
CHAPTER 151

FIJI PINE COMMISSION

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Acts Nos. 5 of 1976, 11 of 1983

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A FIJI PINE COMMISSION TO FACILITATE AND DEVELOP AN INDUSTRY BASED ON THE GROWING, HARVESTING, PROCESSING AND MARKETING OF PINE AND OTHER SPECIES OF TREES GROWN IN FIJI
[1 July 1976]

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Fiji Pine Commission Act.

Interpretation

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

“appointed day” means 1 July 1976;

“Auditor” means the person appointed by the Commission with the approval of the Minister to audit the books and accounts of the Commission;

“Commission” means the Fiji Pine Commission established under section 3;

“landowners” mean owners and associations of owners of native or freehold or Crown land leased to the Commission for the establishment of forests thereon;

“member” means a member of the Commission appointed by the Minister under the provisions of section 4, and includes the Chairman and Deputy Chairman;

“native land” has the same meaning as in the Native Land Trust Act;
(Cap. 134.)

“Pine Scheme” means the department of the Ministry of Forests responsible hitherto for the functions now prescribed for the Commission;

“proprietary unit” has the same meaning as in the Interpretation Act.
(Cap. 7.)

PART II—ESTABLISHMENT, CONSTITUTION, MEMBERSHIP AND PROCEDURE OF AUTHORITY

Establishment of Commission

- 3.—(1) There is hereby established a Commission to be known as the Fiji Pine Commission which shall be a body corporate and by that name shall have perpetual succession and a common seal, and which may enter into contracts and may sue or be sued in its corporate name. The Commission shall have authority to make such expenditure as it deems necessary for the proper discharge of its functions.

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

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

(3) Service of any document on the Commission shall be deemed to be effected by delivering the same or sending it by registered post addressed to the General Manager or Secretary at the Head Office of the Commission.

Membership of Commission

4.—(1) The Commission shall consist of a Chairman, a Deputy Chairman and not more than eight other members, all of whom shall be appointed by the Minister:

Provided that—

- (a) no fewer than three of the members shall be representatives of the native landowners, shall themselves be native landowners, and before appointing them as members the Minister shall consult the Minister responsible for Fijian Affairs;
- (b) one of the members shall be a representative of the Commonwealth Development Corporation which shall be consulted by the Minister before such member is appointed;
- (c) one of the members shall be the General Manager appointed by the Minister upon the recommendation of the Commission under the provisions of subsection (1) of section 9.

(2) Members of the Commission shall hold office for such terms not exceeding three years as the Minister may determine and shall be eligible for reappointment. They may be entitled to such fees and allowances as may be approved by the Minister.

(3) Six members of the Commission, of whom one shall be the Chairman or Deputy Chairman, shall form a quorum at any meeting and, unless otherwise provided in this Act, decisions shall be adopted by a simple majority of the votes of the members present, except that in the event of an equality of votes, the chairman of the meeting shall have and exercise a second or casting vote.

(4) The Commission shall meet as often as the business of the Commission may require but not less frequently than three times in each year. Meetings shall be convened by the Chairman in accordance with rules to be made and in addition the Chairman or in his absence the Deputy Chairman shall convene a meeting of the Commission within 28 days of a request from any four members of the Commission being received.

(5) The Commission may co-opt additional non-voting persons for one or more meetings.

(6) No act or proceeding of the Commission shall be invalidated merely by reason of the existence of a vacancy or vacancies among the members of the Commission, or of a defect in the appointment of a member.

(7) A member of the Commission, if he has any interest in any company or undertaking with which the Commission proposes to make any contract, or has any interest in any such contract, shall disclose to the Commission the fact of such interest and the nature thereof and such disclosure shall be recorded in the minutes of the Commission and, unless specifically authorised thereto by the Commission,

such member shall take no part in any deliberation or decision relating to such contract:

Provided that such an interest, if so disclosed, shall not disqualify the interested party for the purpose of constituting a quorum.

(8) Subject to the provisions of this section, the Commission may make rules for the convening of meetings, regulation of its proceedings and business and may vary, suspend or revoke such rules.

