

# BILL NO. 21 OF 2019

## A BILL

FOR AN ACT TO ESTABLISH A TRUST FUND FOR THE PLANNED RELOCATION OF COMMUNITIES IN FIJI THAT ARE ADVERSELY AFFECTED BY CLIMATE CHANGE

ENACTED by the Parliament of the Republic of Fiji—

### PART 1—PRELIMINARY

#### *Short title and commencement*

**1.—**(1) This Act may be cited as the Climate Relocation of Communities Trust Fund 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—

“communities” means villages, formal settlements and informal settlements in Fiji that are adversely affected by climate change;

“Fund” means the Climate Relocation of Communities Trust Fund established under section 3;

“Minister” means the Minister responsible for finance;

“Ministry” means the ministry responsible for finance; and

“planned relocation” means the humane, planned and coordinated movement within Fiji of communities, by the State, from a risk-prone area to a suitable location.

## PART 2—CLIMATE RELOCATION OF COMMUNITIES TRUST FUND

### *Establishment of the Fund*

**3.—**(1) This section establishes the Climate Relocation of Communities Trust Fund consisting of—

- (a) any amount appropriated by Parliament for the purposes of the Fund;
- (b) any grant, contribution or donation to the Fund;
- (c) any interest accrued from money deposited in the Fund;
- (d) monies received for the purposes of the Fund under any other written law; and
- (e) monies received from any other source approved by the Minister.

(2) No part of the Fund may be transferred or assigned to any person other than in accordance with this Act.

(3) The Trustee Act 1966 does not apply to the Fund.

### *Purposes of the Fund*

**4.** The purposes of the Fund are to—

- (a) receive monies from donors and other sources for planned relocation; and
- (b) disburse monies for planned relocation and related matters, including—
  - (i) research, assessments and studies into the circumstances which necessitate planned relocation;
  - (ii) activities or initiatives that assess the vulnerability of communities which may be at risk of being displaced due to the adverse effects of climate change;
  - (iii) activities or initiatives that identify viable locations where communities displaced by climate change may settle; and
  - (iv) activities or initiatives which seek to ensure that relocated communities are provided the necessary infrastructure to guarantee an adequate standard of living and the rights and freedoms provided under the Constitution of the Republic of Fiji.

*Application of the Fund*

**5.—**(1) The Ministry must only expend the money in the Fund for the purposes provided under section 4(b).

(2) For the purpose of subsection (1), in expending the money in the Fund, the Ministry may also pay for the operating expenses of the Fund, including all costs, charges and expenses incidental to the management, operation and activities of the Fund.

(3) Subject to the provisions of this Act, the permanent secretary of the Ministry must authorise all payments from the Fund.

**PART 3—MANAGEMENT AND FINANCIAL PROVISIONS**

*Procurement*

**6.** Subject to regulations which may be prescribed under this Act, regulations made under the Financial Management Act 2004 in relation to procurement must be complied with in relation to the utilisation of the Fund.

*Accounts and audit*

**7.—**(1) The Ministry must keep accounts and records of transactions of the Fund and its activities and must prepare financial statements and accounts for each financial year.

(2) The accounts of the Fund must be audited annually by an independent auditor who—

- (a) is a chartered accountant registered under the Fiji Institute of Accountants Act 1971;
- (b) holds a certificate of public practice as required under section 36 of the Fiji Institute of Accountants Act 1971;
- (c) is not employed in the civil service; and
- (d) is approved by the Minister.

*Annual report*

**8.—**(1) The Ministry must prepare an annual report on the activities and expenditure of the Fund, including financial statements for the Fund, and submit the report to Cabinet within 6 months from the end of the year to which the report relates.

(2) The Minister must cause a copy of the annual report to be laid before Parliament at the next sitting of Parliament after Cabinet receives the report.

*Income tax*

**9.** The income of the Fund is exempt from income tax.

**PART 4—MISCELLANEOUS**

*Dissolution*

**10.** If the Fund is dissolved, the surplus property of the Fund must be utilised for climate change programmes, projects or activities in Fiji.

*Regulations*

**11.** The Minister may make regulations prescribing matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*Consequential amendment*

**12.** The Environment and Climate Adaptation Levy Act 2015 is amended in section 12 by deleting subsection (3) and substituting the following—

“(3) The Fiji Revenue and Customs Service must pay money collected for the payment of the Environment and Climate Adaptation Levy as follows—

- (a) a percentage as prescribed by regulations to be paid into the Climate Relocation of Communities Trust Fund established under section 3 of the Climate Relocation of Communities Trust Fund Act 2019; and
- (b) the remainder to be paid into the Fund.”.

June 2019

## CLIMATE RELOCATION OF COMMUNITIES TRUST FUND 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 Climate change poses a serious threat to small island countries in the Pacific. The Fijian Government has remained consistently committed to developing Fiji's resilience and to ensuring that communities are able to adapt to the realities of this threat when necessary.
- 1.2 In December 2018, the Fijian Government released the Planned Relocation Guidelines ('**Guidelines**') to assist and guide relocation efforts at the local level. The Guidelines ensure that the relocation of any local community is carried out in a manner that guarantees its long-term survival, has viable options for economic activity, and provides support and services for those being relocated. The Guidelines also contain provisions to ensure the well-being and safeguard the rights of vulnerable members of any community being relocated. These are commitments that are necessary for all Fijians, although they are complex and costly.
- 1.3 The Climate Relocation of Communities Trust Fund Bill 2019 ('**Bill**') seeks to establish a trust fund to finance and support the planned relocation of communities in Fiji that are adversely affected by climate change. This ensures that there is a clear funding stream in place to assist where the planned relocation of a community becomes necessary.

#### 2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the new 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 definitions of terms used throughout the Bill.

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- 2.3 Clause 3 of the Bill establishes the Climate Relocation of Communities Trust Fund (**‘Fund’**) and sets out the sources of the Fund.
- 2.4 Clause 4 of the Bill sets out the purposes of the Fund, which are to receive and disburse monies for the planned relocation of communities in Fiji adversely affected by climate change.
- 2.5 Clause 5 of the Bill mandates the use of the Fund for the purposes of the Fund as set out in clause 4.
- 2.6 Clause 6 of the Bill sets out the requirement that regulations made under the Financial Management Act 2004 in relation to procurement must be complied with in relation to the application of the Fund subject to regulations under the Act.
- 2.7 Clause 7 of the Bill mandates the keeping of accounts of the Fund and the auditing of the accounts of the Fund annually by an independent auditor.
- 2.8 Clause 8 of the Bill mandates the preparation of an annual report on the activities of the Fund by the ministry responsible for finance to be submitted to Cabinet within 6 months from the end of the year to which the report relates and laid before Parliament in the next sitting after the submission of the report to Cabinet.
- 2.9 Clause 9 of the Bill exempts the Fund from income tax.
- 2.10 Clause 10 of the Bill provides for the actions to be taken if and when the Fund is dissolved.
- 2.11 Clause 11 of the Bill sets out the Minister’s power to make regulations.
- 2.12 Clause 12 of the Bill consequentially amends the Environment and Climate Adaptation Levy Act 2015 to provide for one of the sources of the Fund.

### **3.0 MINISTERIAL RESPONSIBILITY**

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

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