

BILL NO. 26 OF 2022

A BILL

FOR AN ACT TO AMEND THE STATE LANDS ACT 1945

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the State Lands (Amendment) Act 2022.

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

Section 16 amended

2. Section 16 of the State Lands Act 1945 is amended by—

(a) after subsection (1), inserting the following new subsection—

“(1A) No person, being the holder of a lease or licence under this Act may enter into or make any arrangement or agreement to permit any other person to acquire by sale or otherwise the land or a portion of the land thereof in respect of which the lease or licence is granted, without the consent of the Director of Lands.”; and

(b) after subsection (3), inserting the following new subsections—

“(4) Notwithstanding anything contained in any other written law or term or condition of a lease, licence or approval notice of lease, the Director of Lands may, where an arrangement or agreement has been made by a lessee in contravention of this section prior to the enactment of the State Lands (Amendment) Act 2022, re-enter the land and cancel the lease, licence or approval notice of lease, provided however that there are no encumbrances on the land.

(5) For the purpose of subsection (4), a committee prescribed by regulations must first confirm a contravention of this section to the Director of Lands.

(6) Notwithstanding anything contained in any other written law or term or condition of a lease, licence or approval notice of lease, the Registrar of Titles or the Registrar of Deeds as applicable, shall cancel any such lease, licence or approval notice of lease following an application made by the Director of Lands under subsection (4).

(7) For the purposes of this section, the committee prescribed by regulations shall be chaired by the permanent secretary responsible for housing and community development and include the permanent secretary responsible for lands and the Solicitor-General or his or her nominee as members.

(8) For the avoidance of doubt, any occupant of land referred to under this section including the lessee shall remain on the land subject to any terms and conditions of any lease, licence or approval notice of lease granted after the enactment of the State Lands (Amendment) Act 2022.”.

May 2022

STATE LANDS (AMENDMENT) BILL 2022

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 State Lands Act 1945 ('Act') provides for *inter alia* the control, administration and disposal of State land.
- 1.2 Section 16 of the Act provides that at the time of making an application for a lease or licence under the Act, any person who makes an arrangement or agreement to permit any other person to acquire land in respect of which his or her application is being made or any part thereof, or his or her interest in such land, and does not inform the Director of Lands of any such arrangement, cannot be a lessee or licensee under the Act and would constitute an offence under the Act.
- 1.3 In some instances however, occupants of the land have, as a result of dispossession of land or due to political upheaval or cancellation or non-renewal of their leases or licences, resorted to seek refuge on other land, for which they were not lessees under the Act. The lessees who permitted such persons to use the land in these instances however did not obtain the consent of the Director of Lands making the arrangement unlawful under the Act.
- 1.4 Furthermore, many of the lessees cannot be located or do not have the capacity to subdivide the land which they sold a number of years ago. By amending the Act, we will be able to regularise the occupation of these lands and allow the occupants to build permanent homes through the mainstream financial system.
- 1.5 The Bill therefore seeks to amend the Act to empower the Director of Lands to re-enter such land and cancel any lease, licence or approval notice of lease accordingly. The Director of Lands however may only do this upon confirmation of a contravention under the Act by a committee set up for this purpose.

- 1.6 The committee shall be chaired by the permanent secretary responsible for housing and community development and include the permanent secretary responsible for lands and the Solicitor-General or his or her nominee, as members.

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 16 to prohibit any arrangement or agreement by a lessee under the Act permitting the use of land by another person without the consent of the Director of Lands.
- 2.3 Clause 2 of the Bill also amends section 16 of the Act to empower the Director of Lands to re-enter the land and cancel any lease, licence or approval notice of lease for which an arrangement or agreement has been made by a lessee in contravention of section 16 of the Act.
- 2.4 Clause 2 of the Bill further amends section 16 of the Act to provide for a committee that must first confirm a contravention of section 16 of the Act.
- 2.5 Additionally, clause 2 of the Bill further amends section 16 of the Act to provide for the occupants of the land including the lessee to remain on the land subject to any terms and conditions of any lease, licence or approval notice of lease granted after the enactment of the State Lands (Amendment) Act 2022.

3.0 MINISTERIAL RESPONSIBILITY

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

A. SAYED-KHAIYUM
Attorney-General