



[189]

## NATIVE LAND TRUST ACT (AMENDMENT) DECREE 2000

### INTERIM CIVILIAN GOVERNMENT DECREE NO. 14 OF 2000

In exercise of the powers vested in the Military appointed Interim Civilian Government under section 9 of the Interim Civilian Government (Establishment) Decree No.10, I, Josaia Voreqe Bainimarama MSD, jssc, psc, Commander and Head of Government of Fiji acting on the advice of the Cabinet, hereby make the following Decree –

*Short title, etc.*

1.—(1) This Decree may be cited as the Native Land Trust Act (Amendment) Decree 2000 and comes into force on a date appointed by the Minister for Fijian Affairs and published in the *Gazette*.

(2) The Native Land Trust Act (Cap.134) is in this Decree referred to as the “principal Act”.

*Interpretation*

2. Section 2 of the principal Act is amended by repealing the definition of “native land” and replacing it by –

“native land” means land which is neither State (formerly Crown) land nor the subject of a State (formerly Crown) grant and includes—

- (a) all vacant land;
- (b) all land granted to a mataqali or other division or subdivision of Fijians under section 18; and
- (c) all land owned by extinct mataqali and allotted or dealt with by the Board in accordance with section 19;”

*State ultimus haeres of extinct mataqali*

3. Section 19 of the principal Act is amended—

- (a) in subsection (1)—
  - (i) by deleting “fall to the Crown as ultimus haeres” and substituting “vest in the Board”;
  - (ii) by deleting “by the Crown” and substitute “by the Board”;
- (b) in subsection (2) by deleting “fall to the Crown” and substitute “vest in the Board”;
- (c) in subsection (6) by deleting “Crown land” and substitute “native land”;
- (d) by deleting the section heading and substituting—

*“Extinct mataqali lands to vest in the Board”.*

*New section 19A*

4. The principal Act is amended by inserting after section 19 the following new section –

*“Allotment of extinct mataqali lands*

19A. (1) An order by the Board under section 19(1) allotting or otherwise dealing with land vested in the Board under that section must be transmitted to the Native Lands Commission which must register the allotment or dealing in the Register of Native Lands.

(2) Until an allotment of or other dealing with vacant land is made under section 19(1), all income arising from the control and administration of the land, less 15%, must be paid to the Central Fijian Treasury and used exclusively for the benefit of Fijians in a manner and for purposes approved by the Minister on the advice of the Great Council of Chiefs.

(3) In exercising its powers under this section or section 19(1) the Board must comply with any procedures prescribed in the Native Land (Native Reserves) Regulations.”.

*Transfer of leases*

5.—(1) Where a lease of any land was granted to any person by the Director of Lands under section 19(1) of the principal

Act before the commencement of this Decree—

- (a) the Director of Lands is replaced by the Board as lessor for all purposes; and
- (b) the income from the lease must be dealt with in accordance with section 19A(2) of this Act,

but otherwise the terms of the lease remain as before.

(2) All leases, deeds and instruments in respect of any land allotted or otherwise dealt with by the Director of Lands under section 19(1) of the principal Act before the commencement of this Decree and current at the commencement of this Decree are, until their expiry or earlier termination in accordance with their terms and conditions, governed by the State Lands Act (Cap. 132).

*Transfer of contracts etc.*

- 6.—(1) All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings which—
- (a) were entered into by, or made with and addressed to the Director of Lands (whether alone or with any other person);
  - (b) were in force at the commencement of this Decree; and
  - (c) relate to land allotted or dealt with under section 19(1) of the principal Act before the commencement of this Decree,

are on or after that date, to the extent that they were at any time before that date binding upon or enforceable by or against the Director of Lands, binding and enforceable by or against the Board as fully and effectively as if, instead of the Director of Lands, the Board had been a party to them or bound by them or entitled to the benefit of them.

(3) All documents or instruments brought into existence for the purpose of evidencing, recording or effecting the matters referred to in subsection (1) are exempt from stamp duty under the Stamp Duties Act and that Act does not—

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

(4) Nothing in the State Acquisition of Lands Act, Forests Decree, Land Sales Act, Land Transfer Act or any other written law invalidates or affects any mortgage, transfer, bill of sale or security given or made to the Director of Lands to which the Board has by virtue of this Decree become entitled instead of the Director of Lands.

*Land titles*

7.—(1) The Registrar of Titles must upon application and lodgement for registration made by the Board make any entry upon any certificate of title, mortgage, lease or other instrument or document under his or her custody or control that is necessary or expedient in consequence of the vesting in the Board of—

- (a) vacant lands, under section 19 of the Native Lands Act as amended by the Native Lands Act (Amendment) Decree 2000; or
- (b) lands owned by extinct mataqali, under section 19 of the principal Act as amended by this Decree,

and the holder of any such certificate of title, mortgage, lease, instrument or document must produce it to the Registrar of Titles for that purpose.

(2) The Registrar of Titles must, upon application and lodgement for registration made by the Board, make any other memorial or entry in any public record that is necessary or expedient to record the vesting of such land in the Board under the principal Act or the Native Lands Act as respectively amended by this Decree or the Native Lands Act (Amendment) Decree 2000.

*Actions etc. not to abate*

8. Any action, arbitration or proceeding which at the commencement of this Decree is pending by, against, or in favour of the Director of Lands, does not abate and is not discontinued or in any way prejudicially affected by this Decree or the Native Land Act (Amendment) Decree 2000 but may be prosecuted, continued and enforced by, against or in favour of the Board as and when it might have been prosecuted, continued and enforced by, against or in favour of the Director of Lands if neither this Decree nor the Native Lands Act (Amendment) Decree 2000 had been promulgated.

Made at Suva this 12th day of July 2000.

COMMODORE J. V. BAINIMARAMA  
Commander and Head of Government