
CHAPTER 214

FIJI DEVELOPMENT BANK

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*Ordinances Nos. 47 of 1966, 30 of 1967. Legal Notice No. 112 of 1970
Acts Nos. 14 of 1974, 21 of 1978, 17 of 1980, 11 of 1983.*

AN ACT TO ESTABLISH THE FIJI DEVELOPMENT BANK AND FOR PURPOSES CONNECTED THEREWITH

[1 July 1967]

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Fiji Development Bank Act.

Interpretation

2. In this Act, unless the context otherwise requires—
 - “Bank” means the Fiji Development Bank established under the provisions of section 3;
 - “Board” means the Board constituted under the provisions of section 4;
 - “borrower” means any person or company to whom an advance has been made under the provisions of this Act and includes his or its personal representatives, successors and assigns;
 - “chairman” and “deputy chairman” means the chairman and deputy chairman, respectively, of the Board;
 - “director” means a member of the Board of the Bank;
 - “farmer” means the owner or tenant of any land which is or is intended to be used for agricultural or pastoral purposes;
 - “member” means a member of the Board;
 - “notification” means the notification for which provision is made in section 25;

“tenant” means a lessee, a tenant at will or a holder of a right of occupancy, and includes a licensee and a holder of an approval notice to lease issued by the Crown or by the Native Land Trust Board.

PART II—ESTABLISHMENT AND MANAGEMENT OF BANK

Establishment of Bank

3.—(1) There is hereby established a bank to be called the Fiji Development Bank.

(2) The Bank shall be a body corporate with perpetual succession and a common seal and shall, under the name of the Fiji Development Bank, be capable of suing and being sued, and of purchasing or otherwise acquiring, holding and alienating property, real or personal, and of doing or performing such acts and things as bodies corporate may by law do and perform, subject to the provisions of this Act.

The Board

4.—(1) The operations of the Bank shall be controlled by a Board consisting of such number of members to be called directors as shall be appointed thereto by the Minister. (*Amended by Legal Notice 112 of 1970.*)

(2) No person shall serve as a director who is, at the time of his appointment or later becomes—

(a) a member of either House of Parliament;

(b) a member of the Board of, or an officer or employee of, the Reserve Bank*; or

(c) a director, officer or employee of a company in possession of a valid licence granted under the provisions of the Banking Act.

(*Inserted by Act 14 of 1974 s. 2.*)

(*Cap. 212.*)

(3) The directors shall, subject to the pleasure of the Minister, hold office for not more than 3 years from the dates of their respective appointments but any director shall be eligible for re-appointment. (*Amended by Legal Notice 112 of 1970.*)

(4) The Minister shall appoint a chairman and a deputy chairman from among the directors. (*Amended by Legal Notice 112 of 1970.*)

(5) If any director is, without the permission of the chairman, absent from meetings of the Board for more than 3 consecutive months, his office as a director shall thereupon become vacant. (*Inserted by Act 14 of 1974 s. 2.*)

(6) Where any director is temporarily incapacitated from performing his functions as such by reason of his temporary absence from Fiji or for any other cause, the Minister may appoint a person temporarily to be a director during such period of incapacity and, during such period, such person shall be deemed to be a director for all purposes to the exclusion of the director so temporarily incapacitated. (*Amended by Legal Notice 112 of 1970.*)

(7) A director may resign at any time by giving notice in writing to the Minister. (*Inserted by Act 14 of 1974 s. 2.*)

* The reference to the Reserve Bank of Fiji replaces the reference to the Central Monetary Authority of Fiji. See s. 3(4) of the Reserve Bank of Fiji Act (Cap. 210).

Functions of the Bank

5. The functions of the Bank shall be to facilitate and stimulate the promotion and development of natural resources, transportation and other industries and enterprises in Fiji and, in the discharge of these functions, the Bank shall give special consideration and priority to the economic development of the rural and agricultural sectors of the economy of Fiji.

(Amended by Act 14 of 1974, s. 3; 17 of 1980, s. 2.)

Transfer to Bank of assets and liabilities of the Agricultural and Industrial Loans Board

6. On 1 July 1967—

- (a) the Agricultural and Industrial Loans Board shall cease to exist as a body corporate;
- (b) all the assets and real and personal property of every description including things in action and any interest in real or personal property and all the powers, rights and privileges in connection therewith or appertaining thereto which immediately before 1 July 1967 were vested in the Agricultural and Industrial Loans Board shall forthwith vest in the Bank, freed and discharged from any trust whatsoever, but subject nevertheless to the provisions of this Act;
- (c) all liabilities and obligations of the Agricultural and Industrial Loans Board which may have existed prior to 1 July 1967 shall be transferred to and be assumed by the Bank; and
- (d) any advance granted by the Agricultural and Industrial Loans Board and transferred to the Bank under the provisions of this section shall, for the purposes of this Act, be deemed to be an advance granted by the Bank under the provisions of this Act.

(Amended by Ordinance 30 of 1967, s. 2.)

