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GOVERNMENT OF THE REPUBLIC OF FIJI DECREE NO. 27

SUGAR INDUSTRY (AMENDMENT NO. 2) DECREE 1988

A DECREE TO AMEND THE SUGAR INDUSTRY ACT TO FACILITATE THE MAKING AND IMPLEMENTATION OF THE SUGAR INDUSTRY MASTER AWARD

IN exercise of the powers conferred upon me by the Appointment of Head of State and Dissolution of Fiji Military Government Decree, I, as President and Commander-in-Chief of the Republic of Fiji, acting in accordance with the advice of the Prime Minister and the Cabinet, make the following Decree—

Short title

1. This Decree may be cited as the Sugar Industry (Amendment No. 2) Decree, 1988.

Interpretation

2. In this Decree "the Act" means the Sugar Industry Act.

Commencement

3. This Decree shall come into force on the date it is made.

Tenure of office of the Chairman and other members of the Commission (Amendment of section 6)

4. Section 6 of the Act is amended by adding at the end of subsection 5 the following—
"(6) The Chairman of the Commission shall perform such functions as may be assigned to him by the Commission or by this Act or the Master Award."

Repeal and replacement of section 64

5. Section 64 of the Act is repealed and the following section substituted—

"Tribunal to make Master Award

64.—(1) The Tribunal shall prepare and make an award to be known as the Sugar Industry Master Award.

- (2) The Master Award shall prescribe provisions which shall govern—
 - (a) the planting, cultivation and harvesting of cane by registered growers;
 - (b) the sale and delivery by registered growers to the Corporation of cane harvested by the growers;
 - (c) the acceptance and purchase by the Corporation of cane delivered to the Corporation by registered growers;
 - (d) the manufacture, storage, marketing, delivery and sale of sugar, molasses and other by-products made from cane delivered by registered growers to the Corporation;
 - (e) procedures to be followed for settling disputes arising under the Master Award;

and may prescribe such other matters or things as are necessary or convenient to give effect to the matters referred to in paragraphs (a) to (e) including—

- (f) the establishment and incorporation of cane harvesting gangs;
- (g) access by the Corporation, registered growers, and cane harvesting gangs over the land of registered growers;
- (h) the management or the establishment and management of an organisation, whether or not incorporated, to do all or any of the following things, namely—
 - (i) to purchase, store, market, deliver, sell or otherwise deal in sugar molasses and other by-products made from cane delivered by registered growers to the Corporation; and
 - (ii) any other matters incidental thereto;
 - (iii) the inspection of cane and the destruction of diseased cane.

(3) When made, the Master Award shall be final and conclusive, shall not be challenged, appealed against, reviewed, quashed or called into question in any court, and shall not be subject to prohibition, mandamus or injunction in any court.

(4) The Master Award shall have effect, and shall be deemed to have been made on the date it is published in accordance with section 68.

(5) Notwithstanding subsection (4), the Master Award may provide for its implementation in stages after it has been made and, in such a case, until a provision of the Master Award has effect the relevant provision of this Act in force immediately before the Master Award was made shall continue to have effect as if the Master Award had not been made."

*Consultation and publicity in connection with the preparation of the Master Award
(Amendment of section 65)*

6. Section 65 of the Act is amended—

(a) by deleting from subparagraph 4(d)(ii) "three months" and by substituting "twenty eight days"; and

(b) by inserting after subsection (4) the following—

"4(A) The Tribunal shall as soon as possible after receipt by it of any representations under sub-paragraph (ii) of paragraph (d) of subsection (4) furnish copies of them to the Commission, the Council and the Corporation."

Public inquiry to be held by the Tribunal with respect to the draft Master Award (Amendment of section 66)

7. Section 66 of the Act is amended—

(a) by deleting from paragraph (3)(c) "fourteen days" and by substituting "twenty one days"; and

(b) by deleting the fullstop at the end of subsection (3) and by substituting, "and the Tribunal shall as soon as possible after the receipt by it of any statements referred to in paragraph (c) furnish copies of them to the Commission, the Council and the Corporation."

Repeal and replacement of section 69

8. Section 69 of the Act is repealed and the following section substituted—

"Variation of Master Award

69.—(1) The Tribunal shall keep the provisions of the Master Award under review and may, by order, from time to time amend it.

(2) The Tribunal shall not amend the Master Award without first consulting the Commission, the Council and the Corporation.

(3) The Tribunal may, if it considers it appropriate to do so, and shall, if requested to do so by the Commission, the Council or the Corporation hold an inquiry before making an order to amend the Master Award.

(4) If an enquiry is held before the Tribunal makes an order to amend the Master Award the provisions of sections 65, 66, 67 and 68 shall apply *mutatis mutandis* in relation to the preparation and making of that order as they apply in relation to the making of the Master Award.

(5) The provisions of subsection (3) of section 64 shall apply *mutatis mutandis* in relation to an order made by the Tribunal to amend the Master Award as they apply in relation to the Master Award."

The Register of Growers (Amendment of section 72)

9. Section 72 of the Act is amended—

(a) by deleting from paragraph (e) of subsection (1) "particulars of the" and by substituting "particulars of any"; and

(b) by deleting paragraph (f) of subsection (1) and by substituting—
"(f) the registered area"; and

(c) by deleting from paragraph (g) of subsection (1) "comprising the contract area" and by substituting "in which the farm is situated"; and

(d) by deleting paragraph (h) of subsection (1) and by substituting—
"(h) any farm basic allotment fixed by the Tribunal in accordance with the Master Award in respect of that farm"; and

- (e) by deleting from paragraph (i) of subsection (1) "that person" and by substituting "that farm"; and
- (f) by deleting subsection (2) and by substituting—
 "(2) In this Part "registered area" means the area of the proportion of the farm that may be used to grow cane as determined from time to time by the Tribunal after consultation with the Corporation."

