

# BILL NO. 23 OF 2023

## 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 2023.
- (2) This Act comes into force on a date appointed by the Minister by notice in the Gazette.
- (3) In this Act, the State Lands Act 1945 is referred to as the “Principal Act”.

*Section 13 amended*

2. Section 13 of the Principal Act is amended by—
  - (a) deleting subsection (1) and substituting the following—

“(1) Whenever in any lease under this Act there has been inserted the following clause—

“This lease is a protected lease under the provisions of the State Lands Act 1945”

(hereinafter called a protected lease) it shall not be lawful for the lessee thereof to alienate or deal with the land comprised in the lease of any part thereof, whether by sale, transfer or sublease or in any other manner whatsoever, nor to mortgage, charge or pledge the same, without the written consent of the Director of Lands first had and obtained, nor, except at the suit or with the written consent of the Director of Lands, shall any such lease be dealt with by any court of law or under the process of any court of law, nor, without such consent as aforesaid, shall the Registrar of Titles register any caveat affecting such lease.

Any sale, transfer, sublease, assignment, mortgage or other alienation or dealing effected without such consent shall be null and void.”; and

- (b) deleting subsections (1A) and (6).

*Section 13A inserted*

- 3.** The Principal Act is amended after section 13 by inserting the following new section—

*“Transitional for section 13*

13A.—(1) Any mortgage, charge, pledge, caveat or lease to be dealt with by any court of law or under the process of any court of law under section 13 on or after 1 August 2021 and before the commencement of the State Lands (Amendment) Act 2023, is deemed to have acquired the required consent in accordance with section 13.

(2) Any application for consent received for any mortgage, charge, pledge, caveat or lease to be dealt with by any court of law or under the process of any court of law under section 13 on or after 1 August 2021 and before the commencement of the State Lands (Amendment) Act 2023 for which a decision has not been made, must acquire the required consent in accordance with section 13.”.

*Section 16 amended*

- 4.** Section 16 of the Principal Act is amended by deleting subsections (4), (5), (6), (7) and (8).

*Consequential amendment*

- 5.—**(1) The State Lands (Leases and Licences) Regulations 1980 is amended by deleting Part 4.

(2) Notwithstanding subsection (1), any application received by the committee established under Part 4 of the State Lands (Leases and Licences) Regulations 1980 for which a decision has not been made prior to the commencement of this Act, must be dealt with in accordance with the Principal Act.

September 2023

## STATE LANDS (AMENDMENT) BILL 2023

### 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 the administration of State land.
- 1.2 In 2021, section 13 of the Act was amended by the State Lands (Budget Amendment) Act 2021 (**'2021 Amendment Act'**) to remove the requirement of obtaining consent from the Director of Lands (**'Director'**) for any mortgage, charge, pledge caveat or for any lease to be dealt with by any court of law or under the process of any court of law. The 2021 Amendment Act also amended section 13 of the Act to provide that the consent of the Director can only be refused where there is a breach of any lease condition or where such application to deal with the land is not in accordance with any law. The 2021 Amendment Act came into force on 1 August 2021.
- 1.3 In 2022, section 16 of the Act was amended by the State Lands (Amendment) Act 2022 (**'2022 Amendment Act'**) to empower the Director to re-enter land and cancel any lease or licence, or approve any notice of lease in instances where 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. In these instances, the lessees who permitted such persons to use the land did not obtain the consent of the Director making the arrangement unlawful under the Act. Therefore, the Director could re-enter land and cancel the lease or licence, or approve the notice of lease.
- 1.4 Due to challenges and difficulties faced as a result of these amendments, the State Lands (Amendment) Bill 2023 (**'Bill'**) seeks to amend the Act to remove some of the amendments made by the 2021 Amendment Act and the 2022 Amendment Act respectively.

## 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 13 of the Act by deleting subsections (1), (1A) and (6), and substituting subsection (1).
- 2.3 Clause 3 of the Bill amends the Act by inserting section 13A to facilitate transitional arrangements for any application made under section 13 of the Act on or after 1 August 2021 and before the commencement of the amending legislation.
- 2.4 Clause 4 of the Bill amends section 16 of the Act to delete subsections (4), (5), (6), (7) and (8).
- 2.5 Clause 5 of the Bill consequentially amends the State Lands (Leases and Licences) Regulations 1980 (**‘Regulations’**) to remove Part 4 of the Regulations and to clarify that any pending application before the committee established under Part 4 of the Regulations prior to the commencement of the amending legislation, must be dealt with in accordance with the Act.

## 3.0 MINISTERIAL RESPONSIBILITY

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

S. D. TURAGA  
Attorney-General