Appointment of officers and servants

7.—(1) The Board may appoint a manager and such other officers and servants as it considers necessary for the proper carrying out of the provisions of this Act. *(Substituted by Act 11 of 1983, s. 27, Sch. 2.)*

(1A) The manager 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.)*

(1B) Subject to the provisions of the Higher Salaries Commission Act, the other officers and servants of the Board shall be paid such salaries as the Board from time to time determines. *(Inserted by Act 11 of 1983, s. 27, Sch. 2.)*

(2) It shall be lawful for the Board to provide for the establishment and maintenance of a Superannuation Scheme or a Provident Fund Scheme for the benefit of the officers and servants of the Bank and, in any such scheme, different provisions may be made for different classes of officers and servants. *(Cap. 2A)*

(3) The persons who, immediately before 1 July 1967, held offices under the Agricultural and Industrial Loans Board shall be deemed, on that date, to be transferred to the service of the Bank and to hold office thereunder on the like terms and conditions of employment, including provision for superannuation, as if they had originally been appointed to the service of the Bank.

(4) All officers and servants of the Bank shall make and subscribe to a declaration of secrecy before a justice of the peace.

Bank to act in accordance with instructions of Minister

8. In carrying out its powers, duties and functions under the provisions of this Act, the Bank shall act in accordance with any general policy instructions given to it from time to time by the Minister:

Provided that if, in the opinion of the Board, any such policy instruction is likely to affect adversely the finances or securities of the Bank, the chairman shall make a written report to that effect to the Minister in which case the Government shall assume responsibility for the results of such policy instructions.

Procedure and meetings of the Board

9.—(1) The Board shall meet at such times as may be necessary for the transaction of business, and such meetings shall be held at such place and time and on such days as the Board may determine.

(2) The chairman, or in his absence the deputy chairman, or, where the chairman and the deputy chairman are both absent, such director as the other directors present may elect, shall preside at all meetings of the Board.

(Amended by 30 of 1967 s. 3.)

(3) Four directors shall form a quorum at any meeting of the Board.

(Substituted by 14 of 1974 s. 4.)

(4) The decisions of the Board shall be by majority vote and, in addition to an original vote, in any case in which the voting is equal the chairman or deputy chairman presiding at the meeting shall have a casting vote.

(5) Any director who has any financial or personal interest in any matter before it shall disclose such interest to the Board and shall take no part in the discussion on any such matter nor vote thereon.

(6) Minutes in proper form of each meeting shall be kept by an officer of the Bank and shall be confirmed by the chairman or the deputy chairman, as the case may be, as soon as practicable thereafter at a subsequent meeting.

(7) The Board may co-opt any one or more persons to attend any particular meeting of the Board for the purposes of assisting or advising the Board, but no such co-opted person shall have any right to vote.

Power to make rules

10. The Board shall have power to make rules—

- (a) subject to the provisions of section 9, to regulate the proceedings of the Board;
- (b) for the custody and use of the common seal and the manner in which documents, cheques and instruments of any description shall be signed or executed on behalf of the Bank;
- (c) prescribing, subject to the approval of the Minister, the rates of any remuneration to be paid to directors in respect of service on the Board, and of any travelling and subsistence allowances to be drawn by directors, and the circumstances in which they may be drawn;
- (d) generally for the exercise of its powers and duties under the provisions of this Act.

Power to appoint committees and to delegate

11. Subject to the provisions of this Act, the Board may delegate to any officer of the Bank, director or committee of the Board the power and authority to carry

out on its behalf such duties, and upon and subject to such conditions, as the Board may determine.

PART III—FUNDS AND POWERS OF THE BANK

Capital

12.—(1) The authorised capital of the Bank shall be eight million dollars and may be increased from time to time by such amount as may be proposed by the Board and approved by the Minister.

(2) All capital stock of the Bank, as and when subscribed, shall be for the sole account of the Government and shall not be transferable or subject to encumbrance. No reduction of capital shall be effected except by a resolution of the House of Representatives. (*Inserted by 14 of 1974, s. 5.*)

Funds and resources of the Bank

13. The funds and resources of the Bank shall consist of—

- (a) all funds at the disposal of the Agricultural and Industrial Loans Board immediately before the commencement of this Act;
- (b) the sum of £500,000 which shall be paid to the Bank by the Government in two instalments of £250,000, the first on the commencement of this Act and the second on the second day of January, 1968;
- (c) such sums as may be appropriated to the Bank in the annual estimates of the Government or by resolution of Parliament;
- (d) all sums received by or falling due to the Bank in respect of the repayment of any loan made by the Bank or the interest payable in respect of any such loan;
- (e) moneys earned or arising from any property, investments, mortgages or debentures acquired by or vested in the Bank;
- (f) any property, mortgages, debentures or investments acquired by or vested in the Bank;
- (g) sums borrowed by the Bank on overdraft from another bank or otherwise for the purpose of meeting any of its obligations or discharging its functions;
- (h) sums raised from the issue of bonds and debentures;
- (i) all other sums or property which may in any manner become payable to or vested in the Bank in respect of any matter incidental to its powers and duties.

Security

14.—(1) The Bank may, in its absolute discretion, accept any form of security in respect of money owing to the Bank or may dispense altogether with the giving of security.

(2) In determining whether or not to provide finance for any project, the Bank shall have regard primarily to the prospects of that project becoming or continuing to be successful, and shall not be bound to have regard to the value of the security available.

Investments

15. Moneys standing to the credit of the Bank may from time to time be invested in securities authorised by the provisions of any Act for the time being in force relating to the investment of trust funds, and the Bank may from time to time sell any or all of such securities.

Borrowing powers

16.—(1) The Bank from time to time, with the consent of the Minister, borrow such sums as are required by it to meet any of its obligations, discharge any of its functions or provide necessary working capital, and the Bank may similarly, with the like consent, issue and sell bonds and debentures carrying interest.

