

PacLII Note: Due to the size of this Act and the Regulations, PacLII has also published it in four parts. This is Part 1.

LAWS OF FIJI

CHAPTER 125

LOCAL GOVERNMENT

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LOCAL GOVERNMENT

*Acts Nos. 4 of 1972, 17 of 1973, 28 of 1973, Legal Notice No. 78 of 1974,
Acts Nos. 14 of 1975, 4 of 1976, 26 of 1980, 11 of 1983*

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO LOCAL
GOVERNMENT

[5 May 1972]

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Local Government Act.

Interpretation

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

"agricultural land" means land exclusively used for one or more of the following purposes or in one or more of the following manners or for a combination of such purposes and manners:—

- (i) land used as arable, meadow or pasture ground;
- (ii) land used for the purpose of livestock farming;
- (iii) land used for a plantation or wood;
- (iv) land used for a nursery ground or orchard;
- (v) land used for the cultivation of any crop;

"council" means the council of a city, a town or a district;

"councillor" means a member of the council of a city, a town or a district;

"deputy mayor" includes a deputy chairman of a district council;

"district" means a district constituted under the provisions of this Act;

"drain" includes a sewer, pipe, ditch, channel or any other device for carrying off sullage, sewerage and water of any kind together with traps, sinks, cisterns and other fittings appertaining thereto;

"Electoral Commission" means the Electoral Commission constituted under the

provisions of section 42 of the Constitution;

(Cap. 1.)

"improvements" in relation to land means all work done or materials used at any time on or for the benefit of the land by the expenditure of capital or labour or both by any owner or occupier thereof or any predecessor in title in so far as the effect of the work done or material used is to increase the value of the land and the benefit thereof is unexhausted at the time of valuation; but except in the case of land owned and occupied by the Crown or by a statutory public body, does not include work done or material used on or for the benefit of the land by the Crown or by any statutory public body, except to the extent that the same has been paid for or contributed to by the person who is the owner or occupier of the land at the time of the valuation:

Provided that—

(a) the reclamation of land from the sea shall not in any case be deemed to be improvements either of the land reclaimed or of any other land; and

(b) work done or material used at any time on or for the benefit of any land by the expenditure of capital or labour or both by any owner or occupier thereof or any predecessor in title (whether required by any written law or not) by the provision of streets, roads or drains or the carrying out of any subdivision, reclamation, levelling, cutting or filling or any other work to make such land suitable or more suitable for building purposes, shall not be deemed to be improvements;

"land" includes messuages, tenements, hereditaments and any estate or interest in the land and houses, buildings, works and structures in or upon the land;

"Local Government Committee" means the Committee established under the provisions of section 4;

"mayor" includes, in relation to the city of Suva, the Lord Mayor of Suva and, in relation to a district, the chairman of the district council; "municipality" means a town or district;

"occupier" includes any person legally in actual occupation of land or premises without regard to the title under which he occupies and in the case of premises sub-divided and let to lodgers or various tenants, the person receiving the rent payable by the lodgers or tenants whether on his own account or as agent for any person entitled thereto or interested therein;

"owner" in relation to land means a person other than a mortgagee not in possession who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the land under a registered lease or registered agreement:

Provided that in the case of unalienated native land the term "owner" shall mean the

proprietary unit;

"street" means—

(a) any road, lane, footpath, square, alley or passage over which the public has a right of way whether a thoroughfare or not, and every bridge, culvert, drain, embankment, causeway, fence or other thing belonging or appertaining thereto;

(b) all land which immediately before 5 May 1972 was a street under the provisions of any Act repealed by this Act;

(c) any street declared to be a street by a council in pursuance of the provisions of section **109**;

"town" means a city or town constituted under the provisions of this Act;

"town clerk" includes a clerk to a district council;

"unimproved value" has the same meaning specified in section **63**.

(Amended by Act 14 of 1975, s.73; 26 of 1980 s.2.)

Classes of municipalities

3.—(1) Municipalities to which this Act applies shall be divided into the following classes:—

(a) towns, being cities, towns or, subject to the provisions of paragraph (b), townships in existence immediately before 5 May 1972 or districts or other areas subsequently constituted to be towns under the provisions of section **5**;

(b) districts, being areas constituted as districts under the provisions of section **6**.

(2) Except where otherwise stated in this Act, the provisions of this Act shall apply to both classes of municipalities specified in subsection (1).

Local Government Committee

4.—(1) There is hereby constituted a committee to be known as the Local Government Committee which shall carry out the functions and undertake the enquiries assigned or referred to it under the provisions of this Act.

(2) The members of the Local Government Committee shall be appointed by the Minister and shall consist of a Chairman who shall hold office for a period of five years and not less than two other members who shall be appointed for the purpose of any particular enquiry.

(Amended by Act 26 of 1980, s.3.)

Declaration of towns and cities

¹5.—(1) Upon application in that behalf by the council of any district, or upon representations being received that an area not being a district be constituted a town, or upon similar application or representation being made that the boundaries of any town be altered, the Minister may make such order with regard to the definition or alteration of boundaries as he may consider appropriate, or he may decline to make such order, and in any case may refer the matter to the Local Government Committee for enquiry and advice before deciding on the application or representation.

(Amended by Act 26 of 1980, s.4.)

(2) Where any district or area is declared to be a town under the provisions of subsection (1), the Minister may nominate such members, appoint such officers and make such regulations as may be necessary or expedient as an interim measure to provide for the first election of the council of such town and for the government of the town including the provision of services until a council is duly constituted under the provisions of this Act, and for the transfer of the property, rights and liabilities of the district council or other local authority to the council so constituted, and generally for giving effect to the provisions of this Act:

Provided that, unless the Minister otherwise prescribes in such regulations, such first election shall take place not later than six months after the declaration of the district or area to be a town.

(Amended by Act 14 of 1975, s.73; 26 of 1980, s.4.)

(3) Where a new town is constituted or the boundaries of a town are extended or any material change takes place in the population of a town, the Minister may of his own volition or shall upon application by the town council refer the question of the division of the town into wards or the redefining of wards or the creation of any new ward to the Electoral Commission which shall make such order in relation thereto as it shall think fit. In such an order the Electoral Commission shall provide that each ward shall contain nearly equal numbers of adult inhabitants as appears to be reasonably practicable:

Provided that the Commission may depart from such principles as it considers expedient in order to take into account geographical features, means of communication and density and mobility of population.

(4) Where the boundaries of any town are extended the Minister may make such regulations as may be necessary or expedient for the transfer to the town council of property, rights and liabilities of any local authority of any place included in the town by such extension.

(5) Any land which is reclaimed from the sea, the landward boundary of which is contiguous to or connected with land within a town, shall automatically be deemed for all purposes to be land within that town.

(6) Upon application in that behalf made by the council of a town having a population of not less than twenty thousand, the Minister may, by order, declare such town to be a city and such town shall thereafter be known and described as a city. Such order shall in no manner whatsoever

affect the constitution or continuity of the council of such town nor shall have any other effect whatsoever save only as aforesaid, and all the provisions of any Act relating to towns shall continue to apply thereto.

Declaration of districts

6.—(1) The Minister may refer to the Local Government Committee the question as to whether any area not being a town should be constituted a district for the purposes of this Act or whether there should be an alteration in the boundaries of an existing district and, after due enquiries have been made by the Committee thereon and as to the proposed boundaries, the Committee shall advise the Minister who may make such order with regard to the definition or alteration of boundaries as he may consider appropriate.

(2) Where any area is declared to be a district under the provisions of subsection (1), the Minister may nominate such members, appoint such officers and make such regulations as may be necessary or expedient as an interim measure to provide for the first election of the council of such district and for the government of the district including the provision of services until a council is duly constituted under the provisions of this Act, and for the transfer of the property, rights and liabilities of any local authority within the area declared to be a district to the council so constituted and generally for giving effect to the provisions of this Act:

Provided that such first election shall take place not later than two years after the declaration of the area to be a district or such lesser period as the Minister may prescribe in such regulations.

(Substituted by Act 26 of 1980, s.5.)

(3) Where a new district is constituted or the boundaries of a district are extended or any material change takes place in the population of a district, the Minister may of his own volition or shall upon the application by the district council refer the question of the division of the district into wards or the redefining of wards or the creation of any new ward to the Electoral Commission which shall make such order in relation thereto as it shall think fit. In such an order the Electoral Commission shall provide that each ward shall contain nearly equal numbers of adult inhabitants as appears to be reasonably practicable:

Provided that the Commission may depart from such principles as it considers expedient in order to take into account geographical features, means of communication and density and mobility of population.

(4) Where the boundaries of any district are extended the Minister may make such regulations as may be necessary or expedient for the transfer to the district council of property, rights and liabilities, of any local authority of any place included in the district by such extension.

(5) Any land which is reclaimed from the sea the landward boundary of which is contiguous to or connected with land within a district shall automatically be deemed for all purposes to be land within that district.

Notice of proposal to alter boundaries

7.—(1) Before the boundaries of any town are defined under the provisions of subsection (1) of section **5** or the boundaries of any district are defined under the provisions of subsection (1) of section **6**, or such boundaries are altered under the provisions of subsection (1) of section **5** or subsection (1) of section **6**, as the case may be, the Minister shall arrange that a notice of the proposal to define or alter the boundaries of any town or district setting out details of such proposals be advertised once in the Gazette and four times in a newspaper published and circulating in Fiji calling upon all persons interested in the proposal to submit to the Local Government Committee within a period of two months from the date of the first of such advertisements, any objections which such person may wish to make.

(Amended by Act 14 of 1975, s.73.)

(2) The Local Government Committee shall after due enquiry advise the Minister on any objections referred to in sub-section (1).

(Amended by Act 26 of 1980, s.6.)

Interpretation of sections 5 and 6

7A. In sections **5** and **6** the expression "local authority" includes any municipality established under the provisions of this Act and any local authority within the meaning of the Public Health Act.

(Cap. 111.)

(Inserted by Act 26 of 1980, s.7.)

PART II—COUNCILS

Councils of municipalities

8.—(1) For the government of each municipality there shall be constituted a council, which shall—

(a) in the case of a city, be known by the name of the city followed by the words "City Council";

(b) in the case of a town, be known by the name of the town followed by the words "Town Council";

(c) in the case of a district, be known by the name of the district followed by the words "District Council".

(2) Every Council shall be a body corporate with perpetual succession and a common seal and shall for the purposes and subject to the provisions of this Act be capable of purchasing, holding, disposing of and alienating and of accepting dedications of real and personal property and of doing and suffering all such acts and things as bodies corporate may by law do and suffer.

(3) Every town declared to be a town and every township declared to be a township before the commencement of this Act shall continue in being as a town and the council or board of every such town or township shall continue in being as a town council under the provisions of this Act and all by-laws, regulations and appointments made, powers conferred, and any notifications issued, served or published, by such council or board shall remain of full force and effect until revoked, cancelled or amended under the provisions of this Act:

Provided that at the request of the township board of such township or upon the directions of the Minister, any township may continue in being as a district in which case, subject to this modification, the provisions of this subsection shall apply.

Composition of council

9.—(1) The council of every municipality shall consist of such number of elected councillors as the Electoral Commission may from time to time by order determine:

Provided that the Minister may advise the Electoral Commission of the minimum number of councillors who should constitute the council.

(2) Where a municipality is divided into wards, the Electoral Commission shall determine the number of councillors for each ward.

(Amended by Act 26 of 1980, s.8.)

(3) Subject to the other provisions of this Act, each councillor shall hold office for a period of three years, but shall be eligible for re-election:

Provided that a councillor shall remain in office until immediately before the meeting at which his replacement first takes his seat after the election at which he is returned.

[(4) ***** *(Repealed by Act 26 of 1980, s.8.)*]

(5) If at any election to fill any vacancy in the office of a councillor, no person is nominated or returned or a less number of persons are returned than there are vacancies to be filled, any vacancy remaining unfilled shall be deemed to be a casual vacancy occurring on the day appointed for the nomination of election.

(6) In addition to the elected members, the Minister may nominate such numbers of advisers as he may consider appropriate to assist the council and such advisers shall be entitled to attend meetings of the council but shall have no right to vote thereat.

[(7) ***** *(Repealed by Act 26 of 1980, s.8.)*]

Qualifications and disqualifications for councillors

10.—(1) Subject to the provisions of subsections (1A) and (2), every citizen of Fiji enrolled as an elector in the municipality who can read or write or speak in any one or more of the English,

Fijian or Hindustani languages shall be qualified to be elected as a councillor.

(Substituted by Act 26 of 1980, s.9.)

(1A) If any person seeking to be elected a councillor in a municipality which is divided into wards consents to be nominated for election in more than one ward every such nomination shall be void.

(Inserted by Act 26 of 1980, s.9.)

(2) A person is disqualified from being elected or being a councillor if he—

(a) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to any power or state outside the Commonwealth;

(b) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth;

(c) is under any law in force in Fiji adjudged or otherwise declared to be of unsound mind;

(d) is under sentence of death imposed on him by a court in any part of the Commonwealth or is under a sentence of imprisonment (by whatever name called) for a term exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;

(e) is disqualified from membership of a council under any law in force in Fiji relating to offences connected with elections;

(f) holds or is acting in any public office;

(g) has at any time during the immediately preceding three years held or acted in the office of a member of the Constituency Boundaries Commission, or of the Electoral Commission, or the office of Supervisor of Elections;

(h) holds or is acting in an office the functions of which involves any responsibility for or in connection with the conduct of any election to a council; or

(i) holds any paid office, other than mayor, under or within the control of the council or any committee thereof.

(Amended by Act 20 of 1968, s.9.)

(3) For the purposes of paragraph (d) of subsection (2)—

(a) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms;

(b) a sentence of imprisonment imposed as an alternative to or in default of a payment of

a fine shall be disregarded.

(Amended by Act 14 of 1975, s. 73.)

[~~(4) ***** (Repealed by Act 26 of 1980, s.9.)~~]

Qualifications of electors

11.—(1) Every person of or over the age of twenty-one years who is a citizen of Fiji and who is the occupier or owner of land within the municipality shall be entitled to be enrolled as an elector.

(2) In the case of a municipality divided into wards, a person registered to be an elector shall be entitled to be enrolled only in respect of the ward in which he occupies or owns land.

(3) The name of an elector shall not appear more than once on the electoral roll of any ward.

(4) A person shall be an occupier for the purposes of this section if—

(a) he has, during the three months immediately preceding the date of closing of the electoral roll in the year in which he applies for registration been in joint or several occupation as a lawful tenant of land within the municipality or of land included in the municipality by virtue of an extension of its boundaries; or

(b) he is nominated in writing as an elector by a body corporate which is, or by trustees who are, in occupation as aforesaid or as owners of land within the municipality:

Provided that the body corporate or trustees shall not nominate more than three persons for enrolment as electors as occupiers in any ward; or

(c) he has resided in the municipality or in a place included in the municipality by virtue of an extension of its boundaries for a continuous period of twelve months at the time of enrolment.

(Amended by Act 17 of 1973, s. 2; 26 of 1980, s. 10.)

Elections and voting power

12.—(1) Every person whose name appears on the electoral roll of a municipality shall be an elector in that municipality for the purposes of this Act.

(2) No elector shall give—

(a) more than one vote for any one candidate; or

(b) more votes in all than the total number of councillors to be elected for the electoral area.

(3) An election shall be determined by the majority of valid votes cast at the poll.

(4) No person shall be subject to incapacity to vote in a local government election by reason of his being or acting as the returning officer thereat.

Conduct of elections

13.—(1) The Electoral Commission may make regulations providing for the conduct of elections to municipalities and all matters incidental thereto including prescribing electoral offences and for election petitions.

(2) Regulations made under the provisions of subsection (1) shall include provision for—

(a) a fresh electoral roll to be prepared prior to each general election to a council;

(b) annual revision of the electoral roll.

(3) The Supervisor of Elections shall, in respect of elections to municipalities, have the same powers as are conferred upon him under the Constitution so far as applicable.

Costs of elections

14. All reasonable costs and expenses incidental to any election except the expenses incurred by or on behalf of the candidates shall be paid out of the municipal fund.

Vacation of office by failure to attend meetings

15.—(1) If a councillor fails throughout a period of three consecutive months to attend any meeting of the council he shall, unless the failure was due to some reason approved by the council, cease to be a member of the council.

