



GOVERNMENT OF THE REPUBLIC OF FIJI DECREE NO. 12

HOUSING (AMENDMENT) DECREE, 1989

A DECREE TO AMEND THE HOUSING ACT AND TO PROVIDE FOR THE ESTABLISHMENT OF THE PUBLIC RENTAL BOARD AND MATTERS ANCILLARY THERETO

In exercise of the powers vested in me as President and Commander-in-Chief of the Republic of Fiji and acting in accordance with advice of the Prime Minister and the Cabinet, I hereby make the following Decree—

Short title

1. This Decree may be cited as the Housing (Amendment) Decree, 1989.

Interpretation

2. In this Decree, unless the context otherwise requires, "the Act" means the Housing Act.

Long title amended

3. The long title to the Act is amended by inserting the words "AND OTHER PERSONS" after the word "DEFINED".

Section 2 amended

4. Section 2 of the Act is amended by inserting—
 - (a) after the definition of "Authority" the following definition—

""Board" means the Public Rental Board established under section 31;" and
 - (b) after the definition of "prescribed area" the following definition—

""Public Rental Estate" means those areas of land and buildings described in section 33;"

Section 30 amended

5. Section 30 of the Act is amended—
 - (a) by omitting the marginal note and substituting
"Authority may make regulations";
 - (b) by renumbering paragraphs (f) and (g) as paragraphs (g) and (h) respectively; and
 - (c) by inserting after paragraph (e) the following—

"(f) the books and accounts to be kept by the Board, and all other matters of a financial nature relating to the affairs of the Board;"

New sections 31 to 37

6. The Act is amended by inserting after section 30 the following—

"Public Rental Board"

31.—(1) There is hereby established a Board to be known as the Public Rental Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal with power to hold land for purposes connected with the functions conferred upon it by this Act or any other written law.

(3) The Board shall be composed of a Chairman and not more than five other members, all of whom shall be appointed by the Minister after consultation with the Authority.

(4) A member of the Board shall hold office for such term not exceeding 3 years as the Minister may determine but shall be eligible for re-appointment.

(5) In the absence of the Chairman, from any meeting, the members present shall elect from amongst their number a Deputy Chairman to preside at that meeting and who shall, for the purposes of that meeting, have all the powers of the Chairman.

(6) Subject to the provisions of this Act, the Board may, with the approval of the Authority, make rules governing its own procedure.

(7) The Board shall, subject to the approval of the Authority, appoint a Secretary.

Functions and powers of Board

32. The functions of the Board shall be to manage the Public Rental Estate, to undertake the assessment and collection of rents from tenants and occupants thereof and, where the Board considers it appropriate, to extend the Public Rental Estate, to sell to tenants or others the whole or any portion of the Public Rental Estate and for such purposes the Board shall have the same powers as are conferred upon the Authority by section 15, other than the powers conferred upon the Authority by paragraphs (h) and (i) of subsection (1) and subparagraphs (v) and (vi) of paragraph (c) of subsection (2) of that section, and such further powers as may be necessary to enable it to perform its functions under this Act or any other written law.

Public Rental Estate

33.—(1) The Public Rental Estate shall consist of all land vested in the Board under this section and such other land as the Board may, in exercise of its powers under this Act or any other written law, acquire or set aside for the purpose of leasing.

(2) The Authority may, with the approval of the Minister, by order declare any land belonging to the Authority to form part of the Public Rental Estate and any such land shall, notwithstanding the provisions of the Land Transfer Act, thereupon without further assurance vest in the Board.

(3) The Authority may, with the approval of the Minister, by order declare any land forming part of the Public Rental Estate to be excluded therefrom, and any such land shall, notwithstanding the provisions of the Land Transfer Act, thereupon without further assurance vest in the Authority.

(4) Upon the vesting of any land under this section, all assets, including the entitlement to receive rents therefrom, and all debts, liabilities and obligations in connection with or appertaining to such land shall, unless the order by which such land is vested shall otherwise specify, also be transferred to and vested in the body to which the land is transferred and vested and shall be deemed for all purposes to have been acquired or incurred by that body.

(5) The Board shall keep full and proper accounts of its income received from and expenditure incurred in respect of the Public Rental Estate.

Board to assess and collect rents

34.—(1) The Board shall be required so to assess and collect rents from lessees, tenants or occupiers as to ensure that the net earnings from the Public Rental Estate do not incur a loss.

(2) For that purpose the Board is required to assess the rental of any dwelling-house on an economic basis regardless of the actual income of the current tenant, and—

(a) in assessing the rental applicable to any tenancy, shall be entitled to take into account the total income of those who have the enjoyment of the tenancy including the tenant himself, his family and any other person who habitually resides in the subject tenement; and

(b) where the assessed rental applicable to a tenancy represents a disproportionate percentage of the earnings of those whose incomes have been taken into account for the purposes of such assessment, shall invite the Government to make good the shortfall by way of subsidy to the Board.

(3) The provisions of any order made under section 12 of the Counter-Inflation Act shall not apply to the Board.

Funds and resources of Board

35. The funds and resources of the Board shall consist of—

(a) such sums as may be appropriated to the Board by vote or resolution of Parliament or by Appropriation Decree made by the President acting in accordance with the advice of the Prime Minister and the Cabinet;

(b) such sums as may be borrowed by the Board under the provisions of this Act;

- (c) moneys received by or falling due to the Board in respect of the sale of the whole or any portion of the Public Rental Estate or any other property acquired by or vested in the Board;
- (d) rents or other moneys received by or payable to the Board in respect of the letting of the Public Rental Estate or any other property acquired by or vested in the Board;
- (e) any property, moneys, investments or securities acquired by or vested in the Board and moneys earned or arising therefrom;
- (f) all other moneys or property which may in any manner be or become payable to or vested in the Board in respect of any matter incidental to its powers and duties.

Board may make regulations

36. The Board, with the approval of the Authority and the Minister, may make regulations relating to the following matters—

- (a) prescribing, and from time to time varying, the average income of persons who may lease a dwelling-house which forms part of the Public Rental Estate;
- (b) fixing, and from time to time varying, the number of persons who may occupy a dwelling-house which forms part of the Public Rental Estate;
- (c) the use of the dwellings which form part of the Public Rental Estate with a view to the prevention of nuisances and sanitary defects;
- (d) the inspection of houses and land which form part of the Public Rental Estate;
- (e) prescribing the forms of leases, and other instruments required under the provisions of this Act as they relate to the Board;
- (f) generally, for regulating the administration of the Board and for the purpose of carrying out the provisions of this Act as they relate to the Board.

Penalty for false statements

37. Any applicant for any lease or tenancy of any property belonging to the Board or any lessee, tenant or occupant of any property of the Board who wilfully fails to disclose any material information within his knowledge or who wilfully makes any statement which he does not believe to be true to the Board shall be guilty of any offence and on conviction shall be liable to a fine not exceeding \$200 or to imprisonment for a term not exceeding 6 months or to both such fine and imprisonment.

Provisions relating to Authority to apply to Board

38. The provisions of this Act which relate to the Authority, other than sections 3, 3B, 6, 14, 15, 16(1) and (4), 17, 28, 29 and 30, shall by virtue of this section apply *mutatis mutandis* to the Board."

Dated this 8th day of May 1989.

PENAIA K. GANILAU
President and Commander-in-Chief