(2) The bonds referred to in subsection (1) may be issued by the Bank in such denominations, in such form and upon such terms and conditions as the Board, with the approval of the Minister, may prescribe.

(3) The repayment of any sums borrowed under the provisions of this section and the payment of interest thereon may be guaranteed by the Government.

Powers of expenditure

17. The Bank may from its funds and resources—

- (a) make payments of any expenses lawfully incurred by the Bank including survey, legal, audit and other fees, costs and charges;
- (b) make payment of any other expenses, costs or expenditure properly incurred or accepted by the Board in pursuance of the purposes of the Bank under the provisions of this Act;
- (c) make purchases of plant, equipment and any other stores and materials and acquire land and erect buildings and carry out any other works and undertakings in the discharge of its functions under this Act;
- (d) provide housing for officers and servants of the Bank, guarantee loans to its officers and servants for housing and make advances to its officers and servants;
- (e) acquire by purchase, exchange or otherwise any freehold or leasehold land or buildings, and sell, let, alienate, mortgage, charge or otherwise deal with all or any of such land or buildings.

Powers of the Bank

18.—(1) Notwithstanding the provisions of the Banking Act, for the purpose of carrying out its functions under the provisions of this Act, the Bank is empowered to carry on banking business. (Cap. 212.)

(2) Without limiting the generality of the provisions of subsection (1), the Bank shall have power in addition to any other powers conferred on it by this Act—

- (a) to accept money on deposit;
- (b) to lend money on such terms and conditions as it may determine;
- (c) to buy, sell, discount and re-discount bills of exchange, promissory notes and Treasury Bills;
- (d) to buy and sell securities issued by the Government or by any statutory body in Fiji;
- (e) to establish credits and give guarantees;
- (f) to issue bills and drafts and affect transfers of money;
- (g) to underwrite loans and issues of capital;

- (h) to subscribe to stocks, shares, bonds or debentures;
- (i) to manage, control or supervise any project considered by it to be for the economic benefit of Fiji by nominating directors or advisers or otherwise collaborating with the sponsors of any such project;
- (j) to establish, sell shares of, invest in and manage any project considered by it to be for the economic benefit of Fiji;
- (k) to acquire, exchange, sell or lease land for the purpose of industrial sites or for any project considered by it to be for the general economic benefit of Fiji;
- (l) to lay out estates for sale or lease;
- (m) to provide advice and assistance to industrial enterprises or for any other enterprise considered by it to be for the economic benefit of Fiji;
- (n) to receive in consideration of the services rendered by it such commission as may be agreed upon and to make charges in respect of services rendered and facilities provided by it;
- (o) to promote any scheme of such other nature as may be approved by the Minister;
- (p) to do any thing incidental to or consequential upon any of its powers or functions.

(3) In exercising its powers under the provisions of subsection (2), the Bank may impose such terms and conditions as it, in its discretion, deems expedient including the making of loans by instalments or by the issue of purchase orders, and may from time to time vary any such terms and conditions.

Power to deal in shares, etc.

19.—(1) In addition to the powers conferred upon it by section 18, the Bank, or any subsidiary thereof, may engage, either as principal or agent, in the business of acquiring, holding, selling, exchanging and otherwise dealing in shares, stocks, debentures, bonds, Treasury Bills or securities of the Government, any statutory body, including the Bank, or any company registered under the Companies Act.

(Cap. 247.)

(2) The provisions of section 335 of the Companies Act shall not apply to the Bank or any subsidiary thereof in the exercise of the powers conferred upon it by this section. *(Section inserted by 21 of 1978, s. 2)*

(Cap. 247.)

Agents

20. In the exercise of its powers and performance of its functions, the Bank may appoint a person to act as agent of the Bank and may, on the request of any bank specified in Part I of the Schedule to the Banking Act, appoint such bank to be an agent of the Bank for the receipt and transmission of applications for the provision of finance by the Bank.

(Cap. 212.)

PART IV—ADVANCES TO FARMERS

Advances to farmers

21. In respect of loans made to farmers for agricultural or pastoral purposes, the provisions of this Part shall have effect.

Applications for advances

22.—(1) Where a farmer is desirous of obtaining an advance from the Bank under the provisions of this Part, he may make application in such form as the Bank may from time to time prescribe and the Bank may require the particulars in such form to be verified in such manner, whether by way of statutory declaration or otherwise, as it may consider fit.

(2) The Bank shall consider each application on its merits and may, in its absolute discretion—

- (a) refuse any advance;
- (b) grant any advance without any security;
- (c) grant any advance secured in the manner provided in sections 24 and 25;
- or
- (d) grant any advance on any other form of security which the Bank may consider fit either in lieu of or in addition to the form of security referred to in paragraph (c).

(3) Where the Bank decides to grant to a farmer an advance under the provisions of paragraph (c) or (d) of subsection (2) and the form of security required by the Bank creates a charge on any land held by that farmer as a tenant, the Bank shall forthwith cause a notice specifying the land to be so charged to be served on every lessor or landlord of such land whereupon, the provisions of any Act or of any covenant or condition to the contrary notwithstanding, the consent of every such lessor or landlord to such charge shall be deemed to have been granted unless notice to the contrary is served by such lessor or landlord on the Bank within twenty-one days of the service on him of the notice first hereinbefore mentioned.

(4) The Bank on making an advance under the provisions of this section may require the farmer to sign a receipt in the prescribed form.

(Section amended by 30 of 1967, s. 4 and 14 of 1974, s. 7.)