(2) Attendance at a meeting of a committee or other body to whom any of the functions or powers of the council have been delegated or transferred shall for the purpose of this section be deemed to be attendance at a meeting of the council.

(3) The period of three months referred to in subsection (1) shall run—

(a) where the councillor has attended a meeting of the council, from the date of the last meeting which he attended; or

(b) where the councillor has not attended any meeting of the council, from the date of his election or appointment.

Acting as councillor whilst disqualified an offence

16. If a person who is not qualified to be or is disqualified from being a member of a council acts

or purports to do any act as a councillor, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200 for each occasion on which he is found to have so acted:

Provided that no proceedings shall be brought under the provisions of this section except—

- (a) with the written consent of the Director of Public Prosecutions; and
- (b) by an elector of the town or district council; and
- (c) within six months of the date upon which such person is alleged to have so acted.

Declaration by council of vacancy in office

16A.—(1) Where a councillor ceases to be qualified to be a councillor or becomes disqualified from being a councillor or ceases to hold office by reason of failure to attend meetings in pursuance of section 15, the council shall forthwith declare his office to be vacant and signify the vacancy by notice signed by the town clerk and publicly displayed at the office of the council.

(2) Where the office of a councillor becomes vacant by reason of the death or resignation of the councillor the town clerk shall cause the vacancy to be publicly notified in the manner prescribed by subsection (1).

(Inserted by Act 26 of 1980, s. 11.)

Validity of acts done by unqualified persons

16B. The acts and proceedings of any person elected to an office under this Act and acting in that office shall notwithstanding his disqualification or want of qualification be as valid and effectual as if he had been qualified.

(Inserted by Act 26 of 1980, s. 11.)

Disabilities

17.—(1) Where any person is presiding over a meeting of the council or of a committee thereof and—

(a) has any direct or indirect pecuniary interest in any contract or proposed contract or other matter with the council, the terms of which or a decision on which is the subject of consideration at such meeting; or

(b) holds any office or appointment which is likely to lead to a conflict of duty or interest in the performance of his duty and functions as the person presiding,

he shall disclose the fact, specifying such interest, matter, office or appointment and shall not continue to preside over the meeting and shall absent himself therefrom whilst such subject is

under consideration.

(Amended by Act 14 of 1975, s. 73.)

(2) If any councillor—

(a) has any pecuniary interest, direct or indirect, in any contract or proposed contract or any other matter; and

(b) is present at any meeting of the council or any committee of the council at which the terms of such contract or a decision on such other matter is the subject of consideration,

he shall at such meeting disclose such interest and shall not, without the permission of the council given by resolution, take part in any consideration or discussion of or vote on any question relating to such contract or other matter, and if the person presiding at such meeting so directs he shall withdraw from such meeting during such consideration, discussion or voting:

Provided that the foregoing provisions of this section shall not apply to a pecuniary interest which a councillor may have as a ratepayer or taxpayer only.

(3) Any person who fails to comply with the provisions of subsection (1) or subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$400 unless he establishes to the satisfaction of the court that he did not know—

(a) that he had a pecuniary interest in the contract, proposed contract or other matter; and

(b) that the contract, proposed contract or other matter was the subject of consideration at the meeting.

(4) A prosecution for an offence under this section shall not be commenced except with the consent of the Director of Public Prosecutions.

Members of council not personally liable

18. No matter or thing done and no contract entered into by any councillor and no matter or thing done by any councillor or officer or servant of such council shall, if the matter or thing were done or the contract were entered into bona fide for the purpose of executing provisions of this Act, subject them or any of them personally to any action, liability, claim or payment whatsoever and any expenses incurred by any such council, officer or servant shall be borne and repaid out of the funds at the disposal of the council.

Accounts and reports

19.—(1) On or before 31 July in each year every council shall transmit to the Minister—

(a) a copy of the annual statement prepared by the council in accordance with the provisions of section **57**;

(b) a copy of any report on such annual statement made by the auditor; and

(c) a report containing a summary of the proceedings and activities of the council during the preceding year.

(2) The Minister shall cause copies of the annual statement and reports to be laid before Parliament.

(Substituted by Act 26 of 1980, s. 12.)

PART III—MAYOR AND CHAIRMAN

Mayors

20. Each council shall elect a mayor in accordance with the provisions of section 21.

(Substituted by Act 26 of 1980, s. 13.)

Election of mayor

21.—(1) The mayor shall be elected annually by the council from among the members of the council and shall unless he resigns or ceases to be qualified or becomes disqualified from being a councillor under this Act, or his office otherwise becomes vacant, hold office until his successor is elected at the first meeting of the council after the expiry of twelve months from his election.

(2) The election of the mayor shall be by secret ballot and shall be the first business transacted at the annual meeting held after a general election to the council and thereafter at the first meeting of the council after the expiry of twelve months from the last election of a mayor.

(3) If at any election under subsection (2) there is given to two or more candidates an equal number of votes in excess of those given to any other candidate, or where in the case of their being only two candidates an equal number is given to each, the election between the two candidates with an equal number of votes shall be decided by the drawing of lots.

(4) The town clerk or, if there be no town clerk, the person appointed to be returning officer for the purpose of supervising elections to the council, shall preside at the annual or other meeting referred to in subsection (2).

(5) A council may with the prior approval of the Minister pay to the mayor such quarterly allowance as it considers reasonable.

(Substituted by Act 26 of 1980, s. 13.)

Lord Mayor of Suva

22. The mayor of the city of Suva shall be known by the style or title of Lord Mayor of Suva.

(Substituted by Act 26 of 1980, s. 13.)

Election of deputy mayor

23.—(1) Each council shall at the annual meeting held after a general election to the council, and thereafter annually, elect by secret ballot from among the members of the council a person to be deputy mayor who shall unless he resigns or ceases to be qualified or becomes disqualified from being a councillor under this Act or his office otherwise becomes vacant, hold office until the next annual election of a mayor.

(2) The deputy mayor shall, if for any reason the mayor is unable to act or the office of mayor is vacant, discharge all of the functions which the mayor as such may discharge.

(Substituted by Act 26 of 1980, s. 13.)

Duty of mayor

24. It shall be the duty of the mayor—

(a) subject to the provisions of this Act to preside, unless prevented by reasonable cause, at all meetings of the council and, subject to any rules or regulations for the time being in force, to regulate the conduct of business at such meetings;

(b) to perform such executive functions as may be allotted to him by or under the provisions of this Act.

Resignation or removal of mayor

25.—(1) The mayor may at any time resign his office by notice in writing addressed to the town clerk.

(2) Where the Minister is satisfied after due enquiry that the mayor has been guilty of misconduct or is incapacitated from performing his duties or has acted in a manner prejudicial to the interests of the municipality, he may order that the mayor be suspended or dismissed.

(3) Without prejudice to the general meaning of the word "misconduct", a mayor who fails to comply with the provisions of subsection (1) of section **17** shall be deemed to be guilty thereof.

Special powers of mayor in emergency

26. The mayor may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the council and the immediate execution, stoppage or doing of which is in his opinion necessary for the service or safety of the public and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund:

Provided that—

(a) he shall not act in contravention of any order of the council prohibiting the

execution of any particular act; and

(b) he shall report forthwith the action taken under the provisions of this section and the reason therefor to the council.

PART IV—COMMITTEES

Council may appoint special or standing committee

27.—(1) A council may from time to time appoint standing or special committees and may delegate to any such committee any matters for consideration or enquiry or management or regulation and may delegate to any such committee any of the powers and duties conferred or imposed upon the council by the provisions of this Act except—

(a) to borrow money;

(b) to make a rate;

(c) to make by-laws;

(d) to execute a contract; or

(e) to institute an action.

(2) Persons who are not councillors may be appointed to a committee, other than a committee for regulating and controlling the finances of the municipality, appointed under the provisions of this section but shall not be entitled to vote on any matter coming before the committee:

Provided that at least two-thirds of the members of every committee shall be councillors.

(3) Every member of a committee appointed under the provisions of this section who at the time of his appointment was a councillor shall upon ceasing to be a councillor also cease to be a member of the committee.

Chairman of committee

28.—(1) A council may appoint a member to be chairman of a committee and in default of such appointment the committee shall itself appoint a chairman.

(2) The committee may from time to time appoint a deputy chairman to act in the absence of the chairman.

Committee subject to direction by council

29. Every committee other than a joint committee appointed under the provisions of section **30** shall be subject to the control of the council and shall carry out all directions generally or

specially given by the council in relation to such committee or its affairs.

Joint committees

30.—(1) A council may concur with any one or more local authorities in appointing from amongst their respective member a joint committee of the council and those other authorities for any purpose in which they are jointly interested and may delegate to such committee with or without restrictions or conditions as they think fit any functions of the council relating to the purposes for which the joint committee is formed except the power of imposing a rate, borrowing money or making by-laws.

(2) The council shall pay such proportion of the expenses of the joint committee as may be agreed by it and the other local authorities or, in case of disagreement, as may be determined by the Minister.

(3) In this section, the expression "local authority" includes any municipality established under the provisions of this Act, any provincial council established under the provisions of the Fijian Affairs Act and any local authority within the meaning of the Public Health Act.

(Cap. 120. Cap. 111.)

PART V—MEETING AND PROCEEDINGS OF COUNCILS AND COMMITTEES

Meetings of council

31.—(1) Every council shall, within twenty-eight days of each general election thereto, hold a general meeting of the council.

(2) The first annual meeting of the council shall be summoned by the town clerk, or, if there be no town clerk, by a person appointed in that behalf by the Minister.

(3) Ordinary meetings of the council shall be held not less frequently than once a month at such time as may be prescribed or as the council may direct.

(4) The mayor may call a meeting of the council at any time.

(5) Three clear days at least before a meeting of the council—

(a) notice of the time and place of the intended meeting shall be published at the office of the council;

(b) a notice to attend the meeting specifying the business to be presented thereat and signed by the town clerk shall be left at, or sent by post to, the address of every councillor communicated to the town clerk:

Provided that the failure to serve such notice on any councillor shall not affect the validity of the meeting.

(6) Notwithstanding any other provisions of this section, the mayor may call an emergency meeting of the council at any time:

Provided that a copy of any resolution passed at such a meeting shall be despatched to all councillors within three days thereof.

Person presiding

32.—(1) Subject to the provisions of section **17**, at every meeting of the council, the mayor, if present, or, in his absence, the deputy mayor, shall preside.

(2) Subject to the provisions of section **17**, at every meeting of every committee, the chairman thereof, if present, or, in his absence, the deputy chairman, shall preside.

(3) If no person has been elected to preside at any meeting of the council or at any committee thereof or if the person elected to preside is absent therefrom or from any part thereof, such councillor as may be elected by the council or committee, as the case may be, shall preside.

Quorum and majority

32A.—(1) All acts of a council and of any committee thereof and all questions coming or arising before a council or any committee thereof may be done and decided by the majority of such members of the council or committee as are present at a meeting held in pursuance of this Act or of any regulation or by-law made thereunder, the whole number present at the meeting (whether voting or not) being not less than one half of the number of members of the council or of the committee as the case may be when that number is even or a majority of such number if odd.

(2) Subject to the provisions of sections **21** and **34B** in the case of equality of votes the person presiding at any meeting of the council or any committee thereof shall have a second or casting vote.

(Inserted by Act 26 of 1980, s. 14.)

Proceedings not to be invalid by reason of vacancy

33. No act or proceeding of a council or of a committee or of any person acting as a member of the council shall be invalidated by reason of there being a vacancy in the number of councillors at the time of such act or proceeding.

Removal of councillors

34. Where the Minister is after due enquiry of the opinion that a councillor has been guilty of misconduct or is incapacitated from performing his duties or has acted in a manner prejudicial to the interests of the municipality he may order the suspension or removal of such councillor.

By-laws regulating procedure

34A. A council may make by-laws providing for the summoning of meetings of the council and any committee thereof, the regulation and conduct of meetings and proceedings, the conduct of debates, the maintenance of order, the suspension of members and all such matters, whether similar to the foregoing or not, as may be deemed necessary and proper to ensure the efficient functioning of the council and its committees.

(Inserted by Act 26 of 1980, s. 15.)

PART VA—CASUAL VACANCIES

(Inserted by Act 26 of 1980, s. 16.)

Filling of casual vacancy in the office of mayor

34B.—(1) On a casual vacancy occurring in the office of mayor his successor shall be elected by the council from among its members and for the purpose of such election the town clerk shall forthwith convene a special meeting of the council.

(2) The provisions of section **21** shall apply, *mutatis mutandis*, to any election under subsection (1).

(Inserted by Act 26 of 1980, s. 16.)

Filling of casual vacancy in the office of deputy mayor

34C.—(1) Subject to subsection (2), on a casual vacancy occurring in the office of deputy mayor an election to fill the vacancy shall be held not later than the next ordinary meeting of the council held after the date on which the vacancy occurs, or if that meeting is held within fourteen days of that date, then not later than the next following ordinary meeting of the council and shall be conducted in the same manner as an ordinary election to the office of deputy mayor.

(2) Where under subsection (1) of section **34B** the person holding the office of deputy mayor is elected to fill a casual vacancy in the office of mayor the council shall at the same special meeting proceed to elect a new deputy mayor in the manner prescribed by subsection (1) of section **23**.

(Inserted by Act 26 of 1980, s. 16.)

Filling of casual vacancy in the office of councillor

34D.—(1) On casual vacancy occurring in the office of councillor an election to fill the vacancy shall be held within sixty days of the date of the vacancy occurring.

(2) Where a casual vacancy in the office of councillor occurs within 6 months before the date upon which the next general election of councillors is required to be held, an election shall not be held under subsection (1) unless on the occurrence of the vacancy (or, in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the council exceeds one third of the whole number of members; and where an election is not held under subsection (1) the vacancy shall be filled at the next general

election.

(Inserted by Act 26 of 1980, s. 16.)

Date of casual vacancies

34E. For the purpose of filling a casual vacancy in any office for which an election is held under the provisions of this Act the date upon which the vacancy shall be deemed to have occurred shall be—

(a) in the case of resignation the date upon which notice of resignation is received by the town clerk;

(b) in the case of death, upon the date of death;

(c) in the case of a conviction, upon the expiry of the period allowed for making an appeal or if an appeal is made the date upon which the appeal is finally disposed of or abandoned;

(d) in any other case, upon the date the office is declared to have been vacated by a declaration made by the council under the provisions of subsection (1) of section **16A**.

(Inserted by Act 26 of 1980, s. 16.)

Terms of office of persons filling casual vacancies

34F. A person elected under this Part to fill a casual vacancy shall hold office until the date upon which the person in whose place he is elected would regularly have retired and he shall then retire.

(Inserted by Act 26 of 1980, s. 16.)

PART VI—OFFICERS.

Officers and servants

35.—(1) Every council shall appoint fit and proper persons to be town clerk, health inspector and building surveyor and may appoint such other officers and servants as the council considers necessary for the efficient discharge of its functions.

(2) One person may hold two or more of such offices.

(2A) The town clerk shall be paid such salary as is determined from time to time by the Higher Salaries Commission.

(Inserted by Act 11 of 1983, s. 27, Sch. 2.)

(2B) Subject to the provisions of the Higher Salaries Commission Act, other officers and servants of the council shall be paid such salaries as the council from time to time determines.

(Cap. 2A.)

(Inserted by Act 11 of 1983, s. 27, Sch, 2.)

(3) Subject to the terms of any agreement in writing requiring notice to be given by either party of the termination of the appointment, all persons appointed under the provisions of this section shall hold office at the pleasure of the council.

(4) A councillor shall be disqualified from appointment by the council to any paid office of the council other than that of mayor.

Offences by officers

36.—(1) If it comes to the knowledge of an officer or servant employed by a council that a contract in which he has pecuniary interest direct or indirect not being a contract to which he himself is a party, has been or is proposed to be entered into by the council, he shall as soon as practicable give notice in writing to the council of the fact that he is interested therein.

(2) For the purposes of this section, an officer or servant shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated under the provisions of section **17** had he been a councillor.

(3) Except with the approval of the council previously obtained, no officer or servant of a town council shall under colour of his office or employment exact or accept any fee or reward whatsoever other than his lawful remuneration.

