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FIJI

ACT NO. 1 OF 1996



I assent.

[L.S.]

K. K. T. MARA
President

[14 March 1996]

AN ACT

TO PROVIDE FOR THE ESTABLISHMENT OF THE GINGER COUNCIL OF FIJI,
ITS FUNCTIONS, STRUCTURE, FUNDING AND RELATED MATTERS

ENACTED by the Parliament of Fiji—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Ginger Council of Fiji Act, 1996.

Commencement and application

- 2.—(1) This Act shall come into force on such date as the Minister may by notice published in the *Fiji Republic Gazette* appoint.

- (2) This Act shall apply throughout Fiji.

Interpretation

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

“Board” means the Ginger Council Board established under Section 8 of this Act;
“Council” means the Council established under Section 4 of this Act;

- “fresh ginger” means mature or immature ginger rhizomes or parts thereof of a ginger plant in its natural form;
- “ginger exporter” means any person exporting ginger and ginger products from Fiji;
- “ginger grower” means any person growing ginger in Fiji;
- “ginger processor” means any person processing any type of ginger product in Fiji;
- “Minister” means the Minister responsible for Agriculture;
- “Permanent Secretary” means the Permanent Secretary responsible for Agriculture;
- “processed ginger” means all ginger products either preserved, manufactured or extracted from mature or immature ginger rhizomes or from other parts of a ginger plant and in which case the final product no longer qualify as fresh ginger.

Establishment of Ginger Council of Fiji

4.—(1) There is established a Council to be known as the Ginger Council of Fiji which shall be a body corporate and by that name, shall have perpetual succession and a common seal with power to acquire, purchase, take, hold and enjoy real and personal property of every description and may, subject to the provisions of this Act, convey, assign, surrender and yield up, charge, mortgage, transfer or otherwise dispose of or deal with any real and personal property vested in it upon such terms and conditions as it thinks fit.

(2) The Council may sue and be sued in respect of matters, whether relating to contract, or otherwise, arising in connection with the exercise of its powers and functions or the carrying on of its operations under the provisions of this Act.

**PART II—FUNCTIONS OF COUNCIL, GINGER COUNCIL BOARD
AND ADMINISTRATION**

Functions of Council

5.—(1) The functions of the Council shall be to—

- (a) introduce self-regulation within the industry;
- (b) seek to minimise the costs of the industry including transportation costs, farm input costs, packaging and other costs;
- (c) promote Fiji ginger in its primary export markets;
- (d) develop and implement extension and research plans for the ginger industry;
- (e) develop the operations of the Council in a way that the benefits to the industry justify continuation of the Council's core activities;
- (f) develop plans and prepare requests for assistance to meet the sustainable development needs of the industry pertaining to environmental protection; extension; research and marketing;
- (g) determine and enforce grading standards for ginger exports from Fiji;

- (h) oversee the implementation of the marketing policy established by the Council and the requirements that all ginger exporters must meet in order to be granted and continue to hold an export licence;
- (i) maintain a register of ginger growers, ginger processors and exporters of ginger and ginger products, including production and export data;
- (j) maintain a regular flow of research, extension and marketing information to the industry;
- (k) develop additional Council services or activities for the generation of additional income and benefits for the ginger growers, ginger processors and ginger exporters;
- (l) prepare feasibility studies on development projects for the industry;
- (m) operate banking accounts as approved by the Council;
- (n) issue ginger export licences;
- (o) develop plans and prepare requests for assistance in value-added technology and further processing in ginger products;
- (p) collect export levies;
- (q) carry out other activities as may from time to time be approved by the Council.

(2) In carrying out its functions the Council shall act in accordance with any policy directions (not inconsistent with this Act) in the national interest given to it from time to time in writing by the Minister.

Register of growers, processors and exporters

6.—(1) The Council shall establish and maintain a register of ginger growers, ginger processors, and ginger exporters.

(2) The Council may on an application by a ginger grower, ginger processor or ginger exporter cause the name of the grower, processor or exporter to be entered into the register as a grower producing ginger; processor processing and exporting processed ginger products or exporter exporting ginger, if it is satisfied that the applicant has complied with the Council's qualifications for entry into the register as may be specified in regulations made in accordance with paragraph (f) of subsection (2) of Section 17 of this Act.