Conditions of loan

23.—(1) Subject to the provisions of subsection (2), every farmer to whom an advance is granted under the provisions of paragraph (c) of subsection (2) of section 22 shall observe the following covenants and conditions, which covenants and conditions shall be deemed to be implied in any notification registered under the provisions of this Part:—

- (a) that the farmer shall repay such advance, together with interest thereon, at the rate and at the times specified by the Bank either at the time of making the advance or at any subsequent time, and shall pay all expenses of enforcement and realization incurred by the Bank in connexion with or arising out of the loan;
- (b) that the farmer shall produce at such intervals as may be required by the Bank an account showing the manner in which the advance has been expended, and such account may be verified on oath or in such other manner as may be required by the Bank;
- (c) that the farmer shall at all times uphold and maintain cultivation on the land specified in the notification, and maintain in a good state of repair and condition all buildings, fixtures, improvements, chattels and other property specified in the notification, so that the security for the advance does not deteriorate in value;

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- (d) that the farmer shall permit the Bank by its authorised officers to enter into and upon the land specified in the notification to view and inspect the state of repair of the buildings, fixtures, improvements, chattels, crops and other property the subject of any charge created under the provisions of this Part;
- (e) that the farmer shall furnish to the Bank full information as to any sale of the produce of the land specified in the notification and shall dispose of the purchase money from such sale in accordance with the written directions of the Bank, and shall inform the Bank of any contract for the sale of such produce immediately upon entering into such contract;
- (f) that the farmer shall, if the Bank so directs, give an order on the purchaser of any produce referred to in paragraph (e), or on the person to whom such produce is delivered to be marketed, to the effect that the money, or such portion thereof as the Bank may direct, arising from the sale of such produce shall be paid to the Bank, and any money or any part thereof so paid may at the discretion of the Bank be applied towards repayment of the advance and interest thereon or be paid to the farmer;
- (g) that the farmer shall furnish to the Bank in writing full information as to the letting by him of any land, or of any buildings upon the land, specified in the notification, and shall dispose of the rent derived from such land or buildings in such manner as the Bank may direct in writing;
- (h) that the farmer shall, if the Bank so directs, give written instructions to the tenant of any portion of the land, or of any buildings upon the land, specified in the notification, to pay any sum due or accruing due by way of rental of such land or buildings, or such part thereof as the Bank may direct, to the Bank, and any money so paid to the Bank may be applied towards repayment of the advance and interest thereon or be paid to the farmer;
- (i) that the farmer will pay all rents, rates, taxes, insurance premiums and other outgoings from time to time chargeable against the land specified in the notification;
- (j) that, when the land specified in the notification is leasehold, the farmer will observe and perform all the covenants and conditions contained in the lease or implied by law;
- (k) that the farmer will, at all times during the continuance of the charge, duly and promptly comply with the provisions and requirements of any Act relating to or to the use of the land, buildings or other property the subject of any charge created under the provisions of this Act;
- (l) that the farmer will not during the continuance of the charge remove, from the land specified in the notification, any buildings or other structural improvements erected thereon;
- (m) that the farmer has good right and absolute authority to create a charge under the provisions of this Act over the land, buildings, fixtures, improvements, chattels, crops and other property specified in the notification, and that he will at any time after the creation of the

charge make, do and execute all such further acts, deeds and assurances for the further assurance of all or any of the said property unto the Bank and enabling the Bank to obtain and retain possession of the same as may by the Bank be lawfully required;

- (n) that the Bank shall be entitled to make good any default by the farmer in compliance with the covenants and conditions contained in this section and that the Bank shall be entitled to add the sum or sums so paid to the principal moneys due under the charge and the same shall bear interest at the rate set out in the notification.

(2) Where the Bank accepts in respect of an advance made to a farmer any form of security under the provisions of paragraph (d), of subsection (2) of section 22 the covenants and conditions set out in paragraphs (a) to (n) inclusive of subsection (1) shall also be deemed to be implied in such form of security and any reference to "the notification" in the provisions of those paragraphs shall be construed as a reference to the document or documents securing such advance.

(Section amended by 30 of 1967, s. 5 and 14 of 1974, s. 8.)

Advances to farmers to constitute first charge

24. Subject to the provisions of this Act, any advance granted to a farmer, together with interest thereon and all costs, charges and expenses properly incurred by the Bank in making or securing the advance or preparatory or incidental to the enforcement of the security, shall, until repayment in full, subject only to any prior registered estate, interest, charge, encumbrance or right registered under the provisions of this or any other Act, be—

- (a) a first charge upon the whole of the crops specified in the notification, whether such crops are then or are intended to be thereafter sown or grown on the land specified in the notification, and the produce of such crops or the proceeds thereof if and when sold and converted into money such crops, on severance from the land, not being deemed to be personal chattels within the meaning of the Bills of Sale Act; (Cap. 225.)
- (b) a first charge on all the right, title and interest of the farmer in the land specified in the notification and in all buildings, structures, improvements and fixtures from time to time on or about such land;
- (c) a first charge on all livestock, vehicles, machinery, engines, tools, implements, equipment, boats and other vessels and all other chattels belonging to the farmer and being from time to time on or about or used or intended to be used in connexion with the land specified in the notification.

Notification to Registrar of Titles

25.—(1) The Bank may, in any case where any charge is created under the provisions of this Part, cause a notification in the prescribed form, signed by or on behalf of the Bank and countersigned by the farmer, to be forwarded in duplicate to the Registrar of Titles who shall register the original thereof in the prescribed form, in a register which he shall keep for that purpose (which register shall be open to the public on payment of the prescribed fee) and shall return the duplicate to the Bank duly endorsed with particulars of the registration.