(4) If any person fails to comply with the provisions of subsection (1) or contravenes the provisions of subsection (3) he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$200.

PART VII—FINANCE

Municipal fund

37. There shall be for every municipality a fund to be called the municipal fund.

Particulars of fund

38. The municipal fund shall consist of the following moneys:—

(a) all rates collected by the council under the provisions of this or any other Act;

(b) all rents and profits from the property of the council;

(c) all fines, penalties and forfeitures, recovered by the council under the provisions of this Act or any other written law or declared to form part of the revenues of or directed to be paid to the council by the provisions of any written law;

- (d) all moneys received by way of a duly authorised loan;
- (e) all moneys received by way of subscription or voluntary contribution;
- (f) all moneys paid to the council by the Government by way of grant or in lieu of rates;
- (g) all other moneys which may become the property of the council.

Bank account

39.—(1) All moneys belonging to a council shall be paid into such bank as the council may from time to time appoint.

(2) Subject to the provisions of section **45**, all moneys paid by a council shall be drawn from the council's bank by cheque signed by—

- (a) the mayor; or
- (b) the deputy mayor; or
- (c) one councillor authorised in that behalf by the council,

and countersigned by the town clerk or in the absence of the town clerk the treasurer or any other officer authorised in that behalf by the Council.

(Amended by Act 26 of 1980, s. 17.)

Overdrafts

40. (1) A council may from time to time raise loans on overdraft from a bank or otherwise for such purposes and in such amounts or on such terms and conditions as shall—

- (a) be approved by the council in the case of a loan or loans not exceeding in the aggregate 5 per cent of the recurrent estimated gross revenue of the council;
- (b) be approved by the Minister in the case of a loan or loans not exceeding in the aggregate 15 per cent of the recurrent estimated gross revenue of the council;
- (c) be approved by the Minister in consultation with the Minister responsible for finance in any other case:

Provided that the Minister may exempt any council from the conditions imposed by this subsection.

(2) Any loans raised under the provisions of this section which are required to be secured and any interest on such loans shall be a charge on the funds of the council.

(3) If, at any time, any principal, money and interest due and payable under any loan raised under the provisions of this section by a council remains unpaid for a period of two months after a demand has been made in writing the person entitled thereto may without prejudice to any other remedy apply to the Supreme Court for the appointment of a receiver on such terms and with such powers as the court may think fit.

(4) Without prejudice to the generality of the provisions of subsection (3), the Supreme Court may confer upon the receiver any such powers of collecting, receiving and recovering the revenues of the council and by making, levying, collecting and recovering rates as are possessed by a council or its officers.

Borrowing powers

41.—(1) A council may from time to time raise loans for such purposes, in such amounts and on such terms and conditions as shall be approved by the Minister responsible for finance.

(2) Such loans shall be secured on the property and revenues of the council.

(3) If at any time any principal, money or interest due and payable under any loan raised under the provisions of this section remains unpaid for a period of two months after demand in writing has been made, the person entitled thereto may without prejudice to any other remedy apply to the Supreme Court for the appointment of a receiver on such terms and with such powers as the court may consider fit.

(4) Without prejudice to the generality of subsection (3), the Supreme Court may confer upon the receiver any such powers of collecting, receiving and recovering rates as are possessed by the council or its officers.

(5) The power to raise loans under the provisions of this section shall be in addition to and not in derogation of any such powers conferred by the other provisions of this Act or by any written law for the time being in force.

Advances from Consolidated Fund

42. The Minister responsible for finance may, subject to the provisions of the Finance Act, authorise payment from the Consolidated Fund of grants or loans of money to a council for the purpose of enabling the council to carry out its duties and responsibilities arising under the provisions of this Act of such amount and upon such conditions as the Minister responsible for finance may determine.

(Cap. 69.)

Powers of investment

43. A council may, with the consent of the Minister, invest any part of the municipal fund in any stock, bonds, debentures or other securities and may sell any such stock, debentures or other securities.

Powers as to expending income

44.—(1) The whole of the income of any council shall be expended solely in doing or carrying out those things which the council is empowered or required to do or carry out under the provisions of this Act except that in any year the council may expend out of such portion of the municipal fund as is not allocated under the provisions of this Act for any special purposes any moneys for the purpose of—

(a) subsidising any scheme or system of endowment assurance or other form of retirement benefit which may be approved by the council for the benefit of all or any of its employees:

Provided that the moneys so expended shall not, except with the approval of the Minister, exceed in the case of any employee 5 per cent of his salary or wages;

(b) granting gratuities in individual cases or in accordance with any scheme or system instituted by the council to any of its employees who shall not be entitled to contribute to any subsidised scheme or system of endowment assurance or other form of retirement benefit established by any other Act or by the council under the foregoing provisions of this section or for whose case such last mentioned scheme or system in the council's opinion is not suitable or should not be applicable to an employee or to any dependants of any such employee;

(c) contributing, subject to the prior approval of the Minister, to any charitable purpose within the meaning of the Charitable Trusts Act.

(Cap. 67.)

(Amended by 26 of 1980, s. 18.)

(2) The provisions of subsection (1) shall not invalidate or affect any scheme or system of retirement benefits adopted by any council prior to the commencement of this Act.

Imprest account

45.—(1) A council may by resolution establish an imprest account which shall be kept at the bank at which the municipal fund account is kept.

(2) The imprest account shall be held jointly in the names of, and operated on by, the town clerk and one other person to be appointed in that behalf by the council.

(3) The council shall from time to time fix the maximum amount that may be held at any time in an imprest account.

(4) Moneys in the imprest account shall be available only for the payment of casual wages and for emergency expenditure.

(5) A statement of all payments made from the imprest account shall be submitted to the council at its first ordinary meeting after such payments have been made.

Estimate of expenditure

46.—(1) Every council shall on or before the annual meeting to be held during the month of November in every year, prepare and approve an estimate of the income and expenditure of the council for the next succeeding year whether on account of property, contributions, rates, loans or otherwise.

(2) If so required by the Minister a council shall submit a copy of the estimate referred to in subsection (1) to the Minister.

(3) Every council may at any time during the year for which an estimate has been made cause a revised or supplementary estimate to be prepared and, where appropriate, submitted for approval.

(4) Re-appropriation of funds referred to in an estimate may be made from time to time with the sanction of the council.

PART VIII—ACCOUNTS AND AUDIT

Control of assets and accounts

47.—(1) Every Council shall in the transaction of its business and the carrying out of its functions do all things necessary or expedient to protect adequately its property and assets and property in its custody, and to control its expenditure so as to ensure that all payments out of its funds are properly authorised and correctly made.

(2) Every Council shall keep proper accounts and records which shall be kept in such manner as may be directed by the Minister but so that—

(a) a general account shall be kept and credited with all moneys not required by this Act or otherwise to be carried to any other account and debited with expenditure in payment of the general debts and liabilities of the Council which are not included in any special appropriation and of the general expenses incident to the administration of this Act and the affairs of the municipality;

(b) separate accounts shall be kept of all monies raised or levied for or appropriated or allocated, to or held for any special purpose.

(Substituted by Act 26 of 1980, s. 19.)

Transfer from general fund to meet deficiencies

48. If the balance in any of the separate accounts referred to in paragraph (b) of section **47** is at any time insufficient to meet the lawful charges thereon, the council may, subject to the approval of the Minister, transfer such sums as are necessary from the general account to meet such

charges and may at any time repay such advances out of any excess in the receipts over the liabilities of any such account, but no transfer shall be made from any one to any other of such separate accounts:

Provided that the Minister may exempt any municipality from the necessity to obtain his approval before a transfer takes place from the general account under the provisions of this section.

Transfer from separate account to general account

49. The council may, with the approval of the Minister, from time to time transfer to the general account any cash surplus remaining to the credit of any separate account which the council is obliged or authorised by law to keep showing the moneys accruing from any public works or trading undertakings executed, maintained or carried on by the council or may transfer the whole or any part of such surplus to a separate account for the maintenance or renewal of such works:

Provided that—

(a) no moneys shall be so transferred until due provision has been made for all sums with which the separate account is by law chargeable and for the payment out of the separate account of the interest or interest and sinking fund of any loan raised in connection with the works or undertaking to which the separate account relates;

(b) the Minister may exempt any municipality from the necessity to obtain his approval before a transfer under the provisions of this section takes place.

Inspection of accounts

50. Any elector or person holding any security charged upon the property of a council may inspect the accounts and minutes of the council and take copies from any part thereof at all reasonable times.

Audit

51.—(1) The accounts of every council shall be audited by an auditor who shall, unless the Minister otherwise directs, be the Auditor-General

(2) No member of a council may be appointed an auditor for the council of which he is a member.

(3) The appointment of an auditor shall be in respect of the account of one financial year, but his appointment may be renewed from year to year.

Powers of auditor to require production of documents

52.—(1) For the purpose of any audit, an auditor may by notice in writing require any person

holding or accountable for any books, records, accounts, vouchers, deeds, contracts or other documents which he may require for the purpose of such audit or examination to appear before him at the time and place specified in the notice and to produce any such document as aforesaid for his inspection.

(2) Any such person who fails without reasonable cause to appear and produce any such document when required so to do shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100.

Auditor to report errors and deficiencies

53. If the auditor finds the account or statement submitted for audit to be erroneous or deficient in any particular, he shall—

(a) report thereon, and forward a copy of his report and findings, to the Minister; and

(b) forward a copy of his report by registered post to the mayor.

Matters required to be mentioned in report

54. The auditor shall, in respect of the accounts for the full financial year, satisfy himself—

(a) whether or not in his opinion—

(i) due provision has been made for the repayment of loans;

(ii) the value of assets has, so far as the auditor can judge, been in all cases fairly stated;

(iii) due diligence and care has been shown in the collection and banking of income;

(iv) the expenditure incurred has been duly authorised, vouchered and supervised;

(v) any of the moneys or other properties of the council have been misappropriated or improperly or irregularly dealt with; and

(b) as to any other matters which in his judgment call for special notice or are prescribed.

Auditor may take legal advice

55. The auditor may at the expense of the council obtain and act upon legal opinion on a question arising in the course of an audit.

Destruction of any books, etc.

56. A council may, with the approval of the auditor, destroy used or obsolete receipt books, bank pass books or statements, cheque books, registers, cash books and documents relating to the accounts of the municipality if they have not been in use for more than six years.

Annual statement

57.—(1) An annual statement showing the financial position as regards the general and special accounts of the municipal fund in a form approved by the Minister shall be prepared by the council on or before 31 May in every year showing the assets and liabilities of the council on 31 December immediately preceding and the income from all sources and expenditure during the immediately preceding year.

(Amended by Act 26 of 1980, s. 20.)

(2) The annual statement prepared by the council shall be audited and if found correct shall be certified by the auditor as correct.

(Inserted by Act 26 of 1980, s. 20.)

(3) On or before 31 August in every year the council shall cause to be published in an English language newspaper published in Fiji and circulating within the municipality—

(a) a balance sheet and a summarised statement of income and expenditure of the council on 31 December immediately preceding, together with any report by the auditor thereon; and

(b) notification that any ratepayer or any person holding any security charged upon the property of the council may, at all reasonable times inspect, at the council's office, the full annual statement as certified by the auditor and the council's annual report prepared pursuant to the provisions of section **19** and may take copies from any part of the statement or report.

(Inserted by Act 26 of 1980, s. 20.)

PART IX—RATING—GENERAL

General rate

58. A council may from time to time make and levy a general rate not exceeding in any one year 10 cents in the dollar on the unimproved value of all rateable land within the municipality assessed in accordance with the provisions of this Act.

(Amended by Act 26 of 1980, s. 21.)

Special and local rates

59.—(1) A council may make and levy special rates in all or any part of the municipality for the purpose of undertaking any works or services which may be lawfully undertaken by the council or for the payment of interest and sinking fund of any loan raised by the council for such purposes:

Provided that—

(a) such special rates so levied shall not in the aggregate exceed 5 cents in the dollar on the unimproved value of any rateable land within the municipality;

(b) where a special rate is levied in respect of part only of a municipality, it shall be known as a local rate, and the purpose of such rate shall be for the undertaking of any works or services in or for the benefit of such part only.

(Amended by Act 14 of 1975, s. 73; 26 of 1980, s. 22.)

(2) A council may by notice in the Gazette from time to time define any area of the municipality within which a special rate may be levied under the provisions of subsection (1).

(Amended by Act 14 of 1975, s. 73.)

(3) Moneys raised on a special rate shall be accounted for separately in the books of the council and such moneys shall not be used for any other purpose than that for which the rate is imposed.

Rateable land

60.—(1) All land, including Crown land, within a municipality shall be rateable land for the purposes of this Act:

Provided that the following lands shall not be assessed for general rates:—

(a) Crown lands not leased or licensed to any person;

(b) lands used exclusively for the purpose of recognized or registered schools or of other educational institutions, not run for profit, certified to be such by the Minister responsible for education;

(c) lands used for the purpose of hospitals, maintained out of public funds or other medical institutions, not run for profit, approved by the Minister responsible for medical services for this purpose;

(d) lands used for the purpose of mental homes or mental hospitals and orphanages not run for profit;

(e) lands used exclusively for purposes of public worship;

(f) cemeteries and crematoria not run for profit;

(g) prisons;

(h) lands used exclusively by registered charitable institutions for public charitable purposes;

(i) lands used for purposes which the Minister may by notification in the Gazette specify.

(Amended by Act 26 of 1980, s. 23.)

[(2) ***** Repealed by Act 26 of 1980, s. 23.]

(3) Notwithstanding the provisions of subsection (1), any land which has been assessed for general rates for a particular year and which, under such provisions, has become exempt from general rates during the course of that year shall not become so exempt until 1 January then next succeeding.

(Amended by Act 26 of 1980, s. 23.)

Rates to be assessed on rateable land

61.—(1) Subject to the provisions of section 60, every rate made and levied by a council under the provisions of this Act shall be assessed at a uniform amount upon all rateable land within the municipality or within that area of a municipality to which the rate applies.

(2) The rate levied under the provisions of subsection (1) shall be assessed upon the unimproved value of such land.

Agricultural land

62.—(1) Where upon the application of the person liable for payment of the rate a council is satisfied that any piece of agricultural land within a municipality being separately rateable is not fit or ready for subdivision for building purposes and is not likely to be required for such purposes within any reasonable time, the council shall by resolution reduce the rate payable in respect of such land to such amount as is fair and reasonable in the circumstances.

(Amended by Act 26 of 1980, s. 24.)

(2) An applicant aggrieved by any decision of the council under subsection (1) may appeal to the Minister who may confirm, vary or reverse the decision of the council.

(Inserted by Act 26 of 1980, s. 24.)

PART X—RATING—VALUATIONS

Meaning of unimproved value

63. For the purpose of ascertainment of unimproved value under the provisions of this Act "unimproved value" means the capital sum which the land, if it were held for an estate in fee simple unencumbered by any mortgage or charge thereon, might be expected to realise at the time of valuation or revaluation if offered for sale on such reasonable terms and conditions as a *bona fide* seller might be expected to require and assuming that the improvements, if any, thereon or appertaining thereto had not been made.

(Amended by Act 26 of 1980, s. 25.)

Sexennial valuation

64.—(1) For the purpose of ascertaining and determining the unimproved value of rateable land, every council shall cause a valuation hereinafter called a general valuation, of all such land to be made at least once in every six years.

(2) A general valuation shall not be invalid by reason of the fact that any rateable land has been erroneously omitted from a valuation.

(3) The council may at any time cause a valuation to be made of any rateable land where—

(a) such land has been erroneously omitted from the most recent general valuation; or

(b) such land was not rateable at the date of the most recent general valuation; or

(c) there has been any alteration in the unimproved value of the land since the last general valuation by reason of—

(i) the existence of any street which has since the time of such valuation been declared to be a street by the council; or

(ii) the sealing by the council of an official survey plan of subdivision; or

(iii) the sale or letting since the time of such valuation of any land on which work has been done to bring it into a condition suitable for building; or

(iv) a change in the use for which the land is zoned under any planning scheme:

Provided that a council shall cause a valuation to be made under this paragraph on being so requested by the person liable for payment of the rates in respect of the land.

(Amended by Act 26 of 1980, s. 26.)

(3A) Where a valuation under paragraph (c) of subsection (3) is made on the application of the person responsible for payment of the rates in respect of the land, the expenses of such valuation shall be met by the person who applied therefor.