(3) In making any such registrations the Council may impose any conditions which it considers necessary.

(4) The Council shall, subject to the approval of the Permanent Secretary, cause the name of any person or body to be removed from the register if the grower, processor or exporter ceases to be a grower, processor or exporter of ginger or if the grower, processor or exporter of ginger fails for two consecutive years to obtain reasonable standards, quality and efficiency as may be determined by the Council as proper in the circumstances:

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Provided that any person or body whose name has been removed from the register may apply to the Council for re-registration, upon which the Council shall consider and approve or reject the application in accordance with the requirements specified under subsection (2) of this Section.

(5) No name shall be removed from the register until written notice of the circumstances has been given to the offending grower, processor, or exporter of ginger and the Council has considered the representation (if any) made in that matter.

Annual General Meeting of growers, etc.

7.—(1) There shall be a Annual General Meeting of the registered growers, processors and exporters of ginger.

(2) The Annual General Meeting shall be convened primarily for the purpose of electing representatives to the Board, but may, subject to the provisions of this Act discuss other matters of interest to the members of the Council, the registered growers, processors and exporters as may be prescribed by regulation.

Ginger Council Board

8.—(1) The Council shall have a Board which shall be called the Ginger Council Board consisting of:

- (a) (4) four ginger growers representatives who shall be elected in accordance with the election rules;
- (b) (1) one ginger processor's representative who shall be elected in accordance with the election rules;
- (c) (3) three ginger exporter's representatives who shall be elected in accordance with the election rules;
- (d) the Permanent Secretary or his or her nominee.

(2) The Chairperson and deputy Chairperson of the Board shall be elected by members of the Board.

(3) The members of the Board shall hold office for a period of (2) two years and shall be eligible for re-election.

(4) The Minister may, in consultation with the Board, from time to time appoint (2) two co-opted members of the Board who shall be persons who in the opinion of the Minister possess expert or special knowledge or experience that will be advantageous or beneficial to the Council in the exercise of its functions and every such co-opted member shall be deemed to be members of the Board for the specific purpose of their appointment and with such voting powers as the Board may determine.

(5) A majority of the members of the Board shall form a quorum, and in determining a quorum co-opted members shall not be counted.

(6) Names of persons elected to the Board shall upon first election or re-election be published in the *Fiji Republic Gazette*.

(7) The Board may subject to the provisions of this Act make rules governing its procedures.

Executive Director

9.—(1) There shall be an Executive Director to the Council appointed by the Board and who shall also be Secretary to the Board.

(2) In the absence of the Executive Director the Board shall appoint a officer or staff of the Council to carry out the functions and responsibilities of that office under this Act.

(3) The Executive Director shall devote the whole or part of his or her services to the Council and shall not, without the written approval of the Board and endorsed by the Minister, occupy any other office or employment whether remunerated or not, except that he or she may act as a member of any board, committee or commission established by the Government.

(4) The Executive Director shall—

- (a) be responsible to the Board for the management of the Council and the execution of its policies; and
- (b) subject to the provisions of this Act and to any resolution passed at the meeting of the Board or at any Annual General Meeting do all things necessary or convenient to be done in connection with, or incidental to, the performance of his or her duties under this Act or any other written law dealing with ginger produce.

(5) The Executive Director and such officers or staff of the Council shall be paid such salary as is determined from time to time by the Board.

Allowance for Board members

10. The members of the Board including co-opted members may be given allowances and benefits as is determined from time to time by the registered growers, processors and exporters of ginger at the Annual General Meeting and subject to the approval of the Minister.

Board member's liability

11. The members of the Board shall be exempted from liability for any act or omission of the Council done or omitted to be done in good faith in the course of the operation of the Council.

Employees' liability

12. The employees of the Council are accountable for the management of the resources of the Council and shall be liable for any damage caused to or misuse of the resources of the Council.

