

SUBSTANCE ABUSE ADVISORY COUNCIL ACT 1998

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FIJI**ACT NO. 25 OF 1998**

I assent.

[L.S.]

K. K. T. MARA
President

[19 June 1998]

AN ACT

TO ESTABLISH THE SUBSTANCE ABUSE ADVISORY COUNCIL, TO DEFINE
ITS FUNCTIONS AND POWERS, AND TO PROVIDE FOR RELATED
MATTERS

ENACTED by the Parliament of Fiji-

Part 1—PRELIMINARY*Short title and commencement*

1.—(1) This Act may be cited as the Substance Abuse Advisory Council Act 1998.

(2) This Act shall come into force on a date appointed by the Minister and published in the *Gazette*.

Interpretation

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

“beer” means the product of the alcoholic fermentation of liquid that—

- (a) on analysis is found to contain more than 1.7 percent of alcohol by volume; and

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- (b) is derived from a mash of malted grain or hops or any extract thereof, or other harmless vegetable bitters,

and includes any other malt liquor or fermented beverage made in imitation of beer or malt liquor that, on analysis, is found to contain more than 1.7 percent of alcohol by volume;

“Chairperson” means the Chairperson of the Council appointed under subsection 4(2) and includes the Deputy Chairperson or a person elected to preside at a particular meeting of the Council;

“committee” means a committee or body appointed by the Council under section 10;

“co-operate” means to co-operate with any person or body, in Fiji or elsewhere, with the same or similar functions as those of the Council;”

“Council” means the Substance Abuse Advisory Council established under section 3;

“financial year” means a period of 12 consecutive months commencing on the 1st day of January in every year;

“fortified wine” includes any spirit-based drink of a strength not exceeding 40 percent of proof spirit;

“liquor” means beer, wine, fortified wine or spirits or any other fermented, distilled or spirituous liquor;

“Minister” means the Minister responsible for education;

“spirits” means alcoholic drinks produced by distillation (with or without the addition of any other alcoholic drink, colouring substances, flavouring substances, water, or sugar) of a strength exceeding 40 percent proof spirit;

“substance” means—

- (a) any liquor, psychoactive pharmaceutical or illicit drug;
- (b) any volatile substance such as petrol, certain fluorocarbons and anabolic steroids; and
- (c) any other chemical that changes the mental state and may be abused by a person to achieve that effect;

“Substance Abuse Account” means the Substance Abuse Advisory Council Account established under section 17.

Part II—SUBSTANCE ABUSE ADVISORY COUNCIL

Establishment of Council

3. (1) There shall be established a Council, to be called the Substance Abuse Advisory Council.

(2) The Council—

- (a) shall be a body corporate with perpetual succession;
- (b) shall have a common seal;
- (c) may sue and be sued in its corporate name;
- (d) shall, subject to this Act, be capable of holding real and personal property for the purposes of performing its functions and exercising its powers under this Act; and
- (e) shall be capable of doing all such acts and things as bodies corporate may by law do and which are necessary or expedient for the purpose of performing and exercising its powers under this Act.

Membership of Council

4.—(1) The Council for the first 3 years shall consist of 6 members being—

- (a) the Permanent Secretary responsible for Education or his or her representative;
- (b) the Permanent Secretary responsible for Health or his or her representative;
- (c) the Permanent Secretary responsible for Finance or his or her representative;
- (d) the Permanent Secretary responsible for Regional Development or his or her representative;
- (e) a nominee of the Fiji Council of Churches, to be appointed by the Minister;
- (f) a nominee of the Fiji Council of Social Services, to be appointed by the Minister.

(2) The Minister shall appoint a member of the Council, other than a representative, as Chairperson who shall hold office for one year but is eligible for re-appointment.

(3) The powers of the Council shall not be affected by any vacancy in its membership.

(4) After 3 years, the membership of the Council shall be increased to 9 persons, the additional 3 persons being persons, other than public officers, appointed by the Minister.

Term of Appointment of members of the Council

5.—(1) Subject to this section, a member of the Council appointed under subsection (1) (e) or (f) or subsection (4) of section 4—

- (a) shall hold office for a term of 3 years;
- (b) is eligible for re-appointment; and
- (c) may, by written notice given to the Minister, resign from the Council.