(Inserted by Act 26 of 1980, s. 26.)

(4) The Council may at any time cause a valuation to be made of any rateable land where the unimproved value of the land has for any reason decreased since the most recent general valuation.

(Amended by Act 26 of 1980, s. 26.)

(5) Any valuation made between general valuations shall be made on the basis of values subsisting as at the date of the last preceding general valuation so that the new valuation will preserve uniformity with existing rateable values of comparable parcels of land.

Appointment of valuers

65.—(1) For the purposes of valuation, a council shall appoint a valuer approved by the Minister, and, if necessary, an assistant valuer. The assistant valuer shall have all the powers and may exercise the duties of the valuer.

(2) Any valuer who wilfully makes or returns a valuation not impartial or not true according to the best of his judgement or not according to the provisions to this Act shall be guilty of an offence and liable on conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(3) Every valuer shall, for the purpose of making a valuation, have power to enter at all reasonable hours in the day time into and upon all rateable property.

(4) For the purpose of making a valuation of the land in an area proposed to be constituted into a municipality under the provisions of sections **5** or **6** or in any area proposed to be incorporated into an existing municipality the valuer shall have the same power to enter upon land including all buildings and other structures or property thereon as is specified in the subsection (3).

(5) A valuer may put to any person in occupation or charge or being the owner of any rateable property which such valuer is authorised under the provisions of this Act to value, questions upon all such matters as shall be necessary for the purpose of making such valuation with regard to such property, and if after being informed by such valuer of his purpose in putting such questions and of his authority under this Act to put the same, any such person in occupation or charge or any such owner refuses or wilfully omits to answer the same to the best of his knowledge and belief, or wilfully makes any false answer or statement in reply to any such question, such person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50.

Valuations and assessments of rates to be entered in the rate book

66.—(1) All valuations made under the provisions of this Part shall be entered in a rate book to be kept for the purpose together with such particulars of the rateable land as the council may determine.

(2) Subject to the other provisions of this Act, a valuation when entered in the rate book shall be the value of the land upon which all rates made by the council shall be assessed and shall remain in force until the land is again valued under the provisions of section **64**. All rates so assessed shall be entered in the rate book.

(3) The rate book shall be open to the inspection of the public at all reasonable times and the owner or occupier of rateable land and or his agent may take copies of the entries relating to such land without fee.

(Amended by Act 26 of 1980, s. 27.)

Publication of notice of valuation

67. The council shall cause to be published twice in a newspaper published in Fiji and circulating in the municipality a notice informing all persons interested in the fact that a general valuation has been made and entered in the rate book and shall in such notice declare a date not being less than one month after the last of such publications before which appeals may be brought against the valuation of any rateable land.

Alterations in rate book

68.—(1) An alteration or amendment in the rate book may be made in respect of any rate by—

(a) inserting the name of any person claiming and entitled to have his name inserted as owner or lessee, as the case may be;

(b) inserting the name of any person who ought to have been rated or who has since the making of the rate become liable to be rated;

(c) striking out the name of any person who ought not to be rated;

(d) raising or reducing the sum at which any person has been rated when it appears to the council that owing to any error in entering the rate in any rate notice or in the rate book or in transcribing any figures from any valuation book, a person has been under-rated or over-rated;

(e) inserting any land which ought to have been rated and the necessary particulars in respects thereof;

(f) making such other alterations or amendments as will make a rate conformable to the provisions of this Act.

(2) Any alteration or amendment made under the provisions of subsection (1) shall not be held to avoid the rate.

(3) Any alteration or amendment in the rate book made under the provisions of subsection (1) shall have effect upon adoption by the council as though it were made when the rate was made.

(4) Notice of any alteration or amendment in the rate book shall be given to the person affected thereby and every such person aggrieved by such alteration or amendment which affects the rateability of the land shall have the same right of appeal therefrom as he would have had if the alteration or amendment were a valuation.

(5) Every person whose rate is altered or amended or who by any alteration or amendment has become rated in respect of any land, shall be entitled to receive one month's notice of the alteration or amendment before the rate is due and payable by him.

(6) Nothing contained in this section shall affect any alteration or amendment made on an appeal from any valuation.

(7) Where any land has been subdivided and a portion sold or let the valuation of the land and any unpaid rates may be apportioned accordingly by the council on the recommendation of the valuer.

(8) Apportionments made under subsection (7) shall for the purpose of appeal be deemed to be valuations.

(9) It shall not be necessary to publish in a newspaper apportionments made under subsection (7) but a notice of such valuation shall be served upon the owner in such manner as may be prescribed and such notice shall specify that an appeal may be brought against the valuation within one month of the date of service.

When name of owner unknown person may be described as "owner"

69. Whenever the name of any owner or person liable to be rated under this Act is not known to the council, it shall be sufficient to rate such owner or person in the rate book by the designation of "the owner" without stating the name.

Appeal against valuation

70.—(1) The council or any person aggrieved by a valuation made under the provisions of this Part may appeal against such valuation to a resident magistrate.² The valuer who made the valuation shall be the respondent to the appeal and the council, where the appellant is other than the council, and the owner, where the owner is other than the appellant, may also appear as respondents.

(2) Every appeal shall be made by filing with the court before the date declared by the notice published in accordance with the provisions of section **67**, a written memorandum of appeal stating the grounds upon which the appeal is made and where the appellant is other than the council there shall be annexed to the memorandum a copy of the notice required by the provisions of subsection (3) to be delivered to the council

(3) Where the appellant is other than the council he shall, at least seven days before a memorandum of appeal is filed with the court, serve on the town clerk and any respondent a notice in writing of the intended appeal stating the grounds thereof.

(4) The court may, for good and sufficient reason, allow an appeal out of time.

(5) On an appeal under the provisions of this section, the court shall, as it thinks just, either confirm the valuation or direct the rate book to be altered to give effect to the contention of the appellant as far as that contention appears to the court to be well founded.

(6) The provisions of the law relating to the trial of a civil action in a magistrate's court shall

apply in so far as they may be applicable to the hearing of an appeal under the provisions of this section and the magistrate shall have and may exercise all the jurisdiction and powers conferred upon him by such law.

(7) The town clerk shall make such amendments to the rate book as may be necessary to make to conform with the decision of the court.

(8) An appeal shall not prevent the recovery of any rate until such appeal shall have been decided, but where an alteration in the rate book is made by the court which affects the amount levied in respect of the property the difference, if too much has been paid, shall be repaid or allowed, or, if too little has been paid, shall be paid and may be regarded as if it were arrears of rates but shall not attract interest.

(9) A valuer shall be reimbursed by the council, whether or not the council appears or is appellant or respondent, for all costs and expenses incurred by him under an appeal under the provisions of this section and not recovered from any other party to an appeal unless he has in respect of the valuation the subject of the appeal been guilty of an offence under the provisions of subsection (2) of section 65.

Invalid valuations

71. Where any court holds that a valuation of any rateable land is invalid for any reason, except that the land is not rateable, and the decision of the court does not determine the correct valuation, the council may cause a fresh valuation to be made in place of the valuation held to be invalid. For the purpose of notice and appeal such valuation shall be dealt with as in the case of an alteration or amendment made under the provisions of section 68.

PART XI—COLLECTION OF RATES

Meaning of "registered lease"

71A. In this Part "registered lease" means a lease or licence granted by the Native Land Trust Board under the Native Land Trust Act or by the Director of Lands under the Crown Lands Act, and "registered lessee" means the lessee or licensee under any such lease or licence.

(Cap. 134. Cap. 132.)

(Inserted by Act 26 of 1980, s. 28.)

Publication of rate

72. The council shall cause to be published twice in a newspaper published in Fiji and circulating in the municipality a notice of the amount of any rate made by the council and such notice shall in the case of a special or local rate specify the area to which such rate applies and the purpose for which it has been made.

Demand note to be served on the ratepayer

73.—(1) After a rate has been made and notified in accordance with the provisions of this Act, it shall be the duty of the council to serve upon every owner of rateable property in the municipality and upon every registered lessee of such property which is the subject of a registered lease as defined in section **71A** a demand note stating—

(a) the property upon which the rate is assessed;

(b) the unimproved value thereof;

(c) the period in respect of which the rate is made;

(d) the amount payable; and

(e) the time or times of payment, being not less than thirty days after the service upon him of the demand note.

(Amended by Act 26 of 1980, s. 29.)

(2) The council may resolve that rates may be paid by instalments in which case the demand note shall state when each instalment is due and payable.

(3) The liability of any person for rates shall not be affected by reason only of the fact that notice has not been given to such person.

Discount on rates

73A.—(1) A council may resolve that an allowance by way of discount of such amount not exceeding 7 per cent as may be specified in the resolution shall be granted to any person who pays the amount of rates due by him either—

(a) otherwise than by instalments; or

(b) by instalments in terms of a resolution of the council under subsection (2) of section **73**,

before such date or respective dates as the council may specify.

(2) The Minister may by order vary the maximum amount of discount which may be allowed by a council under subsection (1).

(Inserted by Act 26 of 1980, s. 30.)

Government contributions

74. The Minister responsible for finance may, in his discretion, direct the payment from the Consolidated Fund in each year to a council, in lieu of general or special rates on Crown land not leased or licensed to any person situated within the municipality, such sums of money as may be voted by Parliament not exceeding the amount which would have been payable if such land had

been assessable to rates.

Liability for rates

75.—(1) Subject to subsection (1A), rates assessed and recorded in a rate book together with the costs of proceedings, if any, for the recovery of such rates shall be a first charge on the land rated and shall be recoverable by the council from—

(a) the owner at the time of the making of the rate; or

(b) a person who, whilst rates are or remain unpaid, becomes the owner of the whole of the land rated or the owner of part of the land rated as to the rates on that part only,

but a person who by virtue of any written law relating to bankruptcy or insolvency or the winding up of companies, has become the owner of rateable land in the capacity of a trustee or liquidator shall not on that account be personally liable to pay, out of his own moneys or otherwise than out of the estate in his hands, rates already due on the land when he became the owner in that capacity or rates which became due on the land while he was owner in that capacity.

(Amended by Act 26 of 1980, s. 31.)

(1A) Subsection (1) so far as it has effect to create a first charge on the land rated shall not apply to land which is the subject of a registered lease as defined in section 7A and in relation to such land the rates and cost referred to in that subsection shall be recoverable from the registered lessee instead of the owner or other person referred to in the subsection.

(Inserted by Act 26 of 1980, s. 31.)

(2) If any person without the permission of the council knowingly or wilfully removes from or demolishes or destroys a building or a structure on the land which is the subject of a charge under the provisions of this section he shall commit an offence and be liable on conviction to a fine not exceeding \$200.

Payment of rates by mortgagee

76. If a mortgagee of rateable land pays rates levied under the provisions of this Act in respect of such land, the amount so paid by the mortgagee shall become part of and be added to the principal sum due to him under the mortgage and shall be recoverable as such with interest accordingly.

Persons liable to be resorted to in succession

77. An unsatisfied judgment or order of the court for the recovery of rates from a person shall not be a bar to the recovery of such rates from another person liable to pay them under the provisions of this Act.

Rates recoverable by action

78.—(1) A council may recover rates which have been levied under the provisions of this Act and are payable to the council and payment of which are in arrear and also the costs of proceedings, if any, for their recovery from a person liable to pay them, by action at the suit of the council in a court of competent jurisdiction.

(2) Any rates which are overdue shall bear interest at the rate of ³7 per cent per annum and such interest charged shall be included in the expression "rates"; the Minister may by order vary the rate of interest.

(3) Rates due by the same person to the council may be included in one writ, summons or other process.

(4) For the purposes of this section rates shall be deemed to be overdue—

(a) where payment is to be made otherwise than by instalments, on the expiration of thirty days from the date of service of the demand note;

(b) where payment may be made by instalments in terms of a resolution of the council under subsection (2) of section **73**, on the expiration of fourteen days from the due date of each instalment.

(Inserted by Act 26 of 1980, s. 32.)

Non-compliance with procedure not to prevent recovery

79. In proceedings by or on behalf of a council for recovery of an amount due in respect of rates, failure by the council to comply with the provisions of this Act in respect of such rate shall not be a defence when it appears that the council had the power to levy and did in fact assent to the levying of the rate.

Power to write off including interest

80. A council may, in case of hardship, with the approval of the Minister write off rates which have been levied and any interest payable thereon in respect of rateable property, payment of which rates or interest is in arrear.

Attornment of leases

81.—(1) In this section—

"lease " includes an agreement whether made orally or in writing for the leasing or sub-leasing of premises and includes a licence or arrangement for the use of premises but does not include a registered lease as defined in section **71A**;

"lessor" and "lessee" mean the respective parties to a lease and their respective successors in title or assigns;

"rent" means the annual consideration in money or money's worth derived under the lease and passing to the lessor from the lease.

(Amended by Act 26 of 1980, s. 33.)

(2) If payment of rates levied by a council in respect of any land is in arrear, the council may give notice to the lessee thereof requiring the lessee to pay to the council the rent, if any, accrued due and the rent as it accrues due under the lease until the amount of the arrears of rates has been paid and the council shall serve on the lessor a copy of such notice informing him that the original thereof has been served on the lessee.

(3) On receipt of the notice referred to in subsection (2), the lessee shall pay to the council the rent, if any, accrued due and shall continue to pay to the council rent as it accrues due under the lease to such extent as is necessary to satisfy the amount of the outstanding rates.

(4) If, after receiving the notice, the lessee pays the rent otherwise than to the council while payment of the rates is in arrear, he shall commit an offence and shall be liable on conviction to a fine not exceeding \$50 and may be ordered to pay the amount of any rates so in arrear to the council.

(5) If, after receiving a copy of the notice, the lessor receives the rent from, or paid on behalf of, the lessee while payment of the rates is in arrear and does not within seven days of the receipt thereof pay to the council the amount of rates in arrear, he shall commit an offence and shall be liable on conviction to a fine not exceeding \$50 and may be ordered to pay the amount of any rates so in arrear to the council.

(6) The prosecution of an offence under the provisions of either subsection (4) or subsection (5) shall not affect the power of the council to recover the rates.

Authority for lessee to set off rates

82.—(1) Where a lessee, required to pay rent to the council under the provisions of section **81**, pays the rent to the council accordingly, and as between himself and his lessor, the lessor is bound to pay the rates, the lessee may set off the amount so paid to the council against the rent payable by him to his lessor.

(2) If the amount so paid to the council exceeds the rent due, or if there is no rent due, the lessee may set off the amount so paid against the accruing rent or recover the balance from his lessor in a court of competent jurisdiction.

(3) The receipt of the town clerk or of any person authorised by him in that behalf shall be a discharge of rent to the amount shown in the receipt and shall be evidence of payment of that amount to the council.

Contracting out to be prohibited

83. To the extent that an agreement purports to preclude a lessee from setting off, or recovering payments or the balance of payments made to a council under the provisions of section **82**, such agreement shall be of no effect.

Rates longest outstanding to be first paid

84. Where money is paid to a council in respect of rates, the council shall apply such money for or towards the rates due on the rateable property in the order in which they became or become due.

Refusal to give name of person liable

85. If, on the request of the council, or a servant or agent of the council authorised by the council in that behalf—

(a) the occupier of property or the agent of the owner refuses or wilfully omits to disclose or wilfully mis-states to the council, or its servant or agent making the request, the name of the owner or of the person receiving or authorised to receive the rents of the property or the name of the registered lessee; or

(b) a person receiving or authorised to receive the rents of the property refuses or wilfully omits to disclose or wilfully mis-states the name of the owner of the property,

he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50.

(Amended by Act 26 of 1980, s. 34.)

Notice of transfer

86.—(1) Subject to the provisions of this section—

(a) the person liable to pay rates and the transferee in any case where the person so liable transfers his estate or interest in rateable land;

(b) the mortgagee of rateable land in any case where under the provisions of the mortgage he enters into possession of the land;

(c) the trustee, executor or administrator of the estate or interest in rateable land of a deceased person,

shall within one month of such transfer, entry into possession, grant of probate or letters of administration, as the case may require, give notice thereof to the town clerk.

(2) Subject to the provisions of paragraph (b) of subsection (1), it shall not be necessary for a mortgagee to give notice of any mortgage nor of the discharge thereof.

