



I assent.

[L.S.]

PENAIA K. GANILAU

Governor-General

19th December 1985

**AN ACT**

**TO AMEND THE HOUSING FINANCE ASSISTANCE PROVISIONS  
OF THE FIJI NATIONAL PROVIDENT FUND ACT**

[20th December 1985]

ENACTED by the Parliament of Fiji—

*Short title*

1. This Act may be cited as the Fiji National Provident Fund (Amendment) (No. 2) Act, 1985.

*Repeal and replacement of Part IX of the  
Fiji National Provident Fund Act*

2. Part IX of the Fiji National Provident Fund Act is deleted and the following Part inserted—

**"PART IX—HOUSING FINANCE ASSISTANCE**

*Interpretation*

37. In this Part, unless the context otherwise requires—

"appropriate date", for the purposes of section 41, means—

- (a) where an application is made on or after 1 July in any year—that 1 July; or
- (b) where an application is made before 1 July in any year—the 1 January in that year;

"approved lender" means—

- (a) the Housing Authority;
- (b) the Home Finance Company Limited;
- (c) a bank in possession of a valid licence under the Banking Act, 1983; or
- (d) subject to paragraph 42(2)(b), a lender approved under subsection 42(1);

"approved purpose", in respect of a loan to a member, means a loan acquired or required by that member for one or more of the following purposes, namely—

- (a) to purchase a dwelling house;
- (b) to purchase land on which to construct a dwelling house;
- (c) to erect a dwelling house;
- (d) to alter or improve a dwelling house;

where—

- (e) the dwelling house is, or is to be, occupied by the member; and
- (f) title to the dwelling house or land, is, or is to be, vested in the member either absolutely or jointly with other persons, and may include expenses associated with any such purpose, or in respect of the loan application;

"dwelling house" includes a part of a building occupied or to be occupied as a separate dwelling;

"loan" includes any arrangement by which credit is made available;

"native land" has the meaning assigned to it in the Native Land Trust Act;

"village" has the meaning assigned to it in the Fijian Affairs (Interpretation) Regulations.

*Power of Board to give housing finance assistance*

38.—(1) Subject to this section and to section 41, the Board may, following receipt from a member of an application for housing finance assistance made in accordance with section 39, at its discretion either—

- (a) transfer to an approved lender money in the Fund standing to the credit of the member;
- (b) lend to the member money in the Fund standing to the credit of the member; or
- (c) provide to the member money in the Fund standing to the credit of the member.

(2) The Board shall not make a transfer under paragraph (1)(a) unless it is satisfied that the money is to be used to reduce the amount

owed by the member to an approved lender under a loan for an approved purpose.

(3) Subject to subsection (4), the Board shall not lend money under paragraph (1)(b) unless repayment of the loan is secured by a first or second charge on the relevant property and—

(a) in the case of a first charge—the money is to be used for an approved purpose; or

(b) in the case of a second charge—

(i) the first charge on the property is to secure the repayment by the member of a loan granted to him by an approved lender for an approved purpose; and

(ii) the money to be lent is to be used to reduce the amount owed to that approved lender by the member under that loan.

(4) Where the relevant property for the purposes of subsection (3) is native land or a dwelling house constructed or to be constructed on native land repayment of the loan shall be secured by a mortgage, charge or other security over any property, real or personal, of the member or any other person, which, in the opinion of the Board, is of sufficient value.

(5) A loan under paragraph (1)(b) may be granted subject to such conditions as the Board considers appropriate in each case to safeguard the Fund and the future financial security of the member.

(6) Without prejudice to the generality of subsection (5), a loan under paragraph (1)(b) may be granted subject to a provision that on the happening of a specified event the amount of the loan then outstanding shall become the absolute property of the member.

(7) Where the Board transfers money under paragraph (1)(a) it may require the member to repay by instalments the amount so transferred.

(8) Where a member is required to repay money transferred under paragraph (1)(a) the member shall enter into a deed, in a form approved by the Board, providing for the member to make regular monthly payments to the approved lender.

(9) Payments received by the approved lender under the deed entered into pursuant to subsection (8) shall be paid by the approved lender to the Board.

(10) The Board shall not provide money to a member under paragraph (1)(c) unless it is satisfied—

(a) that the money is to be used to construct, alter or improve a dwelling house on land within a village; and

(b) that the dwelling house is, or is to be, occupied by the member.

*Application for housing finance assistance*

39.—(1) An application for housing finance assistance under subsection 38(1) shall—

- (a) be made on a form provided for the purpose by the Board; and
- (b) be accompanied by such supporting documents as the Board may need to satisfy itself in respect of any matter under this Part.

(2) The Board may require a person who has made an application under subsection (1) to supply to it such further evidence as the Board may consider necessary to satisfy itself in respect of any matter under this Part.

*Withdrawals and repayments*

40.—(1) Where money in the Fund standing to the credit of a member is transferred, lent or provided in accordance with subsection 38(1) the money in the Fund standing to the credit of that member shall be reduced by an amount equivalent to the amount so transferred, lent or provided.

(2) Notwithstanding subsection (1), where money is transferred, lent or provided in accordance with subsection 38(1) it shall not be deemed to be a withdrawal for the purposes of—

- (a) the definition of "entitled member" in section 2;
- (b) paragraph 16(2)(c); or
- (c) section 20.

(3) Payments received by the Board—

- (a) pursuant to the provisions of a loan made under subsection 38(1); or
- (b) pursuant to subsection 38(9),

shall be paid into the Fund by the Board, without deduction, and shall be credited to the account of the member concerned as if they were contributions paid in respect of the half year in which they were received.

(4) Where pursuant to the provisions of—

- (a) a loan made pursuant to subsection 38(1); or
- (b) a deed made under subsection 38(8),

a member is required to make regular monthly payments and, in the opinion of the Board, is failing to make those payments, the Board may at any time disallow the member from making any further payments in respect of that loan or pursuant to that deed except with the Board's approval.

(5) The provision of subsection (4) shall apply notwithstanding any provision of the relevant deed or loan agreement to the contrary.

*Limitation on amount transferred*

41. The Board shall not, in respect of a member, transfer, lend or provide under subsection 38(1) an amount which is more than—

- (a) two thirds of the amount standing to the credit of that member in the Fund on the appropriate date; or
- (b) the amount by which the amount standing to the credit of the member in the Fund on the appropriate date exceeds \$100,

whichever is the lesser.

*Approval of lenders*

42.—(1) The Minister may, by notice published in the Gazette, approve a lender to be an approved lender for the purposes of this Part.

(2) An approval under subsection (1) may be either—

- (a) general; or
- (b) limited to a specified case."

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Passed by the House of Representatives this fourth day of December, in the year of our Lord one thousand, nine hundred and eighty-five.

Passed by the Senate this Nineteenth day of December, in the year of our Lord one thousand, nine hundred and eighty-five.