

FIJI ISLANDS REVENUE AND CUSTOMS AUTHORITY ACT 1998

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UPDATED BY:-



**POLICY, ECONOMIC ANALYSIS AND
RESEARCH UNIT
FIJI ISLANDS REVENUE AND
CUSTOMS AUTHORITY**

FIJI [ISLANDS]¹ REVENUE AND CUSTOMS AUTHORITY ACT 1998
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AN ACT

TO ESTABLISH THE FIJI [ISLANDS]¹ REVENUE AND CUSTOMS
AUTHORITY AND FOR RELATED MATTERS

ENACTED by the Parliament of Fiji—

Part I—PRELIMINARY

Short title and commencement

1.—(1) This Act may be cited as the Fiji [Islands]¹ 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.

Interpretation

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

“Authority” means the Fiji [Islands]¹ 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)**;

“customs and excise legislation” has the meaning in the Tax Administration Decree;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;]²

“statement of corporate intent” means the statement required by section **47(1)**;

“revenue law” refers to all laws listed in the Second Schedule²;

“revenue officer” means an officer under a tax law, customs and excise legislation³;

“Tax Agents’ Board” means the Tax Agents’ Board established under section 110 of the Tax Administration Decree⁴;

“Tax Administration Decree” means the Tax Administration Decree (Decree No.50 of 2009)⁵;

“tax law” has the meaning in the Tax Administration Decree⁶;

“Tax Tribunal” means the Tax Tribunal established under section 75 of the Tax Administration Decree⁷;

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

Part II—ESTABLISHMENT, MEMBERSHIP AND MEETINGS OF AUTHORITY

Establishment of Fiji [Islands]¹ Revenue and Customs Authority

3. This section establishes the Fiji [Islands]² 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.

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; and

(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 Act¹, 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 Act², 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.

Transfer of Employees

17.—(1) As from the commencement of this Act¹, 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) The conduct and discipline of every employee of the Fiji Islands Revenue and Customs Authority will be, in accordance with the provisions of the Conduct and Discipline Regulations 2002.⁸

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

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, 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.

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 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.

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]¹ Minister may assign to the Authority.

¹ 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];

(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]² Minister, by notification in the *Gazette*, appoint a Chief Executive Officer³ 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]⁴ 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 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 and the power to compound offences in section 59 of the Tax Administration Decree.⁹

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.—(1) 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 PROVISIONS¹

Money to be appropriated by Parliament

33.¹ 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.

Funds of the Authority

34.¹ 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.

Bank accounts

35.1—(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.

Grants

36.1 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.

Investment

37.1 The Authority may invest part of its funds in so far as the funds are not required to be expended by the Authority.

Power to borrow

38.1—(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.

Conservation of funds

39.1 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.

Expenditure to be charged on funds of the Authority

40.1 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.

Payment of surplus funds to State

41.1—(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.

Part VI—REPORTING AND ACCOUNTABILITY¹

Financial Year

42.1 The Authority's financial year shall be from the 1st day of January to the 31st day of December of each year.

Half yearly reports

43.1—(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.

Annual Report

44.1—(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)**.

Authority to have a corporate plan

45.1—(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.

Draft corporate plan

46.1—(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.

Authority to have statement of corporate intent

47.1—(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).

Draft statement of corporate intent

48.1—(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.

Commencement and modification of corporate plan and statement of corporate intent

49.1—(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.

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

52.¹⁰ (1) A revenue officer must take an oath in the prescribed form administered by a magistrate or a Justice of the Peace before performing any duty under any revenue law.

(2) A revenue officer must regard as secret and confidential all information and documents received in performance of duties as a revenue officer.

(3) Subject to subsection (4)(b), no revenue officer can be required to produce in the Tax Tribunal or any court any document or divulge to the Tribunal or any court any information that has come into the officer's possession or knowledge in the performance of the officer's duties under a revenue law, except as may be necessary for the purpose of carrying into effect the provisions of a revenue law

or in order to bring, or assist in the course of, a prosecution for any offence in relation to tax

(4) Nothing in this section prevents a revenue officer from revealing a document or information to –

- (a) another revenue officer or the Minister, but only to the extent necessary for the purposes of carrying out any duty arising under a revenue law;
- (b) the Commissioner of Police, Director of Immigration, Governor of the Reserve Bank, Financial Intelligence Unit or Fiji Independent Commission Against Corruption but only to the extent necessary for carrying into effect the provisions of any revenue law or to institute a prosecution for an offence under any revenue law;
- (c) the Tax Agents' Board, but only to the extent necessary for the performance of the functions of the Board;
- (d) the Auditor-General or a person authorised by the Auditor-General in writing to the extent that the disclosure is necessary for the performance of the audit of the Authority's accounts, provided the Auditor-General or person authorised by the Auditor-General to audit the accounts of the Authority has taken an oath as required by subsection (7);
- (e) the competent authority of a government of a foreign country with which Fiji has entered into an agreement providing for the exchange of information, to the extent permitted under that agreement; or
- (f) a person with the written consent of the person to whom the documents or information relate.

(5) If a revenue officer is permitted to disclose documents or information under subsection (4), the officer must maintain secrecy and confidentiality except to the minimum extent necessary to achieve the object for which the disclosure is permitted.

(6) Subsections (2) and (9) apply to a person receiving documents or information under subsection (4) as if the person were a revenue officer.

(7) The Auditor-General and every person authorised by the Auditor-General in writing for the purpose of the audit of the Authority's accounts must take an oath in accordance with subsection (1).

(8) A reference to revenue officer in this section, other than in subsection (1), includes a person employed or engaged by the Authority in any capacity and includes the Minister or former Minister, a director or former director of the Board, a member or former member of a committee of the Board, a person invited to a Board or committee meeting, or a former officer or employee of the Authority.

(9) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding [\$10,000] or to imprisonment for a term not exceeding [12] months or to both.

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. Tax Administration Decree¹¹.
9. Value Added Tax Decree 1991.
10. 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(1) 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.”.

¹ Inserted by Decree 50/2009 WEF 1st January 2010.

² Inserted by Decree 50/2009 WEF 1st January 2010.

³ Inserted by Decree 50/2009 WEF 1st January 2010.

⁴ Inserted by Decree 50/2009 WEF 1st January 2010.

⁵ Inserted by Decree 50/2009 WEF 1st January 2010.

⁶ Inserted by Decree 50/2009 WEF 1st January 2010.

⁷ Inserted by Decree 50/2009 WEF 1st January 2010.

⁸ Amended by deleting the previous subsection(2) and replacing with a new subsection (2). It previously reads –
(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).

⁹ Amended by Decree 50/2009 WEF 1st January 2010

¹⁰ Amended by deleting the previous Section 52 and replacing it with a new section 52. The previous Section 52 reads
–*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.

¹¹ Inserted by Decree No. 50/2009 WEF 1st January 2010.