Council may lodge caveats

87. Where payment of rates imposed is in arrear, the council may in accordance with the provisions of any written law which authorises the lodging of caveats, lodge a caveat to preclude dealings in respect of land not being land which is the subject of registered lease as defined in section 71A and may withdraw caveats so lodged by it, but the express inclusion of this right shall not prejudice or otherwise affect the right of a council under any written law to lodge and withdraw caveats in respect of any other charge upon or interest in land or other property.

(Amended by Act 26 of 1980, s. 35.)

PART XII—POWERS AND DUTIES OF COUNCILS

Division 1—General

General powers and duties of councils

88.—(1) Every council shall do all such things as it lawfully may and as it considers expedient to promote the health, welfare and convenience of the inhabitants of the municipality and to preserve the amenities or credit thereof.

(2) The provisions of this Act relating to the powers and duties of councils are in addition to, and not in derogation of, the provisions of any other written law relating to such powers and duties and in the exercise of their powers and the performance of their duties in relation to any matter for which provision is made by any other law, a council shall act in conformity therewith.

References in other laws to local authorities

89. Where, by the provisions of any written law in force at the commencement of this Act, a duty is imposed or a power conferred upon the local authority of a town or township by whatever name such local authority is described, such power or duty shall be deemed to have been imposed or conferred upon a city or town council constituted under the provisions of this Act, as may be appropriate.

Public utility services

90. A council may, with the approval of the Minister, whether alone or in conjunction with the Government or any other statutory public body and whether within or without the boundaries of the municipality—

(a) promote or establish and maintain public utility services including public transportation;

(b) construct or maintain any public works which in the opinion of the council may be necessary or beneficial to the municipality;

(c) contribute to the cost of the matters referred to in paragraphs (a) and (b).

Division 2—Land

Acquisition of land by agreement

91.—(1) A council may for the purpose of any of its functions under this or any other law by agreement, acquire, whether by way of purchase, lease, or exchange any land whether situate within or without the boundaries of the municipality.

(2) Subject to the provisions of any written law relating to town planning and the subdivision of lands and to the consent of the Minister, a council may—

(a) acquire whether by way of purchase, lease, exchange or otherwise, any land whether situate within or without the boundaries of the municipality and lay out building plots upon or otherwise subdivide such land for the purpose of housing schemes or for the purpose of factory, residential, commercial, industrial, business, workshop or recreational sites or build houses for its employees or factories, houses, commercial, industrial and business premises and workshops for letting to persons approved by the council; and

(b) sell, let or otherwise dispose of any plots or subdivisions of land and any buildings thereon.

Power to let land

92. Subject to the provisions of subsection (2) of section **91**, a council may let any land which it may possess—

(a) with the consent of the Minister, for any term;

(b) without the consent of the Minister, for a term not exceeding ten years.

Power to sell or exchange land

93. Subject to the provisions of subsection (2) of section **91**, a council may, with the consent of the Minister—

(a) sell any land which it may possess and which is not required for the purpose for which it was acquired or is being used; or

(b) exchange any land which it may possess for other land, either with or without paying or receiving any money for equality of exchange.

(Amended by Act 14 of 1975, s. 73.)

Compulsory acquisition of land

94. If a council is unable to purchase by agreement and on reasonable terms suitable land for any purpose for which it is authorised to acquire land, the council may represent the case to the

Minister and if the Minister is satisfied, after such inquiry, if any, as he may deem expedient, that suitable land for the said purpose cannot be purchased on reasonable terms by agreement and that the circumstances are such as to justify the compulsory acquisition of the land for the said purpose and that the said purpose is a public purpose within the meaning of the Crown Acquisition of Lands Act, he may authorise the council as an acquiring authority to apply to the Supreme Court under the provisions of that Act for an order authorising compulsory acquisition of the land in which case the provisions of such Act shall apply.

(Cap. 135.)

Division 3—Housing Schemes to Provide Dwellings for Persons of Small Means

Power to provide dwelling-houses

95.—(1) Subject to the provisions of sections **96** to **105**, inclusive, and in accordance with a housing scheme, a council may, within or outside its area, and whether on its own or in collaboration with any statutory or other authority or organisation, provide dwelling-houses for eligible persons and such other buildings as may be necessary for the purpose of such a housing scheme.

(2) For the purpose of housing schemes, the council may borrow any sum or sums, not exceeding in the aggregate such amount as the Minister responsible for finance may determine, over and above the amount which the council is otherwise authorised to borrow under the provisions of this or any other Act.

How land and buildings may be dealt with

96. A council may, in accordance with any housing scheme—

- (a) demolish, repair or reconstruct any buildings or erections on any land;
- (b) purchase or erect buildings or dwelling-houses thereon;
- (c) construct and open any new street thereon;
- (d) alter the levels of the land;
- (e) alter existing drains and sewers and construct new drains and sewers thereon;
- (f) lay out, plant and beautify any part of the land or otherwise make the same suitable for gardens or recreational purposes;
- (g) maintain in good repair any buildings, dwelling-houses, or erections on the land; and
- (h) generally alter, re-model and improve land or any part thereof and any dwelling-houses, buildings or other erections on the land.

Power to sell or let dwelling-houses

97.—(1) Notwithstanding the provisions of sections **92** and **93**, a council may sell or let to any eligible person a dwelling-house together with the land on which such dwelling-house is constructed in any housing scheme.

(2) The council may let such dwelling-house for such period and subject to such covenants and conditions and upon such rent and upon such other terms as the council shall think fit.

(3) No tenant shall be permitted to sub-let any such dwelling-house without the written consent of the council.

Cost of dwelling houses

98. The total capital cost to the council of any dwelling-house which, pursuant to the housing scheme is sold or let by the council to any eligible person, together with the cost of the land on which the dwelling-house is erected, shall not exceed the maximum amount for the time being determined in that behalf by the Minister and applicable to such house and the Minister may determine different maximum amounts in respect of different classes of house, according to size, materials used in the construction and the method of construction.

Sale of dwelling-houses

99. The following provisions shall apply to the sale, pursuant to a housing scheme, of any dwelling-house together with the land on which it is constructed:—

(a) the sale may be upon such terms and subject to such covenants and conditions and the payment of such cash deposit, if any, as shall be prescribed or are fixed by the council;

(b) the price shall not exceed the capital cost to the municipality of the dwelling-house and land;

(c) the purchaser shall be permitted to occupy the dwelling-house and the land as a weekly tenant and shall pay therefor a rental at such rate per cent per annum on the capital cost thereof, or where the council has required the payment of a deposit on the difference between the capital cost and the amount of the deposit paid as may be determined by the council and approved by the Minister and the purchaser shall also pay all rates and taxes and the cost of insurance, repairs and maintenance;

(d) the council shall appropriate a sum from the rental to cover interest at such rate per cent per annum as may be determined by the council and approved by the Minister on the amount of the capital cost from time to time outstanding and shall allot the remainder of the rental towards the payment of the capital cost;

(e) at any time after the purchaser-

(i) has paid in reduction of the purchase price a sum amounting to not less than 20 per cent of the purchase money;

(ii) has paid to the council the amount due from him up to that time by way of instalments; and

(iii) has complied to the satisfaction of the council with the covenants and conditions contained in the contract of sale,

he may, if he so desires upon giving to the council notice in writing of his intention so to do, execute in favour of the council a mortgage in such form as the council shall require for the balance of the purchase money and thereupon he shall be entitled to obtain from the council a transfer of the land, but except as in this paragraph provided, he shall not be entitled to obtain from the council a transfer of the land unless he has paid the full amount of the purchase money and has complied, to the satisfaction of the council, with the covenants and conditions contained in the contract for sale;

(f) the cost and expenses of any transfer of mortgage executed in pursuance of the provisions of this section shall be borne by the purchaser;

(g) so long as any land and dwelling-house is subject to a contract of sale, mortgage or other security, the council may at any time make additions and improvements to such dwelling-house or may repair, renovate, alter or enlarge the same and the amount expended thereon with interest shall together with the unpaid balance of the purchase money of the dwelling-house be and, until paid, remain a first charge thereon and, in order to provide for the repayment of such expenditure and interest, the weekly rental may, without prejudice to any remedy or proceeding for the recovery or enforcement of the amount so expended and interest thereon, be increased by such amount spread over the remainder of the period in respect of which the rental shall continue as determined by the council:

Provided that the unpaid balance, together with the amount expended pursuant to this paragraph shall not exceed the maximum amount for the time being prescribed under the provisions of section 98 and applicable to such house.

Action in cases of hardship

100. In cases of hardship, the council may extend for such period and on such terms and conditions as it thinks fit, the time for making any payment required by the provisions of section 97 or 99.

Power to compound

101. The council may compound and agree with any person who has entered into any contract in pursuance of or under the authority of section 97 or 99 or against whom any action or suit is brought for any penalty contained in the contract or in any bond or other security for the

purposes of the contract or for or on account of any breach or non-performance of the contract, bond or security for a sum of money or other consideration as the council shall think proper.

Conditions operative so long as money owing

102.—(1) As between the council and the purchaser with respect to the land and dwelling-house forming the subject of a contract of sale, mortgage or other security, the following conditions shall be imposed so long as any money due to the council under such contract of sale, mortgage or other security, shall remain unpaid:—

(a) the land and dwelling-house shall not be sub-let or mortgaged by the purchaser without the prior consent in writing of the council; and

(b) every lease, sub-lease, mortgage or agreement entered into or made in contravention of the provisions of this section shall be void and of no effect.

(2) If the purchaser lets, sub-lets or mortgages the land and dwelling-house or any part thereof in contravention of the provisions of this section, the council may cancel the contract of sale and, in its discretion, forfeit the instalments previously paid by the purchaser.

Sale where purchaser insolvent

103. When the purchaser's title to any land and dwelling-house over which the council holds a mortgage in pursuance of section **99** is divested from him under any written law relating to bankruptcy or insolvency, the council may cause his estate and interest in the land and dwelling-house to be sold at such time and place and in such manner and on such terms and conditions as it shall think fit.

Restrictions on transfer

104.—(1) So long as any land and dwelling house is subject to a contract of sale, mortgage or other interest in accordance with the provisions of section **99**, a transfer of such land or dwelling house or of any estate or interest therein shall not have any force or effect unless it—

(a) arises through the operation of any written law relating to bankruptcy or insolvency;

(b) is made to a devisee by a person acting in the capacity of executor or administrator of the estate of the purchaser; or

(c) is made with the consent in writing of the council.

(2) In this section "transfer" includes assignment and surrender.

General power as to housing schemes

105. For the purposes of any housing scheme, a council—

(a) may from time to time advance any moneys required out of the municipal fund;

(b) shall once in every year prepare a separate balance sheet and statement of accounts setting out full particulars of the operation of the scheme.

Power to sell or let buildings other than dwelling-houses

106.—(1) The council may sell or let to any person any building, other than a dwelling-house, on any land included in any housing scheme for such period and subject to such exceptions, reservations, covenants and conditions and at such rent and on such terms as the council shall think fit.

(2) No tenant of any building referred to in subsection (1) may sub-let any such building without the written consent of the council.

(3) On the sale of any building referred to in subsection (1), the council may take such securities for the payment of any balance of purchase money and interest thereon or allow such period for the payment of the sum as it shall think fit.

Division 4—Streets

Streets vested in a council

107. All streets declared by a council to be streets within the boundaries of a municipality and the soil thereof and all materials of which they are composed shall, by force of this Act, vest in fee simple in the council of such municipality.

Council to maintain streets

108. Except as provided by section **110**, every council shall be responsible for care, maintenance, repair and control of streets within the municipality.

Powers of council in relation to streets

109.—(1) A council may, subject to the provisions of any other law for the time being in force, after such public notice as may be prescribed—

(a) make and declare new streets;

(b) alter, widen, or divert any street;

(c) stop up a street and declare it no longer to be a street.

(2) A council may, if necessary or expedient for the purpose of the exercise of its functions under this Act temporarily stop up or divert the traffic upon any street.

(3) A council may name or alter the name of any street and may number the buildings therein.

(4) Where a street is declared by a council not to be or no longer to be a street—

(a) the public shall cease to have right of way over such street;

(b) the declaration shall not affect the title of the council in the land comprising the street and such land may be disposed of under the powers conferred on the council by the provisions of section 93.

Unformed streets

110. Where any land has been or is at any time dedicated by the owner as a road or street by an instrument in writing deposited with the Registrar of Titles, the following provisions shall have effect:—

(a) where the road or street (including any footways, drains, or other works required by the council) is laid out, made up and formed to the satisfaction of the council, the council shall declare such road or street to be a street;

(b) the council may lay out, form and make up the road or street (including any footways, drains or other works required by the council) to their own satisfaction or may, where work has already been done to the road or street, do any additional work required to lay out, form and make up the street to their satisfaction as aforesaid and thereupon the council shall declare such road or street to be a street;

(c) the provisions of section 108 shall not apply to such road or street until it has been declared by the council to be a street in accordance with the foregoing provisions;

(d) if the road or street is not required as such, the council may with the approval of the Minister, declare such street not to be a street for the purposes of this Act and the provisions of subsection (4) of section 109 shall apply thereto.

By-laws as to standard of streets

111. A council may, with the approval of the Minister, make by-laws prescribing the minimum standards to which roads or streets are to be laid out, made up and formed before such council shall declare any such road or street to be a street:

Provided that any road or street declared to be a public road under the provisions of any Act relating to roads and which is of a standard not less than that prescribed in such by-laws shall be taken over by the council and shall be maintained to the standard required under the provisions of this Act.

Special provision as to dedication

112.—(1) Where upon any plan deposited with the Registrar of Titles prior to the 25 July 1933 any land is shown as a street, road or road reserve and a dedication in writing of such land as a road or street has not been deposited with the Registrar of Titles and such land is not for the time being under the management and control of the council, the council may request the Minister to declare that such land has been dedicated as a road or street.

(2) The Minister may declare such land or any part thereof in respect of which he is satisfied, as hereinafter provided, to have been dedicated, as a road or street.

(3) Before making a declaration under subsection (2), the Minister shall be satisfied after such inquiry as he deems fit that private rights of ownership or occupation were not at that time being exercised over the land or part thereof to which the declaration relates.

(4) The provisions of section **110** shall apply to land which is the subject of a declaration under this section.

(5) Where a declaration is made under this section the Minister shall send a copy of the notice to the Registrar of Titles and the Registrar of Titles shall enter a memorial of the declaration in the register and on the duplicate certificate of title or grant.

Power of Minister to declare streets on Crown land to be vested in the council

113. The Minister may, with the consent of the council concerned, by notification in the Gazette, declare that any piece of Crown land described in such notification and being within a municipality vests as a street in the council and from and after the date of such notification such land shall vest in fee simple in the council.

Precautions to be taken against danger when obstructing a street

114. Any person who, in the course of any work obstructs a street without taking adequate precautions to prevent danger being caused thereby to persons lawfully using the street shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100 without prejudice to the right of any person to take proceedings for damages or compensation in respect of any injury caused thereby.

Penalties for injuries to streets, and obstructions

115.—(1) Every person who without proper authority—

(a) encroaches on a street by making or erecting any building, fence, ditch or other obstacle or work of any kind upon, over or under the street or planting any tree or shrub thereon;

(b) places or leaves on a street any timber, earth, stones or other thing;

(c) digs up, removes, or alters in any way the soil or surface or scrapings of a street;

(d) allows any water, tailings, or sludge or any filthy or noisome matter to flow from any building or land in his occupation on to a street;

(e) causes or permits any timber or other heavy material not being wholly raised above the ground on wheels to be dragged on to a street;

(f) allows any retaining-wall, foundation, well, or fence, or slope of earth, or any building, erection, material or thing to give way or fail so as to injure or obstruct any street; or

(g) does or causes or permits to be done any act whatsoever by which any injury is done to any street or any work or thing in, on or under a street,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20 for every day upon which such offence is committed or suffered or continued:

Provided that no penalty shall be imposed unless the information or complaint is laid by authority of the council or some officer thereof duly authorized in writing in that behalf by the town clerk.

(2) The council may, by order in the prescribed form directed to and served upon any person causing any encroachment or obstruction in contravention of the provisions of subsection (1), require that person to remove such encroachment or obstruction:

Provided that where such person is not known, the council may serve such notice by affixing such order to the encroachment or obstruction or on any part of the land adjacent thereto.