(2) The office of a member appointed under subsection (1) (e) or (f) or subsection (4) of section 4 becomes vacant if the member—

- (a) becomes bankrupt;
- (b) is convicted in Fiji of an offence punishable by imprisonment, or elsewhere of an offence which, if committed in Fiji, would be punishable by imprisonment;
- (c) is removed by the Minister under subsection (3); or
- (d) resigns, retires or dies.

(3) The Minister may remove a member appointed under subsection (1)(e) or (f) or subsection (4) of section 4 from office if the member—

- (a) becomes incapable of performing his or her duties;
- (b) is negligent in the performance of his or her duties; or
- (c) engages in improper conduct.

(4) Whenever there is a vacancy among the members of the Council appointed under subsection (1)(e) or (f) or subsection (4) of section 4, the vacancy shall be filled in the manner in which the original appointment was made for the balance of the term of the member replaced.

Deputy Chairman

6. (1) The Council shall, at its first meeting in each financial year, elect one of its members to be the Deputy Chairperson.

(2) The Deputy Chairperson shall hold office for a financial year but is eligible for re-appointment.

(3) At the first meeting of the Council after a vacancy occurs in the office of Deputy Chairperson, the Council shall elect one of its members to be Deputy Chairperson for the remainder of the financial year.

(4) Where the Chairperson is absent or unable to act or the office is vacant, the Deputy Chairperson shall have and may exercise all the powers and duties of the Chairperson.

(5) No act done by a Deputy Chairperson acting as the Chairperson shall in any proceedings be questioned on the ground that the occasion for his or her so acting had ceased or had not arisen.

Minister may appoint another person to act

7.—(1) Where the Minister is satisfied that a member of the Council appointed under subsection (1)(e) or (f) or subsection (4) of section 4 is incapacitated by illness, absence, or other sufficient cause from performing the duties of the office, the Minister may appoint another person, or in the case of nominees appoint another nominee to act in the place of that member during the period of incapacity.

(2) No appointment made under subsection (1), or act done by a person while acting as a member of the Council, or act done by the Council while a person is acting as such, shall in any proceedings be questioned on the ground that the occasion for the appointment had not arisen or had ceased.

Part III—FUNCTIONS AND POWERS OF COUNCIL

Functions of Council

8.—(1) With respect to liquor, the functions of the Council are—

- (a) to encourage, promote, sponsor and co-operate in research into—
 - (i) the use of liquor in Fiji;
 - (ii) public attitudes in Fiji towards the use of liquor;
 - (iii) problems associated with or consequent upon the misuse of liquor in Fiji; and
 - (iv) means of minimising the harmful effects of liquor;
- (b) to encourage, promote, sponsor and co-operate in the dissemination, to the public or any class or persons, of information relating to any problem that is or may be associated with or consequent upon the misuse of liquor;
- (c) to devise, promote, sponsor, conduct, encourage and co-operate in the preparation and conduct of, educational programmes to the public or to

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any class of persons (including persons attending schools or other educational institutions, and persons who may, for any reason, be at special risk in respect of liquor-related problems) designed to discourage the misuse of liquor, and to encourage its responsible use;

- (d) to encourage and promote the treatment, care and rehabilitation of persons adversely affected by the misuse of liquor, whether by themselves or others;
- (e) with respect to any of the matters referred to in paragraphs (a) to (c), to make recommendations to the Government, Ministries, departments, authorities in the fields of health, education, social welfare, and industry, and any other public or private body, association, or person;
- (f) to make recommendations to the Minister or any other person as the Council thinks fit with respect to the advertising of liquor, whether generally or through any particular media, and the need to regulate or in any way restrict any such advertising;
- (g) to consider and report to the Attorney-General upon any matter relating to the law governing the sale and consumption of liquor or any proposed change thereto, or to the use or misuse of liquor, as may be referred to the Council by the Attorney-General.

