, or agent of the Authority or a committee nor any person invited to a meeting of the Authority or of a committee shall disclose any information relating to the affairs of the Authority or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions except—

- (a) as may be necessary for the performance of his duties or exercise of his functions;
- (b) when required to do so by or under any written law; or
- (c) as may be necessary for any of the purposes of the laws specified in the First Schedule.

(2) A person who receives any information relating to the affairs of the Authority shall not use the information to his or any other person's financial gain.

(3) Any person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine of \$10,000 and to imprisonment for 7 years.

*Exemption from taxes and duties*

**53.—**(1) The income of the Authority shall be exempt from income tax.

(2) The Authority shall be exempt from stamp duty on all instruments executed by it or on its behalf.

*Regulations*

**54.** The Authority may, with the approval of the Minister, make regulations for the better carrying out of the provisions of this Act.

*Repeals and amendments*

**55.—**(1) The following enactments are amended as specified in the Second Schedule—

- (a) Customs Act 1986;

- (b) Excise Act 1986;
- (c) Gambling Turnover Tax Decree 1991;
- (d) Income Tax Act (Cap. 201);
- (e) Value Added Tax Decree 1991.

(2) Unless the context otherwise requires, where in any written law reference is made to the Inland Revenue Department or the Customs and Excise Department then such references shall, without further amendment, be construed as referring to the Authority.

---

SCHEDULE 1  
*(Sections 22, 27(4), 55, 56, and 57)*

---

LAWS TO BE ADMINISTERED AND ENFORCED BY THE AUTHORITY

1. Customs Act 1986.
2. Customs Tariff Act 1986.
3. Excise Act 1986.
4. Gambling Turnover Tax Decree, 1991.
5. Income Tax Act (Cap. 201).
6. Land Sales Act (Cap. 137).
7. Merchandise Marks Act (Cap. 241).
8. Value Added Tax Decree 1991.
9. Wreck and Salvage Act (Cap. 198).

---

SCHEDULE 2  
*(Section 60)*

CONSEQUENTIAL REPEALS AND AMENDMENTS

## CUSTOMS ACT 1986

The Customs Act 1986 is amended—

- (a) in section 2, by deleting “Customs and Excise Department” in the definition of “the Customs” and substituting “Fiji Revenue and Customs Authority”;
- (b) in section 3, by repealing subsections (1), (2), (3) and (4) and substituting—
  - “(1) There shall be a Comptroller of Customs and Excise who shall administer this Act and be responsible for the enforcement of its provisions and the collection of revenue under it and who shall perform such other duties as the Fiji Revenue and Customs Authority may assign to him.
  - (2) The person for the time being appointed as the Chief Executive Officer of the Fiji Revenue and Customs Authority shall hold office as the Comptroller of Customs and Excise.
  - (3) The Comptroller may authorise any other officer or employee of the Fiji Revenue and Customs Authority to exercise any of the powers conferred upon him by the customs laws except the power of delegation under this subsection.
  - (4) The Minister may give to the Comptroller general or special directions which are not inconsistent with provisions of the customs laws.”;
- (c) in section 166—
  - (i) in paragraph (a) by deleting “credited to the Consolidated Fund” and substituting “paid to the Fiji Revenue and Customs Authority”; and
  - (ii) in paragraph (b) by deleting “out of the Consolidated Fund by the Chief Accountant” and substituting “by the Fiji Revenue and Customs Authority”.

## EXCISE ACT 1986

The Excise Act 1986 is amended in section 2 by deleting “appointed under” in the definition of “Comptroller” and substituting “as provided by”.

## GAMBLING TURNOVER TAX DECREE 1991

The Gambling Turnover Tax Decree 1991 is amended—

- (a) in section 2(l) by deleting “appointed under” in the second line of the definition of “Commissioner” and substituting “as provided by”;
- (b) by repealing section 12 and substituting:

“ 12. The Commissioner may, by instrument in writing signed by him, appoint and authorise any officer or employee of the Fiji Revenue and Customs Authority to exercise any of the powers conferred upon him by or under this Decree.”.

INCOME TAX ACT, (CAP. 201)

The Income Tax Act (Cap. 201), is amended—

- (a) in section 2 in the definition of “Commissioner” by deleting “by the Public Service Commission”;
- (b) by repealing section 3 and substituting—

“ *Commissioner of Inland Revenue*

3.—(1) There shall be a Commissioner of Inland Revenue who shall administer this Act and be responsible for the collection of tax under it and who shall perform such other duties as the Fiji Revenue and Customs Authority may assign to him.

(2) The person for the time being appointed as the Chief Executive Officer of the Fiji Revenue and Customs Authority shall hold office as the Commissioner of Inland Revenue.

(3) The Commissioner may authorise any other officer or employee of the Fiji Revenue and Customs Authority to exercise any of the powers conferred upon him by this Act except the power of delegation under this subsection.”;

- (c) in section 4(1), by deleting the words “in the Inland Revenue Department”;
- (d) by deleting section 4(4) and substituting—

“ (4) Notwithstanding anything contained in this section the Commissioner may disclose to the Minister or members of the Fiji Revenue and Customs Authority such information, records or documents as may be necessary for the purposes of this Act or the Fiji Revenue and Customs Authority Act and the Minister or members, as the case may be, shall thereupon become subject to the provisions of this section.”;

- (e) in section 5 by deleting “Inland Revenue Department” and substituting “Fiji Revenue and Customs Authority”;
- (f) in section 50 by deleting “Department of Inland Revenue” in the twelfth line and substituting “Fiji Revenue and Customs Authority”.

#### VALUE ADDED TAX DECREE 1991

The Value Added Tax Decree 1991 is amended—

- (a) in section 2(1) by deleting “appointed under” in the second line of the definition of “Commissioner” and substituting “as provided by”;
- (b) by deleting subsections (1), (2), (3) and (4) of section 6 and substituting—
  - “ (1) The Commissioner shall administer this Decree and be responsible for the collection of tax under it and for all matters incidental thereto and shall perform such other duties as the Fiji Revenue and Customs Authority may assign to him.
  - (2) The Commissioner may authorise any other officer or employee of the Fiji Revenue and Customs Authority to exercise any of the powers conferred upon him by this Decree except the power of delegation under this subsection.”;
- (c) by renumbering subsections (5) and (6) of section 6 as subsections (3) and (4) respectively;
- (d) in section 7(1) by deleting the words “in the Inland Revenue Department” in the second line;
- (e) by repealing section 7(4) and substituting—
  - “ (4) Notwithstanding anything contained in this section the Commissioner may disclose to the Minister or members of the Fiji Revenue and Customs Authority such information, records or documents as may be necessary for the purposes of this Decree and the Minister or members, as the case may be, shall thereupon become subject to the provisions of this section.”.