(3) If any person fails to comply with any order issued under the provisions of subsection (2), the council may cause the encroachment or obstruction to be removed and may recover from such person the costs and expenses incurred in such removal and all costs and expenses incurred in repairing or making good any injury done to any street by reason of such encroachment or obstruction.

Council may recover expenses for repairs to streets damaged by excessive weight

116. Where damage is caused to a street as a result of an unusual or excessive load being dragged or conveyed thereon and extraordinary expenses are incurred by the council in repairing the damage so caused, the council may recover such expenses as a debt from any person responsible therefor.

Powers of council in relation to land abutting upon streets

117. It shall be lawful for a council by notice in writing to require the owner or occupier of any

land abutting upon a street—

(a) to cover, enclose, or fill any hole, well, excavation or other place which in the opinion of the council is dangerous to persons using the street;

(b) to remove, lower, or trim to the satisfaction of the council any tree or hedge overhanging such street in cases where, in the opinion of the council, such removing, lowering, or trimming is necessary in order to prevent injury to the street or obstruction to the traffic thereon or to any channel, ditch, or drain appertaining thereto;

(c) to cut down or grub up as the council directs and remove all obstructions to traffic or the spreading of roots upon or under such street up to the middle line thereof along the whole frontage of the land occupied or owned by him;

(d) to remove any matter or thing fronting a street where such matter or thing is unsightly or constitutes a disfigurement of the locality.

Appeal from order of council

118.—(1) Within ten days after service of any order under the provisions of section **117**, the occupier or owner may by summons require the council to appear before a magistrate to show cause why the order should not be set aside.

(2) On the hearing of the summons, the magistrate shall determine whether the order should or should not be set aside and in the former case the order shall be void.

(3) In the case of an order which is not set aside as aforesaid, if the owner or occupier fails to do any such act in compliance therewith within two months from the service thereof or within two months after the hearing of the summons, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2 for every day thereafter during which failure continues, and the council may enter on the land and do such act and recover the cost from him.

(4) The provisions of the law relating to the trial of a civil action in a magistrate's court shall apply in so far as they may be applicable to the hearing of a summons under the provisions of this section and the magistrate shall have and may exercise the jurisdiction and powers conferred upon him by such law.

Division 5—Drainage

Public drainage

119.—(1) The council or any person authorized by it may maintain, clear and cleanse any public drain, surface drain, ditch, creek, watercourse, culvert or channel within the municipality.

(2) The council or any person authorized by it may dig, construct or lay any drain, sewer, culvert, ditch or waterway required for the better sanitation of the municipality.

(3) For the purposes of this section, the council or any person authorized by it may, subject to the provisions of section 8 of the Constitution enter any private lands and dig, lay or construct any drain, sewer, culvert, ditch or waterway that may be required for the better sanitation of the municipality.

(Cap. 1.)

(4) The council or any person authorized by it shall pay reasonable compensation for any damage to fences, crops, trees or other property caused by work done under the provisions of this section and shall take all reasonable precautions to minimize the extent of such damage.

(5) Nothing in this section shall authorize a council to do any construction or other work on or over or under a public road or sufficiently near to a public road to occasion damage to such road without the written approval of the Permanent Secretary for Works or any person authorized by him.

Public drains

120.—(1) No drain shall be deemed to be a public drain until it has been declared by the council to be a public drain and thereupon any such drain shall vest in the council for an estate in fee simple.

(2) Before a drain is declared to be a public drain, such drain shall be properly constructed to the satisfaction of the council.

(3) It shall be lawful for a council to construct or reconstruct such drains as it may deem necessary for the efficient drainage of the municipality and to declare such drains to be public drains.

(4) Each council shall be responsible for the maintenance, repair and control of public drains within its municipality.

(5) Nothing in this section shall affect the provisions of the Sewerage Act.

(Cap. 128.)

Private drainage

121. The council may require the owner or occupier of any building, premises or plot to lay, build, dig or construct and maintain at his own expense all drains necessary for carrying off storm and slop water and waste from his own land and properly to connect them with public drains and to keep the building, premises or plot drained. If the owner or occupier fails to comply with a requirement made under this section within such time as the council may prescribe, the council may undertake the work and the cost shall be a debt to the council and may be sued for in a court of competent jurisdiction.

PART XIII—BY-LAWS AND REGULATIONS.

Council's powers of making by-laws

122.—(1) A council may make by-laws prescribing forms, fees, matters and things which are contemplated by this Act or are required or permitted by this Act to be prescribed, or which appear to the council to be necessary or convenient for the peace, good order and government of the municipality and for the purpose of effectually carrying out the provisions of this Act, or for better effecting the operation, objects and purposes thereof.

(2) All by-laws made by a municipality under the provisions of this Act, or under the provisions of any other written law by virtue of which the council is authorized to act, shall be of no effect until such by-laws have been approved by the Minister.

(3) Any person who contravenes or fails to comply with the provisions of any by-law made by a municipality under the provisions of this Act, or under the provisions of any other written law by virtue of which the council is authorized to act, shall be guilty of an offence and, if no penalty is otherwise provided therefor, shall be liable on conviction to a fine not exceeding \$50 and to a further fine of \$10 for every day during which such contravention or failure to comply continues.

(Inserted by Act 4 of 1976, s.13)

Regulations

123.—(1) Notwithstanding the provisions of section **122** the Minister may make regulations—

(a) providing for the maximum amount of financial loss allowance which may be paid to a member of a council in respect of loss of earnings necessarily suffered or incurred for the purpose of enabling him to perform any approved duty as a member of the council;

(b) prescribing the maximum amount which may be paid to a member of a council by way of travelling allowance or subsistence allowance when expenditure on travelling or subsistence is necessarily incurred by him for the purpose of enabling him to perform any approved duty as a member of the council;

(c) prescribing any thing which may be prescribed under any of the provisions of this Act;

(d) generally for the better carrying out of any of the provisions of this Act.

(2) In paragraphs (a) and (b) of subsection (1), "approved duty" means—

(a) attendance at a meeting of the council or any committee thereof;

(b) attendance at a meeting of any joint committee constituted under section **30**;

(c) the doing of any other thing which the Minister has previously approved in writing, either generally or specially, as being in the interest of the municipality as a whole.

(Substituted by Act 26 of 1980, s. 36.)

Minister's powers

124. The Minister may, by order served upon a council, require such council to make such by-laws as are specified in the order and to amend or revoke any such by-laws.

PART XIV—SPECIAL PROVISIONS FOR FIJIAN VILLAGES

Incorporation of Fijian villages

125. A council may, subject to the approval of the Fijian Affairs Board and of the Minister, make by-laws concerning the manner in which Fijian villages may be incorporated in the municipality, for the method by which rates may be levied in such Fijian villages and for the minimum standard which is required to be attained in the construction of buildings therein.

PART XV—MISCELLANEOUS

Special provisions for new municipalities

126.—(1) The council of a newly constituted municipality may, with the approval of the Minister and subject to such conditions as the Minister may impose, exercise the powers and carry out the duties and obligations granted to and imposed upon a council by the provisions of this Act having regard to the respective intervals of time where prescribed by or under this Act for the doing of the respective things required.

(2) For the purposes of this section, the council of a newly constituted municipality may prepare an estimate in respect of so much of the then current financial year as remains unexpired from the date of the constitution of the municipality, and may levy rates the maximum of which bears to the maximum of the rates which the council could levy under the provisions of section 58 had it been constituted for the necessary period, the rates which the portion of the current financial year unexpired at the date of the constitution of the municipality bears to a full year.

Certificate as to amount due to council

127.—(1) Any person may apply for a certificate under this section as to the amount (if any) due or payable to the council for rates or otherwise in respect of any land.

(2) Application for the certificate shall be made in writing, and shall state the name and address of the applicant, and the particulars of the land in respect of which the information is required.

(3) The council shall, upon payment of such fee as may be prescribed by the council, by resolution, for a certificate having reference to a parcel of land separately assessed, as soon as may be, give or post to the applicant a certificate in writing signed by the town clerk. Such certificate shall state—

(a) what rates, charges, or sums of money if any, are due or payable to the council in respect of the land with the particulars thereof and when the same became due or payable, or that no such rates, charges or sums are then due or payable, as the case may be;

(b) the amount of the cost of any work which may be recovered by the council under this Act from the owner or occupier of the land which has been carried out by the council, or that no such work has been carried out, as the case may be.

(4) The production of the certificate shall for all purposes be deemed conclusive proof in favour of a *bona fide* purchaser for value that at the date thereof no rates, charges or sums other than those stated in the certificate were due or payable to the council in respect of the land and that no work the cost or part of the cost of which may be recovered by the council under this Act from the owner or occupier of the land other than that stated in the certificate has been carried out by the council.

(5) For the purposes of this section, rates, charges or sums of money shall be deemed to be due or payable, notwithstanding that the requisite period after service of any notice may not have expired.

[128. ***** (Repealed by Act 26 of 1980, s. 37.)]

Power to prohibit work

129. If, in the opinion of the Minister, the execution of any order or resolution by a council or the doing of anything which is about to be done by or on behalf of a council is likely to cause serious injury or annoyance to the public, the Minister may, having notified the council and given consideration to any representations made by it, by order published in the Gazette, suspend the execution or prohibit the doing thereof and the council shall comply with such order.

Appointment of inspector

130. The Minister may appoint any fit and proper person to investigate and report upon the manner in which a council is exercising all or any of its functions under this Act and for the purposes of such investigation the person appointed shall have power—

(a) to enter on and inspect any real property occupied or owned by a council or any institution under its control or management or any work in progress under its direction;

(b) to call for any return, statement, account or report which he may think fit to require;

(c) to call for and inspect any extract from the proceedings of any council or from the proceedings of any committee thereof and any books or documents in the possession of or under the control of a council.

(Substituted by Act 26 of 1980, s. 38.)

Appointment of committee of inquiry

131.—(1) If, after consideration of a report submitted to him under section **130**, the Minister is satisfied that there is reason to believe that a council is in default on the grounds that the revenues of the council are not being used in the best interests of the municipality as a whole or that the administration of the council is inefficient, wasteful or corrupt or that the council has in any other way failed to act in conformity with the provisions of this Act, he may appoint a committee of inquiry to investigate the affairs of the council.

(2) A committee of inquiry shall consist of not less than two but not more than five members one of whom shall be nominated by the Minister as chairman.

(3) For the purpose of carrying out its functions under this section a committee of inquiry shall have the same powers and authority to summon witnesses and to admit and receive evidence as are conferred upon the commissioners of a Commission of Inquiry by section **9** of the Commission of Inquiry Act and the provisions of sections **14** and **17** of that Act shall apply *mutatis mutandis* in relation to the powers and authority vested in the committee of inquiry under this subsection.

(Cap. 47.)

(4) A council shall be entitled to be heard at any inquiry held under the provisions of this section and may be represented by any member or officer of the council authorised by the council for that purpose or by a barrister and solicitor.

(5) At the conclusion of the inquiry the committee of inquiry shall submit a written report of its findings to the Minister.

(Substituted by Act 26 of 1980, s. 38.)

Powers in relation to council in default

131A.—(1) If after consideration of the findings of a committee of inquiry, the Minister is satisfied that a council is in default in terms of subsection (1) of section **131**, he may—

(a) issue directions prescribing the action to be taken by the council specifically to remedy any default or generally to ensure the proper discharge by the council of its functions under this Act;

(b) reduce the amount of any grant payable to the council for the next succeeding financial year by such sum as he shall determine; or

(c) dissolve the council and by order appoint two or more persons to be administrators of the municipality for such period as the Minister may consider necessary.

(2) The persons appointed as administrators under paragraph (c) of subsection (1) shall be deemed to be the duly constituted council of the municipality and shall, subject to any general or special directions issued by the Minister, have, perform and discharge all the rights, privileges, powers, duties and functions vested in or conferred or imposed on the council, the mayor and any

officer of the council by this Act or any other written law.

(Inserted by Act 26 of 1980, s. 38.)

Disallowance and surcharge

132.—(1) If, on information supplied by the appropriate town clerk or on receipt of the report of the auditor or an inspector, the Minister is satisfied that any expenditure has been incurred without proper authority in that behalf, he may either sanction or disallow such expenditure, and if he disallows such expenditure, he may by order in writing surcharge any person responsible for such expenditure for the whole or any part thereof.

(2) If, on information supplied by the appropriate town clerk or on receipt of the report of the auditor or an inspector, the Minister is satisfied that—

(a) any failure to collect money due to the council; or

(b) any loss of money or property; or

(c) any damage to property,

has occurred by reason of any wilful or wrongful act or any negligence by any councillor or person in the service of the council, the Minister may, subject to the provisions of section 18, by order in writing, surcharge such councillor or person for the whole or any part thereof.

(3) Any sum surcharged on any person under the provisions of this section shall be a debt due to the council and shall be payable by such person within one month, or such longer period as the Minister may approve, of the date of service upon him of the order of the Minister.

(4) Any person aggrieved by an order of surcharge may appeal to the Supreme Court which may confirm set aside or vary such order and whose decision shall be final.

Evidence of acts of council

133.—(1) A copy of the minutes of the council, or a committee thereof, certified under the hand of the mayor or town clerk or chairman of the committee to be a true copy shall be *prima facie* evidence of any appointment or resolution of the council or committee as the case may be.

(2) All documents whatsoever purporting to be issued, or written by or under the direction of the council of a municipality and purporting to be signed by the mayor, town clerk, health inspector or building surveyor, shall be received as evidence in all courts of law and shall be deemed to be issued or written by or under the direction of the council without proof unless the contrary be shown.

(Amended by Act 26 of 1980, s. 39.)

Legal proceedings

134. In any proceedings under the provisions of this Act instituted by, or under the direction of the council, no proof shall, unless evidence is given to the contrary, be required—

(a) of the persons constituting the council or the extent or boundaries of the municipality or any ward thereof;

(b) of any special or general appointment or order or authority to prosecute any town clerk, municipal engineer, building surveyor, inspector or other officer of the council;

(c) of the presence of a quorum of the council at the making of any order or the doing of any act.

Execution of documents

135. Every contract and every instrument in documents which a council is lawfully empowered to execute shall be deemed to be duly executed by or on behalf of the council, if signed by the mayor or by the town clerk or by any one or more councillors duly authorized in that behalf by any resolution of the council.

Free searches of registers

136. A person appointed in writing under the hand of the Minister or the mayor or town clerk of a municipality may for the purposes of this Act, search the public registers of the Registry of Titles without payment of any fee.

Notices

137.—(1) Any notice, order or other document required under the provisions of this Act, or under the provisions of any other written law by virtue of which the council is authorized to act, or is exercising its statutory powers, to be served upon any person or upon any owner or occupier of any land, building or premises may be served in the manner provided in this section.

(2) Service of any notice, order or other document may be effected—

(a) personally; or

(b) by delivering such notice, order or other document at or on the premises in which the person to be served resides or carries on business and by leaving the same with any person apparently over the age of eighteen years resident or employed at such premises; or

(c) by posting such notice, order or other document by prepaid letter addressed to the last known place of abode or business of the person to be served; or

(d) by affixing such notice, order or other document on any conspicuous part of the land, building or premises the subject of the notice, order or other document; or

(e) in any case where the person to be served is, or after enquiry appears to be, absent from Fiji, by service upon the agent of the person to be served; or

(f) in any case where the land, building or premises are unoccupied by the owner thereof or his address or place of abode is not known to the council, by advertisement in a newspaper published in Fiji and circulating in the municipality.

(3) All notices required under the provisions of this Act to be served upon any owner or occupier shall, after due service thereof has once been made on any owner or occupier, be binding on every subsequent owner or occupier to the same extent as if such notice had been served upon the last mentioned owner or occupier.

Minutes, etc., to be provided

138.—(1) It shall be the duty of the council to provide the Minister with a certified copy of any record or minutes of its proceedings and of the proceedings of any committee appointed by the council and such other reports, statistics and documents as the Minister may from time to time require.

(2) Minutes of the proceedings of each meeting of the council shall be confirmed by the council at the immediately ensuing meeting thereof and shall be forwarded to the Minister within seven days after the date upon which they are confirmed by the council.

(Amended by Act 26 of 1980, s. 40.)