(2) With respect to substances other than liquor, the functions of the Council are—

- (a) to encourage, promote, sponsor, and co-operate in research into—
 - (i) the use and abuse of substances in Fiji;
 - (ii) public attitudes in Fiji towards the use of substances;
 - (iii) problems associated with or consequent upon the abuse of substance in Fiji; and
 - (iv) means of minimising the harmful effects of substance abuse;
- (b) to encourage, promote, sponsor and co-operate in the dissemination, to the public or to any class of persons, of information relating to any problem that is or may be associated with or consequent upon the abuse of substances;
- (c) to devise, promote, sponsor and, conduct, and to encourage and co-operate in the preparation and conduct of, educational programmes for the public or for any class of persons (including persons attending schools or other educational institutions, and persons who may, for any reason, be at special risk in respect of substance abuse problems) designed to discourage the abuse of substances;

- (d) to encourage and promote the treatment, care and rehabilitation of persons adversely affected by the abuse of substances, whether by themselves or others;
- (e) with respect to any of the matter referred to in paragraphs (a) to (c) to make recommendations to the Government, Ministries, departments, authorities in the fields of health, education, social welfare, and industry, and any other public or private body, association, or person;
- (f) to consider and report to the Attorney-General, upon any matter relating to the law governing the sale and use of substances or any proposed change thereto, and to the penalties relating to the use or abuse of illegal substances, referred to the Council by the Attorney-General.

(3) Without limiting its functions under subsections (1) and (2), the Council shall have the following further functions—

- (a) to encourage, promote, sponsor and co-operate in the preparation, publication, and dissemination to interested bodies, associations and persons of research papers, theses and other reports relating to any matter with which the Council is concerned;
- (b) to obtain, monitor, analyse, collate, and disseminate to interested bodies, associations, or persons in Fiji information from overseas relating to any matter with which the Council is concerned;
- (c) to encourage, promote, sponsor, and co-operate in the preparation and publication of a bibliography of literature relating to any matter with which the Council is concerned.

(4) With the approval of the Minister, the Council may undertake and perform any other activity necessary to achieve its functions.

(5) In performing its functions under this Act, the Council shall have regard to the desirability of working with and securing the co-operation of any person or body directly or indirectly associated with liquor or other substances.

Powers of Council

9.—(1) The Council shall have all powers, rights, and authority necessary to carry out its functions.

(2) Without limiting subsection (1), the Council may-

- (a) make grants from its Substance Abuse Account to a body or association approved by the Council, to engage in any activity in any field with which the Council is concerned;

- (b) charge reasonable fees for any material published by it or made available by it to the public.

(3) The Council may require a Government Ministry, department, statutory body, commercial organisation or other non-governmental organisation to supply statistics and data necessary to enable it to prepare a report and recommend action.

Committees

10.—(1) The Council may appoint advisory committees, technical committees or other committees to advise it on matters it may refer to such committees.

(2) A committee may, at the request of the Council or on its own initiative, furnish the Council with reports on any matter of which the committee has special knowledge or experience.

(3) A person may be appointed to be a member of a committee, notwithstanding that he or she is not a member of the Council.

(4) A committee shall in all matters be subject to the control of the Council, and shall carry out all directions, general or special, of the Council in relation to the Council or the affairs of the Committee.

(5) Subject to the provisions of this Act, a committee appointed under this section may regulate its own procedures.

Specialist advice

11.—(1) The Council or a committee may invite a person or any Government officer or a representative of any organisation who, in its opinion, possesses expert knowledge or is otherwise able to assist the Council in the exercise of its functions, to attend any of its meetings or to advise the Council on any matter with which it is concerned.

(2) A person attending a meeting under this section may, if invited, take part in any discussion at the meeting, but shall not have any voting rights.

Directions

12.—(1) The Minister may, after consulting the Council, give to the Council general or special written directions regarding the policy to be followed by the Council in the performance of its duties and functions under this Act on matters appearing to the Minister to affect the public interest of Fiji.

(2) The Council shall give effect to the directions given under subsection (1).

Part IV - ADMINISTRATION

Meetings

13.—(1) The first meeting of the Council shall be held on a day to be fixed by the Chairperson.

(2) Subsequent meetings of the Council shall be held at such times and places as the Council or the Chairperson may decide.

(3) The Chairperson or any 2 members of the Council may call a special meeting of the Council.