(2) Where the title to any land, or any estate or interest therein, charged under the provisions of this Part, is registered under the provisions of the Land Transfer Act, the Bank shall forward a further copy of the notification to the Registrar of Titles who shall enter on the instrument of title to such land, estate or interest a memorandum of such notification as a charge against such land, estate or interest.

(Cap. 131.)

(3) Notwithstanding any provision of the Land Transfer Act or of any other Act or any other provision of law or rule of equity, to the contrary immediately upon registration under the provisions of subsection (1), all persons dealing with the land, buildings, fixtures, chattels, crops or other property which is subject to any charge created under the provisions of this Part, shall be deemed to have notice of every such charge, and any such dealing shall, subject to the provisions of this Act, be subject to the charges created under the provisions of this Part.

(Cap. 131.)

(4) The registration of a notification under the provisions of subsection (1) relating to any property, other than land registered under the provisions of the Land Transfer Act, shall become void unless renewed or further renewed, as the case may be, at least once in every five years.

(Cap. 131.)

(5) The renewal of a registration required by the provisions of subsection (4) shall be effected by filing with the Registrar of Titles an affidavit in the prescribed form and he shall enter the fact of such renewal in his register and on the notification filed in his office.

(6) Where, under the terms of any notification registered under this section, an advance granted by the Bank to a farmer is declared to include further advances which may be granted by the Bank to that farmer the notification shall be deemed to apply to and to take effect in respect of all such further advances as are granted to the farmer.

(7) Any notification registered under the provisions of subsection (1) may be varied by a written memorandum signed by or on behalf of the Bank and countersigned by the farmer and the provisions of subsections (1), (2) and (3) relating to registration and notice shall apply to such memorandum in the like manner as they apply to the notification.

(8) The provisions of the Crop Liens Act shall not apply to any notification registered under the provisions of this section.

(Cap. 226.)

(Section Amended by 30 of 1967 s. 7.)

Release of charges on repayment

26.—(1) On repayment by a farmer of all amounts due to the Bank in respect of any advance granted to him under the provisions of section 22, the Bank shall give a receipt therefor and thereupon the charges created under the provisions of this Part in respect of such advance and interest shall be released:

Provided that in any case, whether or not such amounts, or any part thereof, have been repaid, the Bank may, in its absolute discretion, by writing release totally or partially any such charge.

(2) Where any charge has been totally or partially released under the provisions of subsection (1) the Registrar of Titles shall, upon production to him of a receipt or written release signed by or on behalf of the Bank, endorse on the notification or other document registered with him relating to such charge a memorandum indicating the extent to which such charge has been released.

(3) If any charge totally released under the provisions of subsection (1) relates to land, or any estate or interest therein, which is registered under the provisions of the Land Transfer Act, the Registrar of Titles shall, upon production to him of copy of such receipt or written release cause the charge against such land estate or interest to be discharged. (Cap. 131.)

Enforcement of security

27.—(1) If any farmer to whom an advance is granted under the provisions of paragraph (c) of subsection (2) of section 22—

(a) defaults in the payment of any moneys payable by him to the Bank and secured under the provisions of this Part; or

(b) fails to observe any of the covenants and conditions specified in section 23, or any additional condition imposed by the Bank, then—

(i) if the land specified in the notification is the subject of an instrument of title registered under the provisions of the Land Transfer Act, the provisions of sections 75 to 81, inclusive of the Property Law Act shall, *mutatis mutandis*, apply as though the charge created under the provisions of paragraph (b) of section 23 were a mortgage registered under the provisions of that Act; (Cap. 130.) (Cap. 131.)

(ii) if the land specified in the notification is not the subject of an instrument of title registered under the provisions of the Land Transfer Act, the Bank shall have power to order the sale of, and to sell the right, title, estate or interest of such farmer in such land or any part thereof subject to all prior charges, encumbrances, interests and rights registered under the provisions of this or of any other Act and still subsisting and outstanding; (Cap. 131.)

(iii) the Bank shall have power to order the sale of all or any part of the property subject to the charge created by the provisions of this Part, other than such property as is subject to the provisions of either of paragraphs (i) or (ii), subject to all prior charges, encumbrances, interests and rights registered under the provisions of this or of any other Act and still subsisting or outstanding.

(2) Every sale made in pursuance of the powers of sale conferred by subsection (1) shall be by public auction or by private treaty as the Bank may consider appropriate, and notice of such sale shall be given—

(a) in any case where the amount owing to the Bank by the farmer does not exceed one hundred dollars, by the posting of a notice upon the land and in at least two other places in the vicinity of the land not less than three weeks before the day fixed for sale, or, at the option of the Bank, by advertisement in accordance with the provisions of paragraph (b);

(b) in any other case by advertisement appearing at least three times in any one newspaper published and circulating in Fiji.

(3) The Bank may, at any time before any sale advertised under the provisions of subsection (1), postpone such sale either generally or to some specified day or cancel such sale.

(4) In the circumstances referred to in subsection (1) and where any crops are the subject of any charge created under the provisions of this Act, the Bank may enter into possession of such crops and cultivate them to maturity and reap and carry away and sell the same in which case the provisions of subsections (2) and (3) shall apply to any such sale.

