

BILL NO. 2 OF 2019

A BILL

FOR AN ACT TO AMEND THE iTAUKEI LAND TRUST ACT 1940

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the iTaukei Land Trust (Amendment) Act 2019.

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

(3) In this Act, the iTaukei Land Trust Act 1940 is referred to as the “Principal Act”.

Section 2 amended

2. Section 2 of the Principal Act is amended in the definition of “Secretary” by deleting “section 30” and substituting “section 30B”.

Section 30 amended

3. The Principal Act is amended by deleting section 30 and inserting the following new sections—

“Appointment of chief executive officer

30.—(1) The Board may appoint a suitably qualified person as chief executive officer of the Board, in accordance with terms and conditions determined by the Board.

(2) The chief executive officer shall be paid such remuneration and receive such benefits as determined in accordance with the Higher Salaries Act 2011.

Functions of chief executive officer

30A.—(1) The chief executive officer shall be responsible to the Board for—

- (a) the proper administration and management of the functions and the affairs of the Board in accordance with this Act; and
- (b) the implementation of the instructions and the policies of the Board made pursuant to this Act.

(2) The chief executive officer must attend every meeting of the Board, and if the chief executive officer, for any reason, is unable to attend a meeting, the chief executive officer may, in consultation with the chairperson, nominate an officer to attend the meeting on his or her behalf.

(3) The chief executive officer shall not engage in any other business without the prior consent of the Board.

Appointment of officers

30B.—(1) The Board may appoint a secretary and such managers, officers, consultants and agents as it considers necessary for the efficient exercise of its powers, and the performance and discharge of its functions and duties under this Act.

(2) Any person appointed under this section shall be paid such remuneration as determined by the Board, and shall be appointed on such terms and conditions as may be determined by the Board.”.

Consequential amendment

4. The Higher Salaries Act 2011 is amended in the Schedule by—

- (a) in paragraph 42, deleting “.”; and
- (b) after paragraph 42, inserting the following new paragraph—
“43. iTaukei Land Trust Board”.

Office of the Attorney-General
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Suva

February 2019

ĪTAUKEI LAND TRUST (AMENDMENT) 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 ĪTaukei Land Trust (Amendment) Bill 2019 (**‘Bill’**) seeks to amend the ĪTaukei Land Trust Act 1940 (**‘Act’**).
- 1.2 Section 3 of the Act establishes the ĪTaukei Land Trust Board (**‘Board’**).
- 1.3 Currently, section 30 of the Act provides for the appointment of officers of the Board such as a manager, a secretary and such other officers, inspectors, clerks and servants as may be necessary to carry out the provisions of the Act.
- 1.4 However, where section 30 provides only for the appointment of a manager, the Board has gone ahead and appointed a chief executive officer which is not provided for in the Act. Therefore, it is pertinent to amend the law to cater for this change.
- 1.5 In light of the above, amendments are proposed to the Act to provide clarity on the appointment of the chief executive officer, managers, a secretary, officers, consultants and agents of the Board. Amendments are also proposed to allow for suitably qualified persons to be appointed and to also provide for provisions regarding their functions, responsibilities and remuneration.
- 1.6 Additionally, to ensure that the remuneration and benefits of the chief executive officer are awarded in line with the market rate, a consequential amendment is proposed to the Higher Salaries Act 2011 to include the Board as one of the bodies for which the salary and benefits of its chief executive officer are subject to section 3(2) of the Higher Salaries Act 2011.
- 1.7 Section 3(2) of the Higher Salaries Act 2011 states that the remuneration and benefits for a position such as the chief executive officer must only be determined after an independent assessment and review of its salary and benefits are conducted.

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 appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill amends section 2 of the Act, in the definition of “Secretary”, by deleting “section 30” and substituting “section 30B” given that the appointment of the secretary will now be provided for under section 30B of the Act.
- 2.3 Clause 3 of the Bill amends the Act by deleting section 30 and introducing new sections 30 and 30A to provide clarity on the appointment of the chief executive officer of the Board and his or her functions and responsibilities under the Act. Section 30A also provides for the determination of the remuneration and benefits of the chief executive officer in accordance with the Higher Salaries Act 2011.
- 2.4 Clause 3 of the Bill also introduces a new section 30B to provide clarity on the appointment of a secretary and managers, officers, consultants and agents of the Board, including the determination of their remuneration by the Board.
- 2.5 Clause 4 of the Bill consequently amends the Schedule to the Higher Salaries Act 2011 to include the Board as a body for which the remuneration of its chief executive officer must be determined in accordance with the provisions of the Higher Salaries Act 2011.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for iTaukei affairs.

A. SAYED-KHAIYUM
Attorney-General