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PART III—FINANCIAL PROVISIONS

Funds of the Council

13. The funds of the Council shall comprise of—

- (a) all money received by the Council out of money appropriated by Parliament for the purpose of this Act;
- (b) all money received by the Council from—
 - (i) licencing fees;
 - (ii) export and grading levies for all ginger exported from Fiji;
- (c) all money that may be contributed or donated to the Council or that may otherwise be lawfully payable to the Council;
- (d) all money borrowed, subject to Section 14 of this Act;
- (e) all accumulation of money belonging to the Council.

Borrowing powers

14. The Council may, with the consent of the Minister in consultation with the Minister of Finance and upon such terms and conditions as the Minister may approve, raise loans, either by way of a charge or mortgage or by any other means, for the purpose of carrying out its functions under the provisions of this Act or any other written law or to provide necessary working capital:

Provided that no such consent or consultation shall be required in respect of any loan not exceeding \$100,000 obtained from a bank.

Accounts and Annual Report

15.—(1) The Council shall keep proper accounts and other records in respect of its operations and shall not later than 1st April in each year, cause a statement of accounts to be prepared in respect of the preceding financial year and submitted to the Minister.

(2) The annual statement of accounts of the Council shall present a true and fair view of the financial position of the Council and of the results of the operations of the Council of the year to which it relates.

(3) The accounts of the Council shall be audited by such auditors as the Council shall appoint from time to time.

(4) The Minister shall cause copies of the accounts and report to be printed and laid before Parliament as soon as possible thereafter.

PART IV—MISCELLANEOUS

Settlement of disputes

16.—(1) If a dispute concerning the operations of the Council, election of Board members, conduct of meetings, or any other dispute under this Act arises, such dispute

shall be referred to the Executive Director in writing who shall attempt to settle the dispute within (7) seven working days, failing which the matter shall be referred to the Arbitration Committee established under subsection (2) of this Section:

Provided that if a dispute arises as a result of an act or omission of the Executive Director, it shall be directly referred to the Arbitration Committee.

- (2) (a) There shall be a Arbitration Committee consisting of—
- (i) the Executive Director;
 - (ii) one ginger grower representative appointed by the Permanent Secretary in accordance with specified rules;
 - (iii) one ginger exporter representative appointed by the Permanent Secretary in accordance with specified rules.
- (b) Members of the Arbitration Committee shall not take their seat and be replaced in cases where they have a direct interest in a dispute referred to the Committee.

(3) In a dispute arising as a result of an act or omission of the Executive Director, the Permanent Secretary or his or her nominee shall be a member of the Committee in the place of the Executive Director.

(4) The Arbitration Committee shall deliberate on any case brought before it and make a decision within 7 working days. Any person who is aggrieved by the Arbitration Committee's decision may appeal to the Minister within 14 days from the date of the Arbitration Committee's decision.

(5) The Minister shall hear and decide on an appeal made in accordance with the preceding subsection within 14 days from the day the appeal was made and the Minister's decision shall be final and conclusive.

Power to make regulations

17.—(1) The Minister may, acting on the advice of the Board, make regulations for the purposes of carrying out the provisions of this Act in respect of any matter which may be considered necessary or desirable for the furtherance of the functions conferred on the Council by this Act.

(2) Without prejudice to subsection (1) of this Section the Minister in consultation with the Board may make regulations in relation to—

- (a) fees and levies specified under paragraph (b) of Section 13 of this Act;
- (b) rules and procedures pertaining to the election of members to the Ginger Council Board, and appointment of a ginger grower and a ginger exporter representative in the Arbitration Committee;
- (c) rules and conditions pertaining to grading procedures and standards;
- (d) rules and conditions pertaining to the issuing of export licences;

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- (e) rules and procedures pertaining to the conduct of the Annual General Meeting and other meetings authorised by this Act;
- (f) rules and conditions pertaining to the registration of ginger growers, ginger exporters and ginger processors;
- (g) any other matters relevant to the matters specified in paragraphs (a) to (f) of this subsection.

Passed by the House of Representatives this fourteenth day of February, in the year of our Lord One Thousand, Nine Hundred and Ninety-Six.

Passed by the Senate this Twenty-Seventh day of February in the year of our Lord One Thousand, Nine Hundred and Ninety-Six.