Sale and assignment of sugar cane contracts

28. Where under the provisions of this or any other Act, the Bank sells any land, or any right, title, estate or interest therein, of a farmer to whom an advance is granted by the Bank under this Part, the Bank shall have the power, subject to the provisions of the Sugar Industry Act, to sell and assign to the purchaser any sugar cane contract granted in respect of such land or any part or parts thereof under the provisions of that Act. (*Inserted by 30 of 1967 s. 10.*) (Cap. 206.)

Application of moneys

29.—(1) All moneys received by the Bank under the provisions of this Part from the sale of any land, crops, chattels or other property shall be applied—

- (a) firstly, towards payment of all costs, charges and expenses properly incurred and incidental to the sale including, in the case of crops, the taking of possession, cultivating, harvesting and gathering thereof;
- (b) secondly, towards payment of all amounts owing by the farmer to the Bank and charged upon such land, crops, chattels and other property, under the provisions of this Part;
- (c) thirdly, towards payment of all amounts owing by the farmer in respect of any subsequent charges or encumbrances existing over any such land, crops, chattels and other property of which the Bank has notice, in the order of their respective priorities; and
- (d) finally, the residue, if any, shall be paid to the farmer.

(2) Where the amount payable to the Bank under the provisions of subsection (1) is insufficient fully to discharge the indebtedness of the farmer to the Bank, the farmer shall be liable to pay the balance of such indebtedness forthwith upon the demand of the Bank.

Power to insure

30.—(1) Subject to the provisions of subsection (2) the Bank may insure and keep insured any insurable property the subject of any charge created under the provisions of this Part against loss or damage as the Bank may consider appropriate, in such name or names and in such amounts as the Bank may determine, and the premiums, stamp duties and other moneys paid in respect of such insurance shall be added to and form part of the loan secured by such charge and shall bear interest at the prescribed rate as from the date of payment by the Bank.

(2) Where any property required to be insured under the provisions of subsection (1) is already insured, the Bank may effect additional insurance thereon to the extent and amount, if any, which the Bank may deem necessary.

(3) The receipt of the Bank for any moneys payable under any policy held by the Bank in respect of any fixtures, chattels, crops or other property the subject of any charge created under the provisions of this Part shall be sufficient discharge therefor.

(4) All money received pursuant to any claim under any policy of insurance upon any fixtures, chattels, crops or other property the subject of any charge created under the provisions of this Part shall be applied at the election of the Bank either in or towards the discharge of the amounts secured to the Bank or in making good the loss or damage in respect of which the money is received.

Rights of a surety

31. The provisions of section 19 of the Indemnity, Guarantee and Bailment Act shall apply to any surety who guarantees the repayment of an advance granted to a farmer under this Part. (*Substituted by 30 of 1967 s.11.*) (Cap. 232.)

PART V—GENERAL PROVISIONS

Rights of Bank in case of default

32.—(1) Any payment to the Bank in respect of an advance granted by it under the provisions of this Act shall first be applied towards the payment of interest accrued due to the Bank at the date of such payment and the balance, if any, shall be applied towards the repayment of the advance.

(*Inserted by 30 of 1967 s. 12.*)

(2) Where any borrower who is under a liability to the Bank by reason of an advance made under the provisions of this Act makes any default in repayment or otherwise fails to comply with the terms upon which such advance has been granted, the Bank may, without prejudice to any other rights or remedies which it may possess, take over the management of the business of such borrower as well as the right to sell and realise the property pledged, mortgaged, charged or assigned to the Bank.

(3) Any transfer of property made by the Bank in exercise of its powers of sale and realization under the provisions of subsection (2) and, in the case of any land, or any estate or interest therein, the subject of an instrument of title registered under the provisions of the Land Transfer Act, under the provisions of that Act, shall vest in the transferee all rights in or to the property transferred as if the sale had been made by the owner of the property. (Cap. 131.)

(4) The Bank shall have the same rights and powers with respect to goods manufactured or produced wholly or partly from goods forming part of any security held by it, as it had with respect to the original goods.

(5) Where the Bank takes over the management of the business of a borrower under the provisions of subsection (2), it shall be deemed to be the owner of such business and may sue and be sued in the name of the owner of such business.

Repayment before agreed period

33.—(1) The Bank may at any time accept payment of the whole or any part of an advance or of any interest payable before the time when such repayment or payment is due upon such terms and conditions as the Bank may think fit.

(2) Notwithstanding any agreement to the contrary, and without prejudice to any other rights or remedies it may possess, the Bank may by notice require any borrower forthwith to discharge his liabilities to the Bank if—

- (a) it appears to the Bank that false or misleading information in any material particular was given in the application for the loan or advance; or
 - (b) the loan or advance has not been applied for the purposes for which it was made by the Bank; or
 - (c) the borrower has failed to comply with the terms of his agreement with the Bank; or
 - (d) there is reasonable apprehension that the borrower is unable to pay his debts or that proceedings for liquidation may be commenced in respect thereof; or
 - (e) the property pledged, mortgaged, charged or assigned to the Bank as security is not insured and kept insured by the borrower to the satisfaction of the Bank, or, in the opinion of the Bank, depreciates in value by more than twenty per cent, and further security to the satisfaction of the Bank is not given as may be required by it; or
 - (f) without the permission of the Bank, any property of the borrower, whether forming part of any security or otherwise, is removed or sold or otherwise disposed of; or
 - (g) for any reason it is necessary in the opinion of the Bank to protect the interests of the Bank,
- and any security given by the borrower to the Bank may be realised accordingly.