(9) The Commission may appoint a committee from amongst its members to whom it may delegate from time to time such powers as it deems fit.

(10) The Commission shall keep minutes of all meetings which shall be confirmed at the next succeeding meeting of the Commission.

Vacation of office and appointment to fill vacancy

5.—(1) If a member of the Commission—

- (a) is absent from meetings of the Commission for more than 2 consecutive meetings except for some reason approved by the Minister; or
- (b) becomes in the opinion of the Minister unfit to continue in office or incapable of performing his duties,

then the Minister may declare the office of such member to be vacant and shall notify the fact in such manner as the Minister thinks fit, and thereupon the office of such member shall become vacant.

(2) Any member of the Commission may resign his office by giving notice in writing under his hand to the Minister.

(3) The Minister shall appoint at the earliest opportunity another person to fill any vacancy howsoever caused and such person shall hold office until the date when the appointment of the person in whose place he was appointed would have expired.

PART III—FUNCTIONS OF THE COMMISSION

Objectives of the Commission

6.—(1) It shall be the duty of the Commission to establish a viable forestry industry in Fiji based on planted forests.

(2) It shall be the duty of the Commission, upon the establishment of a viable forestry industry, comprising lands, forests and ancillary commercial industries, to enable the acquisition by proprietary units and landowners of the said lands and forests and the said industries upon such terms as shall ensure the continuing viability of the forestry industry and be consistent with the due performance by the Commission of its obligation to repay the finance and expenditure and the cost of the assets provided by the Government or other sources. In the furtherance of this duty the Commission shall have powers—

- (a) to assist in the procurement for proprietary units and landowners of loans from sources of finance other than the Commission to enable such units and landowners to undertake development projects;
- (b) where commercially feasible to guarantee loans borrowed by proprietary units and landowners from other sources of finance;
- (c) to provide administrative and commercial advice, appointing such officers for the fulfillment of these duties as the Commission shall deem appropriate;

- (d) to provide such expert advice upon forestry and commercial development as the Commission shall deem appropriate.

Powers of Commission

7. The Commission shall have power to do anything which is incidental or conducive to the fulfillment of its duties or to the exercise of its powers under this Act and which appears to the Commission to be requisite, advantageous or convenient for it to do, including, but without restricting the generality of the foregoing words, power—

- (a) to buy, sell, create, process, insure, transport and otherwise deal in any products;
- (b) to acquire, purchase, lease, take hold and enjoy any real and personal property and sell, let, grant rights over, assign, surrender, transfer, charge, mortgage or otherwise dispose of or deal with real or personal property;
- (c) either alone or jointly with other persons or organisations, to plant, grow and harvest pine or other species of trees and establish, operate, invest in and lend to such commercial undertakings as it may consider desirable in the processing and marketing of wood and wood products;
- (d) to conduct such livestock and arable farming as can conveniently be combined with the objectives of the Commission;
- (e) to borrow from any source and give such security by way of mortgage on such terms as may be approved by the Minister in consultation with the Minister of Finance;
- (f) to set up corporations and limited liability companies for the purpose of discharging any of its functions, and invest therein;
- (g) to construct such buildings for such purposes as the Commission shall deem necessary.

PART IV—TRANSFER OF ASSETS AND LIABILITIES

Transfer of assets and liabilities to Commission

8.—(1) All assets, liabilities and obligations of the Pine Scheme shall vest in the Commission on the appointed day, save that the Minister may, within six months after the appointed day, direct that any such assets which are not vital to the operations of the Commission and any such liabilities and obligations shall not vest in the Commission or that other assets required for such operations shall vest in the Commission.

- (2) (a) The expenditure, including interest and servicing charges, incurred by the Government or other agencies on the development and administration of plantations and the acquisition of other assets to be vested in the Commission shall be the subject of a written agreement, to be concluded within six months after the appointed day, between the Commission and the Minister as advised by the Minister of Finance.
- (b) The foregoing agreement shall also quantify the funds lent to and to be made available by the Government to the Commission and such funds as have already been lent shall be added to the sums agreed upon under paragraph (a) to determine the total amount due to the Government.