Repeal and replacement of section 77

10. Section 77 of the Act is repealed and the following section substituted—

"Cancellation of registration

77.—(1) Subject to subsections (2) and (5), if a registered grower ceases for any reason to be in possession of any farm or any part of a farm the Tribunal shall, by order, direct the Registrar of the Tribunal to cancel the entry in the Register of Growers relating to the registration of that grower in respect of that farm.

(2) Subsection (1) does not apply if a registered grower has ceased to be in possession of a part of his farm and the Tribunal, on the application of the registered grower, is satisfied that cancellation of the entry in the Register of Growers in respect of the grower is not thereby warranted, in which case, the Tribunal may, by order, direct the Registrar of the Tribunal to amend the Register of Growers to such extent as the Tribunal considers appropriate.

(3) If a registered grower requests the Tribunal to cancel the entry in the Register of Growers relating to that grower the Tribunal shall, by order, direct the Registrar of the Tribunal so to do unless the Tribunal is satisfied that the interests of the Corporation would thereby be prejudiced.

(4) If a decision of the Tribunal provides that the entry in the Register of Growers relating to a grower shall be cancelled or amended the Registrar of the Tribunal shall cancel or amend that entry accordingly.

(5) If a registered grower dies the Registrar of the Tribunal shall enter the name or names of the personal representatives of the registered grower in the Register of Growers."

*New registrations in respect of existing farms following
the making of the Master Award (Amendment of section 78)*

11. Section 78 of the Act is amended by deleting subsection (3) and by substituting—

"(3) The Tribunal shall not grant an application made under subsection (1) if the consent of the Corporation has not been obtained unless the Tribunal decides that consent is being unreasonably withheld:

Provided that the Corporation shall not be regarded as unreasonably withholding its consent for the purposes of subsection (3) if consent is being withheld until any amount advanced by the Corporation in accordance with the Master Award in respect of the relevant farm has been repaid to the Corporation or otherwise secured, except where the Tribunal is satisfied that the amount is not recoverable."

Repeal and replacement of section 79

12. Section 79 of the Act is repealed and the following section substituted—

"Certain registered growers to nominate representative

79.—(1) If a person registered as a registered grower in respect of a farm is not a single individual, the organisation, body or persons so registered shall, in writing addressed to the Registrar of the Tribunal, nominate a person who shall be deemed for the purposes of Part IV (the Sugar Cane Growers' Council) and Part V (Mill Area Committees) to be the registered grower in respect of that farm.

(2) A nomination made in accordance with subsection (1) may be altered by the registered grower by notice in writing addressed to the Registrar of the Tribunal.

(3) If, by virtue of an alteration of a nomination under subsection (2), the new person so nominated replaces a person who has been elected to be a member of the Council the person so elected, shall, upon that alteration of nomination be deemed to have resigned his office as a member of the Council in accordance with subsection (2) of section 36, and his office shall be deemed to be vacant.

(4) If, by virtue of an alteration of a nomination under subsection (2), the new person so nominated replaces a person who has been elected to be a member of the Board of Directors of the Council the person so elected, shall, upon that alteration of nomination, be deemed to have resigned his office as a member of the Board in accordance with paragraph (b) of subsection (8) of section 46, and his office shall be deemed to be vacant.

(5) Notwithstanding subsection (1), a person nominated in accordance with that subsection shall not be entitled to be appointed to be a member of the Council in accordance with section 41 (Representation on the Council of minority groups)."

Repeal and replacement of section 80

13. Section 80 of the Act is repealed and the following section substituted—

"New registrations

80.—(1) Subject to subsection (2), on application in writing being made to it in that behalf by the Corporation and any other person in respect of land in respect of which no registration is in force, the Tribunal, may by order, direct the Registrar of the Tribunal to register that person in respect of that land.

(2) The Tribunal shall not make an order under subsection (1) except in such circumstances as, in the opinion of the Tribunal, shall not prejudice the rights of registered growers generally.

(3) In the exercise of its powers under this section the Tribunal shall have regard to any policy guidelines relating to new registrations which may be issued from time to time by the Commission."

Part VIII repealed

14. Part VIII of the Act is repealed.

Further amendments

15. The Act is further amended as set out in the Schedule hereto.

Dated this 11th day of May 1988.

PENAIK K. GANILAU
President and Commander-in-Chief

Schedule

<i>Section amended</i>	<i>Amendment</i>
2(1)	(a) Delete definitions of— "farm basic allotment" "farm harvest quota" "mill basic allotment of cane" "mill harvest quota of cane" "national basic allotment of cane" "national harvest quota of cane" "national harvest quota of sugar" (b) Delete the definition, "year" insert "year" means any period of twelve months;"
2(2)	Delete "Parts IV, VII and VIII" insert "Parts IV and VII"
3(e)	Delete
15(1)(j)	Delete "by the Act" insert "by this Act or the Master Award"
22(1)	Delete "under this Act" insert "under this Act or the Master Award"
26(f)	Delete "any question relating to the rights and obligations of registered growers and the Corporation" insert "any dispute arising"
26(1)	Delete
42(f)	Delete "this Act" insert "this Act or the Master Award"
74(2)	Delete
75	Delete "or Part VIII"
Long title	Delete, insert "An Act to provide for the administration of the sugar industry"