(4) At all meetings of the Council, the quorum shall be not less than 4 members, of whom at least 3 must be members specified in paragraphs (a), (b), (c) and (d) of section 4(1).

(5) Any question arising at a Council meeting shall be decided by a majority of the members present .

(6) Any member of the Council may demand a secret ballot to decide any question, but otherwise voting shall be carried out by a show of hands.

(7) A resolution in writing signed, or assented to, by letter, telegram or facsimile, by all the members of the Council shall be as valid and effectual as if it had been passed at a meeting of the Council.

(8) The Chairperson shall preside at all meetings at which he or she is present.

(9) Where in any meeting of the Council, the Chairperson and the Deputy Chairperson are absent, the members present shall elect one of the members present to act as Chairperson of that meeting.

(10) At any meeting, the Chairperson, shall have a deliberative vote and, in the case of an equality of votes, a casting vote.

(11) The Chairperson may adjourn a meeting if he or she considers it appropriate.

(12) Subject to this Act, the Council may regulate its own procedure.

Chief Executive Officer and other staff

14.—(1) The Council shall appoint and employ—

- (a) a Chief Executive Officer with the approval of the Minister; and
- (b) other staff necessary to enable the Council to perform its functions.

(2) The Minister shall, from time to time, determine the number of persons that may be appointed under this section regarding any specified duty or class of duties.

(3) The Chief Executive Officer shall—

- (a) be responsible for the administration of the day to day management of the affairs of the Council;
- (b) be responsible for the supervision of other staff of the Council;
- (c) act as Secretary to the Council;
- (d) carry out any directions of the Council; and
- (e) carry out other duties as the Council may assign.

(4) The Chief Executive shall devote the whole of his or her service to the Council and shall not occupy any other office or employment, whether remunerated or not, except, with the approval of the Council, as a member of a Government board, Committee or Commission.

(5) The Council may subject to the contract of service of that person dismiss any person appointed under this section for reasonable cause except in the case of the Chief Executive officer who may be dismissed by the Council only after consultation with the Minister.

Exemption of liabilities

15. No person who is—

- (a) a member of the Council;
- (b) a member of any Committee appointed under section 10;
- (c) invited to assist the Council under section 11; or
- (d) the Chief Executive Officer or a member of the staff, of the Council;

is liable, either under the criminal or civil law, for any act or omission in the performance of functions under this Act whether on ground of want of jurisdiction or mistake of law or fact or on any other ground except where the act was done or omitted to be done in bad faith or negligently.

Part V—FINANCE

Funds of the Council

16. The funds of the Council shall comprise —

- (a) in the first 3 years, money received by the Council from the Ministry responsible for the administration of this Act.

- (b) in subsequent years, all money received by the Council out of money appropriated by Parliament for the purpose of this Act;
- (c) all interest or dividends, on any investment made under section 23;
- (d) all money received by the Council by way of donations or bequests;
- (e) with the approval of the Minister, all moneys received by the Council by way of fees or charges for services provided;
- (f) all money borrowed under section 21; and
- (g) all accumulations of money belonging to the Council.

Substance Abuse account

17.—(1) All money payable to the Council shall be paid to the credit of an account to be called the Substance Abuse Advisory Council Account to be kept at such bank as the Council may determine.

(2) All money received by or on behalf of the Council shall be properly accounted for and paid into the Substance Abuse Account daily or as soon as is practicable.

(3) Every withdrawal or payment of money made by the Council from its Substance Abuse Account shall be authorised by a prior resolution of the Council.

(4) Where the Council authorises the withdrawal or payment of money from the Substance Abuse Account, that withdrawal or payment of money shall be by a cheque signed by such persons as the Council, from time to time, authorises.

Imprest Accounts

18.—(1) The Council may by resolution establish an imprest account to be kept at the bank at which the Substance Abuse Account is kept or such other bank as the Council approves.

(2) The Council shall from time to time fix the maximum amount that may be held at any time in an imprest account and shall specify the persons who may operate it.

(3) Money in the imprest account shall be available only for the payment of casual wages or for any emergency expenditure.

(4) A statement of any payment out of the imprest accounts shall be submitted to the Council at its next ordinary meeting after the payment was made.

