
CHAPTER 124

BANABAN LANDS

TABLE OF PROVISIONS

PART I—PRELIMINARY

SECTION

1. Short title
2. Interpretation

PART II—LAND BELONGING TO RABI ISLANDERS

3. Vesting of land on Rabi Island
4. Restriction on dealing with land on Rabi Island
5. Holding of Banaban land and devolution thereof
6. Power of the Council to make regulations
7. Power of the Council to give directions
8. Boundary marks
9. Land situate outside Rabi Island

PART III—LAND COURT

10. Land Court
11. Powers and procedure of Land Court
12. Failure to comply with order or judgement of Land Court to be offence

PART IV—REGISTRATION OF LAND ON RABI ISLAND

13. Register of land on Rabi Island
14. Registration
15. Inspection of register
16. Rectification of register

PART V—MISCELLANEOUS

17. Rights of Crown preserved
18. Exclusion of application of Cap. 131

AN ACT TO MAKE BETTER PROVISION FOR THE OWNERSHIP,
REGISTRATION AND DEALING WITH LAND ON RABI ISLAND AND
LAND OWNED BY THE BANABAN COMMUNITY AND MATTERS
INCIDENTAL THERETO

[29 October 1965]

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Banaban Lands Act.

Interpretation

2. In this Act, unless the context otherwise requires—
 “Banaban land” means land on Rabi Island allotted to and vested in members of the Banaban community in accordance with the provisions of subsection (1) of section 4;
 “Council” means the Council of Leaders constituted and established under the Banaban Settlement Act; (Cap. 123.)
 “Island Scribe” means the person appointed as the Island Scribe under the Banaban Settlement Act; (Cap. 123.)
 “lease” includes a sub-lease and an agreement, whether verbal or written, for tenancy or sub-tenancy;
 “member of the Banaban community” means a descendant of the original indigenous inhabitants of Ocean Island, of the whole or of the half blood, illegitimate or legitimate, or a person who is accepted as a member of the Banaban community in accordance with Banaban custom;
 “Minister” means the Minister responsible for the administration of this Act;
 “Rabi Island” means the island of Rabi, above highwater, situate off the east coast of Vanua Levu;
 “Tribunal” means the person appointed by the Minister to be the Rabi Island Tribunal under the provisions of the Banaban Settlement Act. (Amended by Ordinance 37 of 1970, s. 2.)

PART II—LAND BELONGING TO RABI ISLANDERS

Vesting of land on Rabi Island

3. Subject to the provisions of this Act, Rabi Island shall vest in freehold in the Council to be held on trust for the benefit of all members of the Banaban community, and the Council shall hold the island accordingly.

Restriction on dealing with land on Rabi Island

- 4.—(1) The Council may divide any area or areas of land on Rabi Island into portions and may allot to and vest in members of the Banaban community, any such portions.
 (2) The Council may grant, or permit the transfer or assignment of, leases of any land, other than Banaban land, on Rabi Island and may grant licences over such land on payment of a fee or otherwise.
 (3) Banaban land shall not be disposed of whether by way of sale, lease, transfer or otherwise to any person other than a member of the Banaban community.

(4) Except with the prior approval of the Council, no land on Rabi Island may be charged or encumbered.

(5) Subject to the preceding provisions of this section and to the provisions of the Crown Acquisition of Lands Act, the Mining Act, and the Petroleum Exploration and Exploitation Act, no land on Rabi Island may be disposed of whether by sale, lease, transfer or otherwise nor may any licence be granted in respect of any such land.

(Cap. 135, Cap. 146, Cap. 148.)

(6) Any sale, lease, transfer, assignment, licence, charge, encumbrance or other disposition of land effected contrary to the provisions of this Act, or of any regulation made thereunder shall be null and void.

Holding of Banaban land and devolution thereof

5. Banaban land shall be held by members of the Banaban community in the prescribed manner and shall devolve in such manner as may be determined by the Land Court established under the provisions of section 10.

Power of the Council to make regulations

6.—(1) Subject to the provisions of this Act, the Council may make regulations controlling and regulating all matters appertaining to land on Rabi Island which are necessary and convenient for carrying out the provisions of this Act and in particular, but without prejudice to the generality of the foregoing, may make regulations with respect to any of the following matters:—

- (a) controlling and regulating the occupation and use of land on Rabi Island;
- (b) controlling and regulating the distribution of and dealings with Banaban land;
- (c) controlling and regulating any matter relating to the leasing of land on Rabi Island, other than Banaban land;
- (d) specifying the method whereby land shall be allotted to members of the Banaban community;
- (e) controlling and regulating the allotment of land to members of the Banaban community;
- (f) controlling and regulating the quality or size or any building or structure upon Rabi Island or the siting thereof;
- (g) controlling and regulating the allotment and size of plots of land to be used for any purpose upon Rabi Island;
- (h) defining boundaries and controlling and regulating the maintenance of boundary marks;
- (i) controlling and regulating grazing rights and the removal of agricultural or forest produce; and
- (j) prescribing anything which is or may be prescribed under this Act.

(2) The Council shall publish such regulations by posting them up in a prominent position outside the offices of the Council and upon publication they shall be of full force and effect.

(3) The penalty imposed by regulations made under this section shall not exceed a fine of \$20 or imprisonment for two months or a combination of both such fine and imprisonment.

(4) The making of regulations under this section shall be subject to the prior approval of the Minister. (*Amended by Ordinance 37 of 1970, s. 3.*)

Power of the Council to give directions

7.—(1) Subject to the provisions of this Act and of any regulations made thereunder, the Council may give directions relating to the allotment, boundaries, occupation and use and vacation of land on Rabi Island.

