

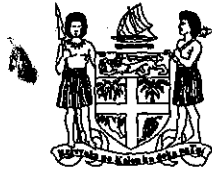
**ARRANGEMENT OF SECTIONS**

**SECTION**

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FIJI

ACT NO. 8 OF 1996



I assent.

[L.S.]

K. K. T. MARA  
President

[28 August 1996]

**AN ACT****TO ALTER THE BANABAN SETTLEMENT ACT**

ENACTED by the Parliament of Fiji—

*Short title*

1. This Act may be cited as the Banaban Settlement (Amendment) Act, 1995.

*Commencement*

2. This Act shall enter into force on a date appointed by the Minister and published in the *Fiji Republic Gazette*.

*Interpretation*

3. In this Act, the Banaban Settlement Act is referred to as "principal Act".

## Section "2" amended

4. Section "2" of the principal Act is amended by:—

- (a) repealing the definition of the term "Banaban community" and substituting the following:

"Banaban community" means the former indigenous inhabitants of Banaba and their descendants;"

(b) inserting, after the definition of "Council" the following:

"Elders" means a Banaban recognised in accordance with Banaban custom;"

(c) inserting, after the definition of "Minister" the following:

"Resident" means one who is a Banaban from one of the four communities as specified in subsection (3) of Section 3 of the Principal Act and residing in Fiji."

*Section "3" repealed and substituted*

5. Section "3" of the principal Act is repealed and substituted as follows:—

*"Establishment of Council of Leaders*

3—(1) There is hereby established for Rabi Island a body corporate, with permanent succession and a common seal, to be known as the Council of Leaders.

(2) The Council shall consist of nine members and shall meet at least six times a year.

(3) Each of the four Communities on Rabi namely Tabwewa, Uma, Tabiang and Buakonikai, shall elect two members to the Council, one of whom shall be an Elder. A Chairman will then be elected from amongst the elected Council by all the four Communities.

(4) After the election of the Chairman the candidate with the third highest vote from the elected Chairman's community shall become the ninth member of the Council.

(5) The Chairman shall only have a casting vote.

(6) Subject to Section 6C, each member of the Council shall hold office for a term of four years and shall be eligible for re-election at the end of any term of office.

(7) Six members of the Council shall form a quorum.

(8) Any Councillor is liable to dismissal by the Minister on the grounds as specified in the Regulations.

(9) Subject to the provisions of this Act, the Council may determine its own procedures."

*New Section "3A"*

6. The principal Act is amended by inserting the following new provisions as Section "3A":

"Disqualification for election as member of Council and for appointment as member of Board.

3A No person shall be qualified to be elected as a member of the Council or appointed as a member of the Board who—

- (a) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Fiji or in any State outside Fiji;
- (b) is under any law in force in Fiji, adjudged or otherwise declared to be of unsound mind;
- (c) is under sentence of death imposed on him by a court in Fiji or in any State outside Fiji, or is under sentence of imprisonment (by whatever name called) for a term exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court."

*Section "4" amended*

7. Section "4" of the principal Act is amended by repealing subsection "(2)" and substituting the following provisions:

"(2) There shall be an Executive Director of the Council who shall also be the Council's Secretary.

(3) Service of any document on the Executive Director as Secretary to the Council shall be deemed to be service on the Council."

*Section "6" amended*

8. Section "6" of the principal Act is amended in subsection "(2)" by repealing it and substituting the following:—

"(2) Such loans shall be secured on the property and revenues of the Council but not including title of Rabi Island.

*Section "6A" repealed and substituted*

9. Section "6A" of the principal Act is repealed and substituted as follows:—

*"Establishment of Banaban Trust Fund Board*

6A—(1) There is hereby established the Banaban Trust Fund Board.

(2) There shall be four members of the Board as follows:

- (a) one nominated by the Council from its members;

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- (b) one nominated by the Minister of Finance who shall be a registered and practising Chartered Accountant;
- (c) one Banaban to be selected jointly by the Executive Director and the Tribunal; and
- (d) one Chairman appointed by the Minister.

(3) All appointments which shall be for a term of four years, shall be confirmed by the Minister by notice published in the *Fiji Republic Gazette*.

(4) Three members including the Chairman shall form a quorum.

(5) The decisions of the Board shall be by a majority of votes and, in addition to an original vote, in any case where the voting is equal, the Chairman or the person presiding at the meeting shall have and exercise a casting vote.

(6) Subject to the provisions of this Act, the Board may regulate its own procedures."

*Section "6B" amended*

10. Section "6B" of the principal Act is amended in subsection "(3)" by repealing the subsection and substituting the following:—

"(3) Nothing in this Act shall authorise the Board to transfer or assign to the Council or any other person, any part or all of the capital or capital gains or increase, referred to in subsection (2)."

*Section "6C" amended*

11.—(1) Section "6C" of the principal Act is amended in subsection "(1)" by:—

- (a) deleting the word "and" after the semi-colon in paragraph "(a)";
- (b) inserting the word "all" immediately after the word "Council" in paragraph "(b)";
- (c) removing the full stop at the end of paragraph "(b)" and substituting a semi-colon;
- (d) inserting the following paragraphs immediately after paragraph "(b)":
  - "(c) to hold or refuse the transfer of income to the Council until and unless the Minister had received by 31st October each year, Council's estimates for the following financial year;
  - (d) to hold or refuse the transfer of income to the Council until and unless the Minister had received by 30 June each year audited statement of account for the previous financial year;

Provided that before exercising the powers specified in paragraphs (c) and (d), the Board shall:—

- (i) report its intention to the Minister at least 30 days before exercising the power; and
- (ii) the Minister shall be empowered in cases where necessary or in the best interest of the Banaban community, to direct supply or part of it under such conditions as he considers necessary."

(2) Section "6C" of the principal Act is amended by inserting the following new subsections immediately after subsection "(2)":—

- "(3) The Minister's power to direct supply under this Section shall be limited to three months and if the Council is unable to complete and submit the estimates and the audited statement of accounts required in accordance with subsection (1), within that time, the Minister shall dissolve the Council.
- (4) Upon the dissolution of the Council in accordance with subsection (3), the Minister shall appoint an Administrator vested with the powers of the Council to manage the affairs of the Council until a new Council is elected."

*Section "6I" repealed and substituted*

12. Section "6I" of the principal Act is repealed and substituted as follows:

"6I. The Board shall keep accounts of its transactions to the satisfaction of the Minister and such accounts shall be audited annually by an auditor appointed by the Minister in consultation with the Board".

*Section "7" amended*

13. Section "7" of the principal Act is amended in subsection "(2)" by:

- (a) erasing the full stop at the end of paragraph "(g)" and substituting a semi-colon;
- (b) inserting the following new paragraph after paragraph "(g)":—

""(h)" all nett income transmitted by the Banaban Trust Fund Board in accordance with paragraph (b) of subsection (1) of Section 6C."

Passed by the House of Representatives this Sixteenth day of July, in the year of our Lord One Thousand, Nine Hundred and Ninety-Six.

Passed by the Senate this Eighth day of August, in the year of our Lord One Thousand, Nine Hundred and Ninety-Six.