Remuneration

19.—(1) A person employed under this Act is entitled to be paid remuneration by way of salary, allowances, travelling allowances or any other expenses, to be fixed by the Minister on the recommendation of the Public Service Commission.

(2) Members of the Council appointed under subsection (1)(e) or (f) or subsection (4) of section 4 and members of a committee appointed under section 10 (other than a Permanent Secretary or other public officer) may be paid such allowances as the Council, with the approval of the Minister, may from time to time determine.

Payment of remuneration

20. All salaries, allowances, and other expenditure payable or incurred under or in the administration of this Act are to be paid out of the Substance Abuse Account.

Borrowing power

21. The Council shall not borrow any money or mortgage or charge any of its property without the prior written consent of the Minister responsible for Finance in consultation with the Minister.

Audit

22.—(1) All moneys belonging to the Council (including all moneys standing to the credit of the Council in any bank) are deemed to be public funds for the purposes of the Audit Act.

(2) The Auditor-General shall have the same powers and duties as the Auditor-General has in respect of public accounts under the Audit Act to inspect and audit all accounts and records of the Council.

Investment

23. The Council may, with the approval of the Minister, invest—

- (a) in Fiji Government securities;
- (b) by way of deposit at any bank; or
- (c) in any other manner as the Council thinks fit.

Income may be carried forward to subsequent years

24. The Council may not expend in any financial year the whole of its income received in that year, but may accumulate any part of its income in any financial year and expend it, with the approval of the Minister, as it sees fit for any of its functions in any subsequent financial year.

Annual estimates

25.—(1) The Council shall, on or before 30th June in each year, prepare an annual estimate of its proposed expenditure for the next financial year.

(2) The estimate prepared under subsection (1) shall be sent to the Minister for approval and when approved shall—

- (a) in the first 3 years justify funding of the Council by the Ministry as provided by section 16(a);
- (b) in subsequent years form the basis of a submission to the Minister responsible for finance for inclusion in an Appropriation Bill.

(3) The Council may, at any time during a financial year for which an estimate has been approved, cause a revised or supplementary estimate to be prepared and submitted to the Minister for approval, and subsection (2) shall then apply.

(4) The Council shall in the preparation of its annual estimate in respect of a financial year, advise the Minister of any money that is likely to be received by the Council during that financial year by way of interest or dividend on money invested by the Council under section 23.

Assessment of aggregate expenditure figure

26.—(1) In respect of each financial year, the Minister, acting with the concurrence of the Minister of Finance, after considering the annual estimate submitted by the Council under section 25 in respect of that year, and after consultation with the Council, shall assess the aggregate expenditure figure for that year, being an amount that, in the opinion of the Minister, would be reasonable for the Council to expend during that financial year in the performance of its functions.

(2) Where the Council carries forward any amount to a subsequent financial year, the Minister may, in determining the estimate for that year, take into account any money that, in the Minister's opinion, is likely to be received by the Council during that year by way of interest or dividend on any investment made under section 23.

Part VI—MISCELLANEOUS

Donations and bequests

27.—(1) Any money payable to the Council under the terms of a will or trust, whether for a general or specific purpose of the Council, unless the terms of the will or trust otherwise provide, shall be paid to the Council without the executor or trustee being concerned as to its application.

(2) A receipt given by the Council and signed by the Chairperson and one other member shall be sufficient discharge to an executor or trustee in respect of money paid as described in subsection (1).

Annual Report

28.—(1) The Council shall furnish the Minister, as soon as practicable after the end of each financial year, with a report on the administration of the affairs of the Council and

a statement of the accounts of the expenditure of the Council duly audited under section 22.

(2) The Minister shall, as soon as practicable after the receipt of the report under subsection (1), cause a copy of the report to be laid before each House of Parliament.

Regulations

29. The Minister, in consultation with the Council, may make regulations to carry into effect the provisions of this Act.

Passed by the House of Representatives this Twelfth day of May, in year of our Lord One Thousand, Nine Hundred and Ninety-Eight.

Passed by the Senate this Fourth day of June, in the year of our Lord One Thousand, Nine Hundred and Ninety-Eight.