(2) Such directions shall be given in writing dated and signed by the Island Scribe, and shall be served upon the person or persons to whom they are addressed.

(3) Any person aggrieved by any direction of the Council may appeal within seven days of the service of such direction upon him to the Land Court the decision of which, shall be final and conclusive and which shall have power to quash or amend the direction or dismiss the appeal. (*Amended by Ordinance 37 of 1970, s. 4.*)

(4) Any person who, wilfully and without lawful excuse, disobeys any direction of the Council shall be guilty of an offence and shall be liable to a fine of \$20 or one month's imprisonment or to both such fine and imprisonment.

Boundary marks

8.—(1) Any person allotted land on Rabi Island by the Council shall maintain in good order on the boundaries of such land all boundary marks which are prescribed or which the Council may direct to be set up.

(2) Any person who wilfully and without lawful excuse—

(a) being responsible for the care and maintenance of a boundary mark, allows it to fall into disrepair or to be destroyed or removed contrary to the provisions of this section; or

(b) defaces, tampers with, destroys, injures or removes any boundary mark, or counterfeits any boundary mark,

shall be guilty of an offence and shall be liable to a fine not exceeding \$40 or to two months' imprisonment or to both such fine and imprisonment.

(3) Any person convicted of an offence under this section whether or not any penalty be imposed upon him, shall be liable to pay any costs incurred in the rectification of his act or omission.

Land situate outside Rabi Island

9. The Council may hold land on trust for members of the Banaban community which is situate outside Rabi Island and may do all things which they deem fit for the managing of such land for the benefit of members of the Banaban community.

PART III—LAND COURT

Land Court

10.—(1) There shall be established on Rabi Island a Land Court which shall consist of the Tribunal and four assessors appointed by the Council. (*Amended by Ordinance 37 of 1970, s. 5.*)

(2) The Land Court shall be charged with the following duties:—

(a) to decide all disputes relating to land on Rabi Island;

(b) to cause a register to be prepared and maintained in the manner hereinafter provided for in this Act;

(c) to determine questions of Banaban custom relating to land;

- (d) to determine the manner in which Banaban land shall devolve; and
- (e) to determine such other questions relating to land on Rabi Island as may be referred to it by the Council.

(3) In all proceedings of the Land Court, decisions shall be reached by the majority verdict of the assessors who shall each have one vote and, in the case of equality of voting, the Tribunal shall have a casting vote. (*Inserted by Ordinance 37 of 1970, s. 5.*)

(4) Assessors shall be appointed for a term of three years and may be eligible for re-appointment at the end of any term of office. (*Inserted by Ordinance 37 of 1970, s. 5.*)

Powers and procedure of Land Court

11.—(1) For the purposes of any inquiry into any dispute, the Land Court shall have the same powers to summon and cause the attendance of and examine on oath, all claimants or potential claimants to any land in respect of which a dispute exists and any person on Rabi Island, as the tribunal has in respect of witnesses in criminal proceedings. (*Amended by Ordinance 37 of 1970, s. 6.*)

(2) The Tribunal shall cause an adequate record to be kept of all proceedings of the Land Court. (*Amended by Ordinance 37 of 1970, s. 6.*)

(3) Subject to the provisions of this section the Land Court shall decide all matters of practice and procedure and may award costs.

(4) No right of appeal shall exist against any judgment, order or decision of the Land Court. (*Inserted by Ordinance 37 of 1970, s. 6.*)

Failure to comply with order or judgment of Land Court to be offence

12. Any person who, wilfully and without lawful excuse, fails to comply with the provisions of any judgment or order of the Land Court shall be guilty of an offence and may be ordered to pay a fine not exceeding \$1 for every day during which such offence continues, or in default, three days' imprisonment for every such day as aforesaid.

PART IV—REGISTRATION OF LAND ON RABI ISLAND

Register of land on Rabi Island

13.—(1) There shall be a register called the "Register of Lands" which shall be kept on Rabi Island by the Island Scribe in such form as the Land Court may prescribe.

(2) The Land Court shall cause entries to be made in the register by the Island Scribe in respect of each portion of Banaban land and of all leases of land granted on Rabi Island and of any other dealings, transmissions or devolutions which the Land Court may request the Island Scribe to record.

Registration

14.—(1) Registration of Banaban land shall vest in the persons registered as owners of such land such rights, privileges, powers and obligations in relation to such land as are incidental to Banaban custom as may from time to time be determined by the Land Court.

(2) Registration of a lease in the register shall vest in the lessee the land comprised in the lease for all the interest described therein, together with such

express rights as may be attached thereto and subject to all liabilities expressed therein, and together with and subject to all rights, liabilities and limitations laid down in relation to leases by the Land Transfer Act, except for such rights, liabilities and limitations as are conferred or imposed by the provisions of this Act.

(Cap. 131.)

(3) Any other matter registered in the register shall be for the purposes of record only.

Inspection of register

15. Any person on payment of a fee of 20 cents shall be entitled to inspect the register and receive certified or uncertified extracts therefrom.

Rectification of register

16. The Island Scribe, acting on the instructions of the Land Court, shall have power to rectify the register in the following cases:—

- (a) in formal matters and in cases of errors or omissions not materially affecting the interests of any owner;
- (b) in any case at any time with the consent of the persons interested.

PART V—MISCELLANEOUS

Rights of Crown preserved

17. Nothing in this Act shall be held to affect any right, title or interest of the Crown in, upon or over any land on Rabi Island.

Exclusion of application of Cap. 131.

18. Except as provided in section 14, the provisions of the Land Transfer Act shall not apply to land on Rabi Island.

(Cap. 131.)

Controlled by Office of the Prime Minister