(3) If any advance is to be made by instalments, the Bank may order that any instalment due to be advanced, whether by way of cash payment or purchase order, shall be withheld until the Bank is satisfied that such instalment will be applied for the purpose for which the loan or advance was granted.

(4) Where default is made in the payment upon the due date of any interest owing to the Bank in respect of any advance granted by it under the provisions of this Act the Bank shall be entitled, until that interest is paid, to charge interest thereon at the same rate as interest is chargeable on the advance.

(Inserted by 30 of 1967 s. 13.)

Examination

34.—(1) When the Bank has made any loan, advance or investment in any form, the Bank may, at any time while any such loan, advance or investment is extant—

- (a) make or cause to be made such examination as to the affairs of the borrower or his business as it considers necessary; and
- (b) require financial statements in such detail as it may determine to be submitted by the borrower at such intervals as it may require.

(2) The Bank may appoint any of its officers or any other person or persons authorised in writing by the Bank to make an examination under the provisions of this section, and the borrower shall produce to such officer or person all the relevant books, documents and other matters and things necessary for purposes of the examination.

(3) Any officer of the Bank appointed under the provisions of this section or any other person authorised in writing by the Bank in that behalf may, at all reasonable times, enter upon any land or premises in respect of which any loan, advance or investment by the Bank has been made and may examine the same.

- (4) Any person who—
- (a) fails to submit any financial statement or to produce any book, document or other matter or thing as required by or under the provisions of this section; or
 - (b) wilfully obstructs any officer of the Bank or other authorised person in carrying out any examination under the provisions of this section,
- shall be guilty of an offence.

Accounts and audit

35. The Bank shall keep accounts of its transactions and such accounts shall be audited by an auditor approved by the Minister. An auditor so approved shall be a chartered accountant registered under the provisions of the Fiji Institute of Accountants Act. (Cap. 259.)

Bad debts

36. The Bank may, with the approval of the Minister*, write off bad debts.

Report

- 37.—(1) The Bank shall, as soon as possible after the end of each financial year, submit to the Minister a report containing—
- (a) an account of its transactions throughout the year; and
 - (b) a statement of the accounts of the Bank duly audited in accordance with the provisions of section 35.
- (2) A copy of the report together with the report of the auditor shall be printed and laid before Parliament as soon as possible after the end of the year to which the report relates.

Protection of Bank

38.—(1) No act done or proceeding taken under the provisions of this Act shall be questioned on the ground of the existence of any vacancy on, or any defect in the constitution of, the Board.

(2) Any minute made touching a meeting of the Board or of a committee of the Board shall, if duly signed by the chairman or the manager of the Bank, be receivable in evidence in all legal proceedings without further proof, and every meeting of the Board or a committee in respect of which minutes have been so made shall be deemed to have been duly convened and held and all members thereof to have been duly qualified to act.

Personal liability of director

39. No director, officer or servant of the Bank shall be personally liable for any act or default done or omitted to be done in good faith in the course of the operations of the Bank.

Offences and penalties

40.—(1) Any person who knowingly applies any loan, advance or investment made by the Bank or any part thereof under the provisions of this Act to any purpose other than that authorised by the Bank shall be guilty of an offence and

*Delegated to Permanent Secretary for Finance by Notification 23rd January, 1970.

shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(2) Any person who disposes of any property forming the whole or part of any security pledged, mortgaged, charged or assigned to the Bank, other than with the authority of the Bank, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(3) Any person convicted of an offence under the provisions of subsection (4) of section 34 shall be liable to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

False statements

41. Any person who wilfully fails to disclose any material information within his knowledge, or who wilfully makes any statement which he knows to be false or does not believe to be true, for the purposes of securing a loan from, or an investment in any form by, or assistance in any form or any facility from, the Bank, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Service upon Bank

42. Service upon the Bank of any notice, order or other document shall be effected by delivering the same or by sending it by registered post to the manager of the Bank.

Service by Bank

43. Subject to the provisions of section 27 relating to the notices required in connexion with the exercise of the power of sale conferred by that section, any notice, order or other document required to be served by the Bank under the provisions of this Act may be served—

- (a) personally; or
- (b) by delivering it at or on the premises in which the person to be served resides or carries on business, and by leaving the same with any person apparently above the age of eighteen years resident or employed at such premises; or
- (c) by posting it by pre-paid letter addressed to the last known place of abode or business of the person to be served; or
- (d) by affixing it on any conspicuous part of any land, building or premises the subject of such notice, order or other document; or
- (e) in any case where the person to be served is, or after inquiry appears to be, absent from Fiji, by service upon the agent of the person to be served; or
- (f) in any case where the address or place of abode or business of the person to be served is not known to the bank, by advertisement in a newspaper published and circulating in Fiji.

Regulations

44. The Minister may make regulations for the carrying out of the provisions of this Act, and in particular without prejudice to the generality of the foregoing—

- (a) prescribing the fees payable and the forms to be used under the provisions of this Act; and
- (b) prescribing the procedures to be followed in the registration of documents under the provisions of this Act.

Controlled by Ministry of Finance

FIJI DEVELOPMENT BANK

SECTION 44—FIJI DEVELOPMENT BANK (FORMS)
REGULATIONS

Regulations 5th July, 1967.

Made by the Governor

Short title

1. These Regulations may be cited as the Fiji Development Bank (Forms) Regulations.

Forms

2. The forms appearing in the Schedule shall be used for the purposes of the Act in respect of the matters specified in them.

