

CHAPTER 235

CONSUMER COUNCIL

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Acts Nos. 37 of 1976, 11 of 1983

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE CONSUMER
COUNCIL OF FIJI

[16 February 1977]

Short title

1. This Act may be cited as the Consumer Council of Fiji Act.

Interpretation

2. In this Act, unless the context otherwise requires—
“consumer” means a person who buys or takes on hire or lease, or is a potential buyer or hirer or lessee of, goods otherwise than for resale or letting on hire or leasing, and includes a person who uses otherwise than for the purpose of trading or carrying on business, or is a potential user otherwise than for the purpose of trading or carrying on a business of, any service rendered for fee or reward;
“Council” means the Consumer Council of Fiji established under section 3;
“former Council” means the unincorporated association known as the Consumer Council of Fiji on 16 February 1977 and any branch thereof by whatsoever name so called established by it.

Establishment of Council

3.—(1) There is hereby established a Council to be known as the Consumer 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 and dispose of any real or personal property. The Council may sue and be sued in respect of matters, whether relating to contract, tort or otherwise, arising in connection with the exercise of its powers or the carrying on of its operations under the provisions of this Act.

(2) The affixing of the common seal of the Council shall be authenticated by the signature of—

- (a) the Chairman, or some other member of the Council authorised for that purpose by the Council either generally or specifically; and
- (b) the Secretary, or some other person authorised for that purpose either generally or specifically.

(3) Service of any document on the Council shall be deemed to be effected by delivering the same to or by sending it by registered post addressed to the Chairman or Secretary of the Council at the head office of the Council.

Constitution of the Council

4.—(1) The Council shall consist of the following members:—

- (a) a Chairman; and
- (b) such other members, not exceeding 15, all of whom shall be appointed by the Minister and shall hold office for such term or terms, and subject to such conditions, as the Minister may determine:

Provided that the initial appointments of 5 of the said members shall be for terms of 2 years, of a further 5 of the said members shall be for terms of 3 years and of the remaining members shall be for terms of 4 years, whilst all subsequent appointments other than that of the Chairman shall be for terms not exceeding 3 years. The appointment of the Chairman may be for such term as the Minister may determine.

(2) A public officer shall not be eligible for membership of the Council.

(3) In the absence of the Chairman from any meeting, the members present shall appoint 1 of their number to be the chairman for that meeting.

(4) The decisions of the Council shall be by majority vote and, in addition to an original vote, in any case in which the voting is equal, the Chairman or, in his absence, the member appointed to be chairman for that meeting shall have a casting vote.

(5) A number not less than one half of the appointed members shall form a quorum.

(6) There shall be an Executive Secretary of the Council who shall be appointed by the Council with the approval of the Minister. The Secretary shall not be entitled to vote at meetings of the Council.

(6A) The Executive Secretary shall be paid such salary as is determined from time to time by the Higher Salaries Commission. (*Inserted by Act 11 of 1983, s. 27, Sch. 2.*)

(7) All orders or directions made or given by the Council shall be given under the hand of the Chairman or the Secretary.

(8) The Council shall act in accordance with any general or special directions given to it by the Minister.

(9) The Council may make rules governing its procedure.

Extraordinary vacancies

5.—(1) Any appointed member of the Council may, at any time, be removed from office by the Minister if he becomes bankrupt or if, in the opinion of the Minister, he is unfit to continue in office or is incapable of performing his duties, and any member, at any time, may resign, by notice in writing addressed to the Chairman of the Council.

(2) When the office of any appointed member of the Council becomes vacant by death, resignation or removal from office, the vacancy so created shall be filled by an appointment made by the Minister. Such appointee shall hold office until the date when the appointment of his predecessor would have expired.

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

Functions of Council

6.—(1) The functions of the Council shall be to do all such acts and things which it may consider necessary or expedient to ensure that the interests of consumers of goods and services are promoted and protected.

(2) Without limiting the generality of the functions of the Council under subsection (1), its functions shall include—

- (a) advising the Minister on such matters affecting the interests of consumers as he refers to the Council;
- (b) making such recommendations to the Minister as the Council considers necessary or desirable in the interests of consumers;
- (c) making representations to the Government or to any other person on any matter affecting the interests of consumers and to give evidence at any investigation or inquiry relating to any such matter;
- (d) conducting research and investigations into matters affecting the interests of consumers;
- (e) undertaking or making arrangements for undertaking the examination and testing of goods and services offered for supply to consumers and publicising the results of such comparative testing and product evaluation;
- (f) collecting, collating and disseminating information in respect of matters affecting the interests of consumers, including the publication of reports, magazines, pamphlets, booklets and any other publications at such prices as the Council may determine;
- (g) advising and assisting consumers on matters affecting their interests as consumers;
- (h) the receipt of complaints from consumers concerning matters affecting their interests as consumers, considering and investigating such complaints and taking such action in respect of such complaints as seems proper to the Council;
- (i) supporting or maintaining legal proceedings contemplated or initiated by a consumer, where such support or maintenance is deemed necessary by the Council;
- (j) the establishment of branches or offices in such parts of Fiji as it may consider necessary to enable it to carry out its functions under this Act;