Transitional

139. Any reference in any written law in force immediately before the commencement of this Act to any "township", "township board", "board" or "township clerk" shall be read and construed as if it were a reference to a "town", "town council", "council" or "town clerk", respectively.

Repeal and Saving

140.—(1) The Towns Ordinance and the Townships Ordinance are hereby repealed:

Provided that all by-laws, regulations, orders, notices, appointments and licences made or issued under the provisions of either of the two repealed Ordinances shall be deemed to have been made under the corresponding provisions of this Act and shall remain of full force and effect until such time as they are revoked or amended under the provisions of this Act.

(2) Any regulations or by-laws made under the provisions of either of the two repealed Ordinances in respect of which there are no corresponding provisions in this Act, shall remain of full force and effect as though they had been made under the authority of this Act until such time as they have been revoked or amended under the provisions of this section or of any other Act

and may be amended or revoked under the provisions of this subsection.

Amendment, etc., of subsidiary legislation made under repealed Ordinances

141. Notwithstanding anything contained in any subsidiary legislation made under the Ordinances repealed by section **140** and remaining in force pursuant to the provisions of that section, no such subsidiary legislation shall be amended in any way, or revoked, nor shall any resolution be passed or any proceedings taken thereunder or in pursuance thereof for the purpose of imposing, altering or rescinding any fee, charge or pecuniary obligation, unless such amendment or revocation or the intent of such resolution or proceeding is effected by means of by-laws made under and in accordance with section **122**.

(Inserted by Act 26 of 1980, s. 41.)

Controlled by Ministry of Housing and Urban Affairs

Subsidiary Legislation

CHAPTER 125

LOCAL GOVERNMENT

PART I—SUBSIDIARY LEGISLATION OF GENERAL APPLICATION

- Section **9** —Number of Town Councillors Order
- Section **13** —Local Government (Elections) Regulations
- Section **78** —Overdue Rates (Variation of Rate of Interest) Order
- Section **123** —Local Government (Administrators) Regulations
Local Government (Inquiries) Regulations
Stopping Up of Streets (Prescribed Notices)
Regulations
Streets (Removal of Encroachment or Obstruction)
(Prescribed Order) Regulations

SECTION 9—NUMBER OF TOWN COUNCILLORS ORDER

Local Government Notices Nos. 7 of 1972, 34 of 1973, 40 of 1973

The number of members of the town councils named in the Schedule and, where the towns are divided into wards, the number of members for each ward shall, with effect from the next general elections to such councils, be as specified in the Schedule.

SCHEDULE

Ba Town Council—15 members:—
(Central Ward—3 members
Namosau Ward—3 members
Varadoli Ward—3 members
Rarawai Ward—3 members
Yalalevu Ward—3 members).

Labasa Town Council—12 members:—
(Nasea Ward—4 members
Nasekula Ward—4 members
Qawa Ward—4 members).

Lautoka City Council—12 members:—
(Each ward—3 members).

Levuka Town Council—9 members.

Nausori Town Council—10 members:—
(Nausori Ward—6 members
Davuilevu Ward—4 members)

Savusavu Town Council—9 members.

Sigatoka Town Council—10 members:—
(Vunasalua Ward—5 members
Lawaqa Ward—3 members
Laselase Ward—2 members).

Suva City Council—20 members:—
(Each ward—5 members).

SECTION 13—LOCAL GOVERNMENT (ELECTIONS) REGULATIONS

TABLE OF PROVISIONS

REGULATION

1. Short title
2. Membership
3. Resignation
4. Election of councillors
5. Writ of election
6. Registration officers

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*Legal Notices Nos. 41 of 1972, 52 of 1972, 83 of 1972,
Local Government Notice No. 8 of 1972,
Legal Notices Nos. 147 of 1976, 92 of 1982*

Short title

1. These Regulations may be cited as the Local Government (Elections) Regulations.

Membership

2. The membership of a council shall be such number of councillors as the Electoral Commission may from time to time prescribe after consultation with the Minister in accordance with the provisions of these Regulations.

Resignation

3. A councillor may at any time resign his seat by notice in writing addressed to the town clerk and shall resign his seat if he ceases to be resident in the municipality or if he is not qualified under the provisions of subsection (2) of section **10** of the Act.

Election of councillors

4.—(1) For the purpose of the election of members of a council where a municipality is not divided into wards the members to be elected shall be returned in respect of the municipality as a whole.

(2) Where a municipality is divided into wards, the number of councillors to be returned in respect of each ward shall be as may be prescribed by the Electoral Commission.

Writ of election

5.—(1) For every general election of members of a council the Electoral Commission and for every election of a member to fill a vacancy in a council, the Mayor shall issue writs of election to the proper returning officers.

(2) Each writ shall state—

(a) the date on or before which it is returnable to the Electoral Commission or the mayor, as the case may be;

(b) the date on, and the place at, which the returning officer shall receive nominations of candidates for elections;

(c) the date on which the poll will be taken in case the election is contested.

Registration officers

6.—(1) The Electoral Commission shall appoint a registration officer for the municipality, or for such ward or wards thereof as may be necessary.

(2) Each registration officer shall in accordance with the procedure set out in the First Schedule, prepare and revise as may be necessary a register of electors (hereinafter referred to as the electoral roll) for the municipality, the ward or wards for which he has been appointed.

Nominations

7.—(1) Every candidate for election as a councillor for any council or ward shall be nominated by being proposed by not less than six and not more than eight persons. The proposers shall be persons whose names appear on the electoral roll for the municipality or ward for which the candidate is nominated.

(2) No person shall be nominated as a candidate unless his name appears on the electoral roll for the municipality for the council of which election is sought.

By-elections and filling of vacancies

8.—(1) Subject to the provisions of paragraph (2), whenever a vacancy occurs in the membership of a council whether arising from the death, resignation, or ceasing to hold office of any councillor or as a result of any increase in the number of councillors, the mayor, pursuant to a resolution of such council, shall issue a writ directing that a councillor be elected in the existing vacancy to hold office, subject to the other provisions of these Regulations, until the dissolution of the council:

Provided that no writ shall be issued by the mayor unless a period of at least six months remains before the next general election to such council.

(2) In the event of the Minister taking action under the provisions of section **131** of the Act, the Electoral Commission may, in consultation with the Minister, issue a writ directing that councillors be elected in the same way as if the council were a newly constituted council.

Election procedure

9. The election of councillors shall be by secret ballot and in accordance with the procedure set out in the Second Schedule.

Election offences and petitions

10. Unless otherwise specifically provided in these Regulations, the provisions of the law for the time being in force relating to offences in connection with the conduct of elections to the House of Representatives and in connection with election petitions shall apply *mutatis mutandis* to elections to a council under the provisions of these Regulations.

Persons registered under section 11 (4) (b) of the Act

11. Any person registered as an elector under paragraph (b) of subsection (4) of section **11** of the Act shall cease to be such an elector for the municipality or ward in which he is so registered if the body corporate or trustee of which he is a nominee ceases to be an occupier of land in the municipality concerned.

FIRST SCHEDULE

(Regulation 6)

RULES FOR THE PREPARATION OF ELECTORAL ROLLS

Notice calling for applications to register

1. Once in each year and at such other times as he may consider necessary, the registration officer shall issue a notice in the form approved by the Electoral Commission calling upon every person qualified to be registered as an elector to apply during the period specified in such notice to such registration officer for his name to be entered on the electoral roll for the municipality or ward in which he is entitled to be registered.

(Amended by Legal Notice 52 of 1972.)

Applications

2. Every application for registration as an elector shall be in the form approved by the Electoral Commission and shall be witnessed by and the declaration made before a person appointed by the registration officer for the purpose, and shall be delivered to the registration officer not later than the date specified in the notice issued under the provisions of rule 1.

(Amended by Legal Notice 52 of 1972.)

Penalty

3. Any person who wilfully makes any false statement or declaration in connection with an application for registration as an elector shall be guilty of an offence and liable on conviction to a fine not exceeding \$100 or to imprisonment not exceeding six months or to both such fine and imprisonment.

Division of electoral rolls

4. Each electoral roll shall contain the names of electors arranged alphabetically in order.

(Amended by Local Government Notice 8 of 1972.)

No person to apply to register more than once

5. No person may apply to be registered as an elector in any ward in which he is already registered as an elector and any person contravening the provisions of this rule, shall, unless he has withdrawn his previous application, be guilty of an offence and on conviction shall be liable to a fine not exceeding \$100 or to imprisonment not exceeding six months or to both such fine and imprisonment.

(Amended by Legal Notice 83 of 1972.)

Inquiries by registration officer

6. For the purpose of satisfying himself as to the qualifications of any applicant for registration as an elector, a registration officer may make such inquiries as he may deem necessary.

Additional powers of registration officer

6A. Without prejudice to the other provisions of this Schedule, the registration officer may, at any time before making the electoral roll available for inspection in terms of rule 7, place on the

roll the names of any persons who appear qualified to be registered, pursuant to information received from such sources as the Supervisor of Elections may from time to time approve.

(Inserted by Legal Notice 92 of 1982.)

Objections

7.—(1) As soon as possible after the expiry of the time allowed for receiving applications to register as electors, the registration officer shall give notice in the Gazette and in a newspaper published and circulating in Fiji that the electoral roll or a copy thereof is open to inspection at all reasonable hours at the office of the registration officer and such other places as may be specified in such notice.

(2) Within fourteen days after the publication of the notice in the Gazette under the provisions of paragraph (1) any person whose name appears on an electoral roll may object to another person's name appearing on the same electoral roll. Any such objection shall be in writing and must be received by the registration officer of the municipality or the ward within the same period as is allowed for such objections.

(3) On receiving such objection the registration officer may make such inquiries as he considers advisable.

(4) If the registration officer finds that there is no merit in such objection or that it is frivolous, he shall dismiss the objection and shall notify the person who lodged the objection.

(5) If the objection is not dismissed as provided in paragraph (4), the registration officer shall send a notice by hand or by registered post requiring the person against whom the objection is lodged to answer to the objection and shall state the time within which such person must answer to the objection either in person or in writing. If such person does not answer the objection within the time allowed, the registration officer shall proceed to deal with the objection and may either dismiss or sustain such objection.

(Amended by Legal Notice 147 of 1976.)

(6) In every case in which an objection is sustained, the registration officer shall notify the elector concerned and shall thereafter remove his name from the electoral roll. In every case in which the objection is dismissed, the registration officer shall notify the objector and the elector concerned.

Settling the objections and publication of electoral roll

8. Each registration officer shall settle all such objections within fourteen days of the expiry of the time provided for lodging objections and shall thereafter proceed to have the names, addresses and occupations of all qualified electors published, giving each elector a serial number.

Revision of electoral roll

9.—(1) A fresh electoral roll shall be prepared in every third year for the purposes of holding a

general election of councillors in each municipality.

(2) The electoral rolls shall be revised fully at such times as the registration officer may deem necessary but at least once in every year.

Notice of revision

10. Whenever the electoral rolls are to be revised, the registration officer shall publish a notice to that effect in the Gazette and in a newspaper published and circulating in Fiji and shall call upon all persons duly qualified to apply for registration, or in the case of persons already on the electoral rolls who claim to be qualified, to apply to have their names retained on such a roll.

Preparing revised electoral rolls

11. In preparing revised electoral rolls the preceding rules shall *mutatis mutandis* apply.

Transfers

12. If a municipality is divided into wards any elector who by reason of change of residence has lived in any other ward since the last electoral roll was published may apply in the form approved by the Electoral Commission to the registration officer of such ward to have his name transferred to the ward in which he then resides.

(Amended by Legal Notice 52 of 1972.)

SECOND SCHEDULE

RULES FOR THE ELECTION OF MEMBERS OF A COUNCIL

PART I—PRELIMINARY

Returning officers

1.—(1) The Electoral Commission shall appoint a returning officer for each municipality and the returning officer shall appoint such assistant returning officers as may be necessary to perform the duties of a returning officer under the provisions of these Rules.

(2) A person who is a candidate for the office of councillor shall not be appointed as returning officer, presiding officer, poll clerk or scrutineer and if such person so appointed becomes a candidate for such office, he shall forthwith vacate such appointment.

Notice of election

2. Forthwith upon receipt of a writ of election, the returning officer shall publish a notice in the form approved by the Electoral Commission of the day, time and place named for the nomination

of candidates and such notice shall be publicly exhibited in all council offices and in such other public places in the municipality as the returning officer considers expedient.

(Amended by Legal Notice 52 of 1972.)

Nominations

3. Each nomination paper shall be in the form approved by the Electoral Commission, shall be accompanied by a deposit of \$20 and shall be signed by the candidate and each of his proposers.

(Amended by Legal Notice 52 of 1972.)

Supply of nomination papers

4. The returning officer shall, at any time not more than three days before the date fixed for nominations and before the hour of 12 noon on nomination day, supply a nomination paper to any registered elector who applies for one.

Delivery of nomination paper

5. Every nomination paper signed in the required manner and accompanied by the deposit prescribed under rule 3 shall be delivered to the returning officer by the candidate or by one of his proposers between the hours and at the place appointed for the nomination of candidates.

Persons entitled to attend election proceedings

6. On the day appointed for the nomination of a candidate for any municipality or ward, every candidate and one of his proposers and one other person selected by the candidate, and no persons other than the aforesaid, shall, except for the purpose of assisting the returning officer, be entitled to attend the proceedings during the time appointed for nomination.

Examination of nomination papers

7. The returning officer shall permit the candidates and one proposer selected by each candidate, to examine the nomination papers of candidates which have been received for the municipality or ward concerned.

Description of candidates in nomination papers

8.—(1) Each candidate shall be described in the nomination paper in such a manner as, in the opinion of the returning officer, is calculated sufficiently to identify such candidate.

(2) No objection to a nomination paper on the ground that the description of the candidate therein is insufficient or that the nomination paper is not in accordance with the provisions of these Rules shall be allowed or deemed to be valid, unless such objection is made by the returning officer or by some other person within one hour after the time of delivery of the nomination paper.

Where candidates are unopposed

9. If at the expiry of the time provided for the delivery of nomination papers, candidates not exceeding the number to be elected for the municipality or ward are nominated, the returning officer shall forthwith publicly declare such candidates to be elected, and shall endorse the writ of election and return it to the Electoral Commission which shall cause a notification of such declaration to be published in the Gazette and in such other manner as it considers necessary.

Withdrawal of candidate

10. A candidate may, not later than twenty-four hours after the closing of the nominations, withdraw from his candidature by giving a notice signed by him to that effect to the returning officer.

Where candidates are opposed

11. If more candidates than the number to be elected are duly nominated for any municipality or ward the returning officer shall adjourn the election for the purpose of taking a poll.

Notice that poll will be taken

12. Where a poll is required to be taken the returning officer shall cause to be published in the Gazette and in a newspaper published and circulating in Fiji a notice specifying—

- (a) the municipality or ward for which a poll will be taken;
- (b) the date or dates on which and the times during which the poll will be taken;
- (c) the names of the candidates as described in their respective nomination papers; and
- (d) the places at which a poll will be taken.

Symbols

13. Forthwith after the date of closing of the nominations, the returning officer shall, at his discretion and in such a manner as to avoid any likelihood of confusion, allot each candidate a symbol and shall advise each candidate by registered post of the symbol allotted to him and shall publish a list of the candidates and their respective symbols in the Gazette and in a newspaper published and circulating in Fiji.

(Inserted by Legal Notice 52 of 1972)

Death of candidate

14. If any candidate shall die after the acceptance of his nomination by the returning officer and before the result of the poll has been ascertained, the Supervisor of Elections, or, in the case of a by-election, the Mayor shall upon being satisfied of the fact of such death countermand the poll

and all proceedings with reference to the election shall be recommenced:

Provided that no new nomination shall be required in respect of a living candidate who had been duly nominated at the time of the countermand of the poll.

PART II—THE POLL

Presiding officers

15. The returning officer shall appoint a person (in these Rules called "the presiding officer") to preside at each polling station. Such presiding officer shall be supplied with a copy of the electoral roll containing the names of electors registered in respect of his polling station.

Deputy presiding officers

16. The returning officer may appoint at each polling station one or more deputy presiding officers, one of whom, to be selected by the presiding officer, shall act as presiding officer in the event of illness or unavoidable absence of the presiding officer. A deputy presiding officer when so acting shall exercise all the powers and perform all the duties of the presiding officer under these Rules.

