

BILL NO. 22 OF 2019

A BILL

FOR AN ACT TO REPEAL THE SMALL AND MICRO ENTERPRISES DEVELOPMENT ACT 2002 AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the Small and Micro Enterprises Development (Repeal) Act 2019.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Interpretation

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

“Board” means the board of directors for the Centre appointed under section 6 of the Small and Micro Enterprises Development Act 2002;

“Centre” means the National Centre for Small and Micro Enterprises Development established under section 3 of the Small and Micro Enterprises Development Act 2002; and

“Ministry” means the ministry responsible for industry and trade.

Repeal

3. The Small and Micro Enterprises Development Act 2002 and any subsidiary legislation made thereunder are repealed.

Transfer of assets, interests, rights, privileges, liabilities, obligations and monies

4.—(1) All assets, interests, rights, privileges, liabilities and obligations of the Centre are transferred to and vest in the State without conveyance, assignment or transfer.

(2) Any right or liability vested in the State under subsection (1) may, on or after the date of commencement of this Act, be enforced by or against the State in its own name and it is not necessary for the State to give notice to any person whose right or liability is affected by the vesting.

(3) All monies in the Centre's funds existing immediately before the date of commencement of this Act are to be transferred to the Consolidated Fund.

Appointees to the Board

5. Any appointment to the Board existing immediately before the date of commencement of this Act is revoked.

Transfer of the chief executive officer and other employees

6.—(1) The chief executive officer and all other employees appointed under the Small and Micro Enterprises Development Act 2002 immediately before the date of commencement of this Act are transferred to the Ministry.

(2) Until such time as the terms and conditions of the chief executive officer and all other employees transferred under subsection (1) are determined by the Ministry, the terms and conditions of such officers continue to apply to the chief executive officer and all other employees transferred under subsection (1).

Existing deeds, bonds, agreements, instruments or arrangements

7. All deeds, bonds, agreements, instruments and arrangements to which the Centre is a party, existing immediately before the date of commencement of this Act, continue in force and are enforceable by or against the Ministry as if the Ministry had been a party to the deed, bond, agreement, instrument or arrangement.

Continuation of proceedings

8. Any action, arbitration, proceeding or cause of action that, immediately before the commencement of this Act, is pending against or in favour of the Centre, or to which the Centre is a party, may be prosecuted and, without amendment to any writ, pleading or other document, continued and enforced against or in favour of the Ministry.

Consequential amendments

9.—(1) The Higher Salaries Act 2011 is amended in the Schedule by deleting paragraph 31.

(2) The National Employment Centre Act 2009 is amended by—

(a) in section 5—

- (i) in the definition of “existing employment creation services”, deleting “the National Centre for Small and Micro Enterprise Development (NCSMED),”; and
- (ii) in the definition of “Self-Employment Service”, deleting “the National Centre for Small and Micro Enterprises Development (NCSMED),”; and

(b) in section 66(2), deleting—

- (i) “the Integrated Human Resource Development Programme for Employment Promotion (IHRDPEP) operating under or hosted by the Ministry of National Planning,”; and
- (ii) “the National Centre for Small and Micro Enterprises Development (NCSMED) operating under or hosted by the Ministry of Industry” and substituting “programmes operating under or hosted by the ministry responsible for industry”.

(3) The Industry Emblem (Forms and Fees) Regulations 2011 is amended by deleting “A micro enterprise and small enterprise as defined under the Small and Micro Enterprises Development Act 2002 are” wherever it appears and substituting “An enterprise which has a turnover or total assets not exceeding \$100,000 and employs not more than 20 employees is”.

June 2019

SMALL AND MICRO ENTERPRISES DEVELOPMENT (REPEAL) BILL 2019

EXPLANATORY NOTE

(This note is not part of the Bill and is intended only to indicate its general effect)

1.0 BACKGROUND

1.1 The Small and Micro Enterprises Development (Repeal) Bill 2019 (**‘Bill’**) seeks to repeal the Small and Micro Enterprises Development Act 2002 (**‘Act’**).

2.0 CLAUSES

2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.

2.2 Clause 2 of the Bill provides for the definition of the terms used throughout the Bill.

2.3 Clause 3 of the Bill repeals the Act.

2.4 Clause 4 of the Bill provides that all assets, interests, rights, privileges, liabilities and obligations of the National Centre for Small and Micro Enterprises Development (**‘Centre’**) are transferred to and vest in the State.

2.5 Clause 5 of the Bill revokes all existing appointments to the board of directors for the Centre.

2.6 Clause 6 of the Bill provides for the transfer of the chief executive officer and all other employees appointed under the Act to the Ministry responsible for industry and trade (**‘Ministry’**).

2.7 Clause 7 of the Bill provides that all deeds, bonds, agreements, instruments and arrangements enforceable against the Centre are novated to the Ministry.

2.8 Clause 8 of the Bill provides for any action, arbitration, proceeding or cause of action pending against or in favour of the Centre to continue against or in favour of the Ministry.

2.9 Clause 9 of the Bill provides for consequential amendments to the following laws to cater for the repeal of the Act—

- (a) Higher Salaries Act 2011;
- (b) National Employment Centre Act 2009; and
- (c) Industry Emblem (Forms and Fees) Regulations 2011.

3.0 MINISTERIAL RESPONSIBILITY

3.1 The Act comes under the responsibility of the Minister responsible for industry and trade.

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Attorney-General