SCHEDULE

FORM No. 1

FIJI DEVELOPMENT BANK

APPLICATION FOR LOAN

AGRICULTURAL

The attention of applicants is drawn to the sections of the Act which appear at the foot of this application form.

FOR OFFICE USE ONLY	
Date of application:	Date received File No.
Application fee to accompany this form.	Fee payable
	Amount paid
Application fees are non-refundable.	Receipt No. Date

All Questions to be answered and in block letters, if not applicable, insert N.A. or Nil, as appropriate

1. Name: _____ Father's Name: _____

2. Occupation: _____

3. Age of applicant: Male Married Unmarried
 Female Widower Widow
 (Delete one) (Delete all but one)

4. Number of dependants living with applicant	Names	Sex	Age

5. Postal address:
 6. Place of residence (if not as above):
 7. Assets now owned:
 (a) Land now owned or occupied by the applicant:

Title No.	Name of Land	District	Area	Expiry Date	Annual Rental

Please add any further relevant information concerning applicant's tenure of the above land:

- (b) Existing improvements on above-described land:
- (1) Buildings:
 - (2) Crops and/or plantations:
 - (3) Any other improvements:

-
- (c) Livestock:
 - (d) Implements:
 - (e) Other chattels:
 - (f) Any other assets:
-

8. (a) Are the above assets the personal property of the applicant and offered and available as security for the loan;
- (b) If not specify reason:
- (c) If subject to prior encumbrance, specify details:
-

9. Debts owing, to whom and amount:

10. Brief directions, describing how the Bank's inspector may reach the property owned or occupied by the applicant:

11. Category of farming: (i.e. cane, rice, coconuts etc.)
12. Amount of loan required: \$
13. Has finance for this project been sought elsewhere:
14. Capital available: (cash on hand) \$
15. Project (detailed proposed expenditure of 12 and 14 above):
16. Estimated income from project:
17. Terms of repayment offered:

CERTIFICATE

I/We do hereby certify that the statements and other details contained herein are true, accurate and complete in every particular.

Signed:.....

Witness:.....

Designation:.....
and address.....
of witness:.....

N.B.—The following documents should be forwarded with this application:—

- 1. Land title (if not available, state reason).
- 2. Current rent receipt (if applicable).
- 3. Cane contract, if any (if not available, state reason).

Your attention is drawn to the following sections of the Fiji Development Bank Act:—

(Here sections 32, 33, 40 and 41 of the Act to be set out.)

FORM NO. 2

FIFI DEVELOPMENT BANK RECEIPT

(Under Section 22 (4) Fiji Development Bank Act)

RECEIVED from the Fiji Development Bank the sum ofdollars
.....cents.

by way of advance.

\$ c.

Stamp
Duty

I UNDERTAKE to produce the Bank upon request in accordance with section 23 (b) of the Fiji Development Bank Act an account showing the manner in which the above advance was expended and if so required by the Bank to verify such account on oath or as may be required by the Bank.

Signed.....

Witness:

Date.....

For office use only

File No..... Name

FORM NO. 3

STAMP DUTY

BOOK.....FOLIO.....

TITLES OFFICE NO.

FIJI DEVELOPMENT BANK

NOTIFICATION

(Under Section 25 Fiji Development
Bank Act)

NOTIFICATION is hereby given that the FIJI DEVELOPMENT BANK (hereinafter referred to as "the Bank") has granted to

(hereinafter with executors administrators and assigns referred to as "the Farmer") an advance particulars whereof are given hereunder:

Amount of advance (state in figures and words)	
Rate of interest	
Crops specified	

Land specified:

Title	Date of number	Description	District or Tikina	Province or Island	Area			Share
					A.	R.	P.	

Chattels specified:

FORM NO. 4.

BOOK..... FOLIO.....

FIJI DEVELOPMENT BANK

RENEWAL OF REGISTRATION OF NOTIFICATION

(Under Section 25 Fiji Development Bank Act)

I
Fiji of
make oath and say as follows:

1. THAT I am the of the Fiji Development Bank and am authorized on behalf of the said Bank to make this affidavit.
2. THAT the charge referred to in the Notification registered in the Register of Notifications Book Folio still subsists.

SWORN by the said
at this
day of 19

Before me:

A Commissioner for Oaths

Registered onat.....m.

Register of Notifications

Book..... Folio

.....
Registrar of Titles

Lodged by:

Date:

SECTION 44—FIJI DEVELOPMENT BANK (FEES) REGULATIONS

Regulations 28th October, 1977.

Made by the Minister

Short title

1. These Regulations may be cited as the Fiji Development Bank (Fees) Regulations.

Fees

2. The fees set out in the Schedule shall be charged and paid in respect of the various acts and matters herein referred to.

SCHEDULE

<i>Item</i>	<i>Description of Fees</i>	<i>Amount</i>
1.	Registration of notification with the Registrar of Titles:—	\$
	(a) For land specified in section 5 of Land Transfer Act, (or with titles)	2·00
	(b) For other property	1·00
	(c) Each additional instrument of title under item 1 (a) above	1·00
2.	Search fee for each notification	·20
3.	Renewal of notification	1·00
4.	Release of notification	1·00
5.	(a) Release of notification when registered under item 1(a) above	2·00
	(b) Each additional Instrument of title	1·00
6.	Cancellation of notification when default has been made . . .	2·00
7.	Memorial on notification	1·00
8.	Variation of notification	2·00

Controlled by Ministry of Finance