- (k) co-operating with any person, association or organisation outside Fiji having similar functions and becoming a member of or affiliate to any international organisation concerned with consumer matters;
- (l) soliciting and accepting for the purposes of the Council any money, land, or other property from the Government, any local authority, public body, organisation, or person by way of grant, subsidy, donation, gift, or otherwise.

Non-disclosure of confidential information

7. The Council shall not be bound to disclose to any person, court or authority the source of any information received, where the Council considers that the disclosure of such source of information would be adverse to the interests of the public.

Exemption from taxation

8. The income of the Council from whatever source shall be exempt from tax.

Powers of Council

9. For the purpose of this Act, the Council may—

- (a) enter into any contract;
- (b) borrow money on such terms as may be approved by the Minister;
- (c) generally do all such things as are necessary or incidental to the discharge of its functions.

Inquiries

10.—(1) The Council may hold such inquiries, either in public or *in camera*, as it considers necessary or desirable for the discharge of its functions under this Act; and the Chairman, or other member of the Council presiding in his stead, may at any such inquiry direct that any person appearing as a witness be examined on oath, and may administer an oath accordingly, or, instead of so directing, require the person examined to make and subscribe a declaration of the truth of the matter respecting which he is examined.

(2) If any person who is to give evidence at any such inquiry held in public so requests at the hearing, or by a notice in writing served on the Secretary of the Council before the date of the hearing, the public shall be excluded from the hearing while that person gives his evidence.

(3) For the purposes of any inquiry under this Act, the Chairman may, by summons, require any person to attend, at such time and place as is specified in the summons, to give evidence on any matter so specified, being a matter in question at the inquiry.

(4) Any person required to give evidence under this section or having an interest in the subject-matter of an inquiry shall be permitted to be represented at the inquiry by a barrister and solicitor or other person of his own choice.

(5) A person who refuses or wilfully neglects to attend in obedience to a summons issued under this section or to give evidence as required by such a summons shall be guilty of an offence.

Vesting of property in Council

11. Without prejudice to the rights of any person, on 16 February 1977, all property belonging to the former Council, whether held in the name of, or in the name of any person or persons in trust for, or due to, the former Council or otherwise on its behalf, shall, without any transfer or other instrument or the

authority of any court, vest in the Council and, together with all after-acquired property, shall be held for the Council for its functions under this Act, and all the rights and liabilities of the former Council shall vest in and be assumed by the Council.

Non-liability of members and employees

12. Neither the Council nor any member or employee of the Council shall be liable for any act or default of the Council done or omitted to be done in good faith in the course of the operations of the Council.

Employees and agents

13. Subject to the provisions of the Higher Salaries Commission Act, the Council may appoint such employees or agents upon such terms as it may deem necessary to assist it in the performance of its functions. (Cap. 2A.)

(Amended by Act 11 of 1983, s. 27, Sch. 2.)

Remuneration of members of Council

14. The members of the Council shall be paid such remuneration and such allowances as the Minister may, from time to time, determine.

Accounts

15.—(1) The Council shall keep proper accounts and other records in respect of its operations and shall cause to be prepared a statement of accounts in respect of each financial year.

(2) The accounts of the Council shall be audited annually by the Auditor-General.

Reports

16.—(1) As soon as practicable after the end of each financial year, the Council shall transmit to the Minister—

- (a) a copy of the statement of accounts;
- (b) a copy of any report made by the Auditor-General;
- (c) a report which contains details of the activities of the Council during the preceding financial year.

(2) The Minister shall cause a copy of the report to be printed and laid before Parliament.

Regulations

17. The Minister may make regulations for the purpose 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.

Offence of passing off as consumer organization

18. Any company, association or person using the word "consumer" as part of its or his style or title for any purpose whatever without the consent of the Minister shall be guilty of an offence.

Penalty

19. Any person guilty of an offence against this Act or regulations made thereunder shall be liable on summary conviction to a fine not exceeding \$400.

Controlled by the Ministry of Economic Development, Planning and Tourism