(3) The amount determined in paragraph (a) of subsection (2), after adjustment to take account of any direction made by the Minister under the saving provision in subsection (1), together with any funds agreed upon under paragraph (b) of subsection (2) shall be a debt due from the Commission to the Government and shall be repayable with interest on such terms as the Minister, with the approval of the Minister of Finance, may determine.

PART V—APPOINTMENT OF OFFICERS AND SERVANTS

Appointment of General Manager, Deputy General Manager, Secretary and Officers

9.—(1) A General Manager shall be appointed by the Minister upon recommendation of the Commission and shall be the chief executive officer of the Commission and a member thereof.

(2) The Commission shall appoint a Deputy General Manager.

(3) The Commission, with the approval of the Minister, shall appoint a Secretary whose duties shall include the keeping of minutes of the meetings of the Commission and of its decisions.

(4) The General Manager, with the approval of the Commission, shall appoint such other officers and servants as he considers necessary.

(5) The General Manager shall be paid such salary as is determined from time to time by the Higher Salaries Commission. (*Substituted by Act 11 of 1983, s. 27, Sch. 2.*)

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

Delegation of powers to General Manager

10. The Commission may delegate to the General Manager such powers as are necessary for the fulfillment of its duties, the exercise of its powers and the efficient execution of its functions, upon such terms and conditions as the Commission may determine.

Liability of members and servants of the Commission

11. No member or servant of the Commission shall be personally liable for any act or default of a member or servant of the Commission done or omitted to be done in good faith and without negligence in the course of the operations of the Commission.

PART VI—FINANCIAL POLICY

Financial objectives of Commission

12.—(1) A revenue account shall be maintained by the Commission of its commercial operations, and the Commission shall so exercise and perform its functions as to secure that its revenues from its commercial operations are not less than sufficient to meet all sums properly chargeable to such an account, including the interest upon that proportion of its borrowings attributable to such commercial operations. The Commission shall, with the approval of the Minister, decide when further parts of its undertaking may be treated as in commercial operation, and

such part or parts shall thereafter be accounted for in accordance with the provisions of this sub-section.

(2) Any excess revenues of the Commission for any financial year over the sums properly chargeable to its revenue account for that year shall be applied by the Commission for such purposes of the Commission, or invested in such manner on behalf of the Commission as it may determine with the approval of the Minister given with the consent of the Minister of Finance, but so that no part of such excess revenues shall be applied or invested otherwise than for the purposes of the Commission.

PART VII—ACCOUNTS AND REPORTS

Accounts

13.—(1) The Commission shall keep accounts and other financial records in respect of its operations. The records and accounts shall be kept in accordance with accepted commercial accounting principles and practices and the General Manager shall, after consultation with the Chairman, give instructions as to the manner in which they shall be kept.

(2) The accounts of the Commission shall be audited annually by the Auditor. The Chairman shall not later than two months after the end of any financial year, or by such later date as the Minister shall approve, transmit to the Auditor the accounts for the financial year which shall consist of such financial records, accounts and other supporting statements as may be required by the Auditor.

(3) Not later than three months after the end of each financial year, or by such later date as the Minister may approve, the Commission shall transmit to the Minister—

- (a) a copy of the statement of accounts;
- (b) a copy of the report made thereon or on the accounts of the Commission by the Auditor;
- (c) a report containing details of the activities of the Commission during that year;
- (d) such other information and reports as the Minister may request.

(4) The Minister shall cause copies of the accounts and reports to be printed and laid before Parliament as soon as practicable thereafter.

PART VIII—MISCELLANEOUS

Regulations

14. The Minister may make regulations for the maintenance and protection of the Commission's forests from fire, disease or trespass, and generally for giving effect to and carrying out the functions of the Commission.

Directions

15. In the exercise of its powers, duties and functions aforesaid, the Commission shall act in accordance with any general or special directions given to it by the Minister.

Controlled by Ministry of Forests