Restriction of voting to proper polling stations

17. No person shall be admitted to vote at any polling station except the one in respect of which he is registered.

Time for opening and closing poll

18. Unless otherwise authorised by the Supervisor of Elections the poll shall open at 7.30 a.m. and shall close at 5.30 p.m. on the same day.

Duty of presiding officers

19. The presiding officer shall keep order in his polling station, and shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except members of the Electoral Commission, the Supervisor of Elections, the returning officers, the assistant returning officers, the clerks, the candidates, one agent in respect of each candidate and the police officers, if any, on duty.

Persons not to congregate near polling booth

20.—(1) Subject to the provisions of paragraph (2), during the hours when a polling booth is open on polling day, any person who assembles or congregates in a polling booth or within 50 yards from the entrance of a polling booth shall be guilty of an offence.

(2) The provisions of this rule shall not apply to—

(a) any electors who are waiting to vote at such polling booth and who obey such instructions as may be given by the presiding officer or any police officer for the purpose of forming a queue with other electors so waiting; or

(b) any person who is lawfully remaining in, entering or leaving such booth with reasonable despatch.

Attempts to influence electors

21. During the hours that the polling booth is open on polling day, any person who, in any polling booth or within 50 yards from the entrance to a polling booth, seeks to influence any elector to vote or to refrain from voting for any candidate or unlawfully ascertains for whom any elector intends to vote or has voted, shall be guilty of an offence.

Penalty

22. Any person guilty of an offence under the provisions of either of rules 20 or 21, shall be liable on conviction to a fine not exceeding \$200 or to imprisonment not exceeding twelve months or to both such fine and imprisonment.

Form of ballot papers

23. Each ballot paper shall be capable of being folded up and shall—

(a) contain a list of the candidates as described in their respective nomination papers, arranged alphabetically in order according to the spelling of their surnames or, in the case of candidates other than those habitually using surnames, their first and other names;

(b) have a number printed on the back thereof;

(c) have attached a counterfoil on which shall be printed the same number as appears on the back of the ballot paper; and

(d) shall, so far as is possible, be in the form approved by the Electoral Commission.
(Amended by Legal Notice 52 of 1972)

Ballot boxes

24.—(1) Every ballot box shall be so constructed that the ballot papers can be inserted therein, but cannot be withdrawn therefrom, without the box being unlocked.

(2) The presiding officer shall, immediately before the commencement of the poll, show the empty unlocked ballot box to such persons, if any, as may be present in the polling station, so that they may see that it is empty. The presiding officer shall then lock the ballot box and place his seal upon it in such manner as to prevent it being opened without breaking the seal, and shall

place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

Delivering of ballot papers to electors

25.—(1) Immediately before a ballot paper is delivered to an elector it shall be marked on the back thereof with an official mark, either stamped or perforated.

(2) The serial number, name and description of the elector, as stated in the copy of the electoral roll, shall then be called out, and the serial number of such elector shall be marked on the counterfoil, and the name of the elector shall be deleted from that copy of the roll to denote that he has received a ballot paper.

(3) The presiding officer, or any person authorised by him for the purpose, may require any applicant for a ballot paper to furnish, to the satisfaction of the presiding officer or person so authorised, proof of his identity.

Manner of voting

26.—(1) The elector on receiving a ballot paper shall forthwith proceed to a place screened from observation, which shall be provided by the presiding officer.

(2) Each elector shall be entitled to vote for the same number of candidates as there are councillors to be elected in respect of the municipality or ward in which he is registered.

(3) The elector shall record his vote by making the sign of a tick () in the space provided on the ballot paper alongside the name of the candidate or candidates for whom he wishes to vote.

(4) The elector shall then fold the ballot paper so as to conceal his vote, and insert the ballot paper, so folded, into the ballot box.

(5) Each elector shall vote without undue delay, and shall quit the polling station as soon as he has inserted his ballot paper into the ballot box.

Spoilt ballot papers

27. An elector who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, on delivering to the presiding officer the ballot paper so inadvertently dealt with and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in these Rules called a "spoilt ballot paper") and the spoilt ballot paper shall be immediately cancelled by the presiding officer.

Provision where elector unable to mark ballot paper

28. If any elector states that he is unable to mark his ballot paper, the presiding officer shall if he is satisfied of such inability—

(a) himself mark the ballot paper as the elector directs, and then insert the ballot paper in the ballot box; and

(b) write in the register opposite the name of such elector a statement of the fact that the ballot paper was marked by him at the request of the elector, and the reason therefor.

Application for ballot paper in name of person who has already voted

29.—(1) If a person representing himself to be a particular elector named in the electoral roll applies for a ballot paper after another person has voted as such elector, the applicant shall, upon making and subscribing a declaration in the following form, be entitled to mark the ballot paper in the same manner as any other elector:—

"FORM OF DECLARATION

I, _____ of _____ solemnly and sincerely declare that I am the same person whose name appears as _____ No. _____ in the electoral roll in force for the ward of _____ in the municipality of _____

Witness (signed)

*Signature of Declarant,
(Presiding Officer)."*

(2) Such ballot paper (in these Rules called a "tendered ballot paper") shall be of a colour different from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the elector and his serial number in the electoral roll.

(3) The tendered ballot papers shall be set aside in a separate packet and shall not be counted by the returning officer.

(4) The name of the elector and his serial number on the roll shall be entered on a list (in these Rules called the "tendered votes list").

No communication to be made with elector in polling station

30. No person other than the returning officer, presiding officer or a deputy presiding officer shall have any communication whatsoever with an elector while such elector is in a polling station for the purpose of receiving a ballot paper and recording his vote thereon. Should any such communication take place, the presiding officer may order such person to leave the polling station.

Despatch of ballot boxes, etc. to returning officer

31. The presiding officer of each polling station shall, as soon as practicable after the close of the poll, in the presence of the agents (if any) of the candidates, make up into separate packets, seal

with his own seal and the seals of the agents of the candidates who desire to affix their seals—

- (a) the ballot box unopened, but with the key attached;
- (b) the unused and spoilt ballot papers placed together;
- (c) the marked copies of the electoral roll and the counterfoils of the ballot papers; and
- (d) the packet containing the tendered ballot papers and the tendered votes list,

and shall despatch or hand over such packets and ballot box to the returning officer.

PART III—COUNTING VOTES

Notice of time for counting votes

32.—(1) The returning officer shall make arrangements for counting the votes as soon as practicable after he has received all the ballot boxes relating to any municipality or ward, and for that purpose shall give notice in writing of the time and place at which he will begin to count the votes.

(2) Each candidate and one agent in respect of each candidate shall have the right to be present at the counting of the votes.

Counting the votes

33.—(1) The returning officer shall then mix together the whole of the ballot papers for that municipality or ward and shall then count the votes recording as he proceeds the number of votes given for each candidate. While counting the ballot papers and in counting the votes, the returning officer shall keep the ballot papers with their faces upward and take all proper precautions for preventing any person seeing the number printed on the back of such papers.

(2) The returning officer shall, so far as practicable, proceed continuously with the counting of the votes, allowing only time for refreshment.

Invalid ballot papers

34. Any ballot paper which has not on its back an official mark, or on which votes are given to more candidates than are to be elected from the municipality or ward, or on which anything, except the number on its back, is written or marked by which the vote can be identified, shall be invalid and shall not be counted.

Incorrectly marked ballot papers

35. Notwithstanding anything contained in paragraph (3) of regulation 25, a returning officer may at his discretion if satisfied that the intention of a voter is clear beyond reasonable doubt,

accept and count as valid the ballot paper of such voter.

Tendered ballot papers

36. The returning officer shall not open the sealed packet of tendered ballot papers, but shall retain the same, unless such packet is required for the purposes of an inquiry.

Finality of decision of returning officer

37. Subject to reversal on petition, the decision of the returning officer as to any question arising in respect of any ballot paper shall be final.

Declaration of poll

38. When the counting of the votes has been completed, the returning officer shall declare to be elected the required number of candidates, or where only one candidate is to be returned, the candidate, to whom the greatest number of votes has been given.

Equality of votes

39. When an equality of votes is found to exist between any candidates and an additional vote would entitle any one or more of such candidates to be declared elected, the matter shall be determined by lot in the presence of the returning officer in such manner as he shall think fit.

Disposal of ballot papers

40. The returning officer shall, upon the completion of the counting and after he has declared the result, seal up the ballot papers and all other documents relating to the election, and shall retain the same for a period of six months, and thereafter, unless otherwise directed by an order of the Electoral Commission, cause them to be destroyed.

Refund of deposit

41. The returning officer shall as soon as may be convenient to him refund to each candidate the deposit of \$20 made in accordance with the provisions of rule 3:

Provided that should any unsuccessful candidate fail to obtain one-tenth of the total number of valid votes polled for the municipality or ward for which he was a candidate, such deposit shall be forfeited to the municipal fund.

Publication of result

42. The returning officer shall as soon as practicable—

(a) publicly declare the name or names of the elected candidate or candidates and of the total number of votes given for each candidate;

(b) endorse the name or names of the elected candidate or candidates on the writ of election;

(c) return the writ of election to the Electoral Commission or the Mayor, as the case may be;

(d) publish in the Gazette the name or names of the elected candidate or candidates.

Election not to be held invalid for certain irregularities

43. No election shall be questioned or deemed to be invalid by reason only of a failure to comply with the provisions of these Rules, or of any mistake in the use of any of the forms prescribed or of any defect or invalidity in the appointment of any election officer if the election was held in accordance with the principles laid down in these Rules and if such failure, mistake, defect, or invalidity did not materially affect the result of the election.

SECTION 78—OVERDUE RATES (VARIATION OF RATE OF INTEREST) ORDER

TABLE OF PROVISIONS

REGULATION

1. Short title
2. Variation of rate of interest

Legal Notice No. 82 of 1982

Short title

1. This Order may be cited as the Overdue Rates (Variation of Rate of Interest) Order.

Variation of rate of interest

2. The rate at which overdue rates shall bear interest is varied to a rate of 11 per cent per annum.

SECTION 123—LOCAL GOVERNMENT (ADMINISTRATORS) REGULATIONS

TABLE OF PROVISIONS

REGULATION

1. Short title
2. Rights, functions and duties of administrator
3. Directions
4. Remuneration

Legal Notice No. 157 of 1977

Short title

- 1.—(1) These Regulations may be cited as the Local Government (Administrators) Regulations.
- (2) These Regulations shall apply to any administrator appointed by order of the Minister in the exercise of his powers under section **131A** of the Act.

Rights, functions and duties of administrator

- 2.—(1) Subject to regulation 3, an administrator shall be deemed to be the duly constituted council of the municipality and shall have, perform and discharge all the rights, privileges, powers, duties and functions vested in or conferred or imposed on the council, the mayor and any officer of the council by the Act or by any other written law.
- (2) Where two or more persons are appointed to be administrators the Minister shall in the order making the appointment designate one of such administrators to be the chief administrator and the administrator so designated shall be deemed for the purposes of the Act and any other written law to be the mayor of the municipality.

Directions

3. In the exercise of his powers, duties and functions under these Regulations an administrator shall act in accordance with any general or special directions issued by the Minister.

Remuneration

- 4.—(1) An administrator shall be entitled to receive such remuneration as the Minister shall from time to time determine.
- (2) The remuneration of an administrator shall be met from the municipal fund of the municipality.
- (3) No remuneration shall be payable to an administrator who is a public officer.

SECTION **123**—LOCAL GOVERNMENT (INQUIRIES) REGULATIONS

TABLE OF PROVISIONS

REGULATION

1. Short title and application
2. Interpretation
3. Committee of inquiry
4. Representation of council
5. Conduct of hearing
6. Proceedings of committee privileged
7. Protection of committee
8. Power to require attendance of witnesses, etc.
9. Attempting to influence committee
10. Giving false information to committee
11. Interpretation of regulations 9 and 10
12. Divulging official information
13. Submission of report

Legal Notice No. 95 of 1977

Short title and application

- 1.—(1) These Regulations may be cited as the Local Government (Inquiries) Regulations.
- (2) These Regulations shall apply to any inquiry instituted by the Minister in the exercise of his powers under section **130** or section **131** of the Act.

Interpretation

2. In these Regulations, unless the context otherwise requires—

"committee" means a committee of inquiry established under the provisions of regulation 3;

"Secretary" means the Secretary to a committee.

Committee of inquiry

- 3.—(1) For the purposes of an inquiry the Minister may appoint a committee which shall consist of not less than two but not more than five members, one of whom shall be nominated by the Minister as chairman.
- (2) The Minister may appoint a suitable person to be the Secretary to a committee.
- (3) Subject to the provisions of these Regulations a committee may regulate its own procedure.

Representation of council

4.—(1) A council which is the subject of an inquiry shall be entitled to be heard at the inquiry and for that purpose may be represented by any member or officer of the council or by a barrister and solicitor.

(2) If witnesses are examined by the committee they may be cross-examined on behalf of the council.

(3) No documentary evidence shall be used against a council at an inquiry unless it has been previously supplied with a copy thereof or given access thereto.

Conduct of hearing

5.—(1) An inquiry by a committee may be held either in public or in camera as the committee considers necessary or desirable in the public interest and to ensure the proper discharge of its functions under these Regulations.

(2) If any person who is to give evidence at any such inquiry held in public so requests at the inquiry or by a notice in writing served on the Secretary before the date of the inquiry, the public shall be excluded from the inquiry while that person gives his evidence.

Proceedings of committee privileged

6. Any report, statement or other communication or record of any meeting, inquiry or proceedings which a committee may make in exercise of its functions or any member may make in performance of his duties, shall be privileged in that its production may not be compelled in any legal proceedings unless the chairman of the committee certifies that such production is not against the public interest.

Protection of committee

7. No member of a committee shall be liable to any action or suit for any act done or omitted to be done in the *bona fide* execution of his duties under these Regulations.

Power to require attendance of witnesses, etc.

8. For the purposes of carrying out its powers, duties and functions under these Regulations a committee shall have the same powers and authority to summon witnesses and to admit and receive evidence as are conferred on the commissioners of a Commission of Inquiry by section 9 of the Commissions of Inquiry Act and the provisions of sections 14 and 17 of that Act shall apply *mutatis mutandis* in relation to the powers and authority vested in a committee under this regulation.

(Cap. 47.)

Attempting to influence committee

9. Any person who directly or indirectly, other than in the course of his duty, by himself or by any other person in any manner whatsoever attempts to influence a committee in the proper exercise of its functions or duties shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100, or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

Giving false information to committee

10. Any person who in connection with the exercise by a committee of its functions or duties wilfully gives to a committee any information which he knows to be false or does not believe to be true, or which he knows to be false by reason of the omission of any material particular, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding \$200 or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Interpretation of regulations 9 and 10

11. For the purpose of regulations 9 and 10 the term "committee" shall include a committee, any member of a committee, the Secretary or any person or body of persons appointed to assist a committee in the exercise of its functions or duties.

Divulging official information

12.—(1) No member of a committee, nor the Secretary nor any other person shall, without the written permission of the Minister, publish or disclose to any person otherwise than in exercise of his official functions the contents of any document, communication or information whatsoever relating to or connected with the functions of a committee which has come to his knowledge in the course of his duties.

(2) Any person who knowingly acts in contravention of the provisions of this regulation shall be guilty of an offence and on conviction shall be liable to a fine not exceeding \$200, or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Submission of report

13. As soon as practicable after the conclusion of an inquiry, a committee shall submit a written report of its findings to the Minister.

SECTION 123—STOPPING UP OF STREETS (PRESCRIBED NOTICES) REGULATIONS

TABLE OF PROVISIONS

REGULATION

1. Short title
2. Notification of proposal to stop up street
3. Notification of stopping up of street
4. Application in relation to portions of street

Schedule—Forms

Legal Notice No. 93 of 1981

Short title

1. These Regulations may be cited as the Stopping Up of Streets (Prescribed Notices) Regulations.

Notification of proposal to stop up street

2. Where a council proposes to stop up a street and declare it no longer to be a street, in exercise of the powers conferred upon the council by subsection (1) of section **109** of the Act, the council shall, at least sixty days before the date on which the council's proposal is to take effect, cause a notice of its proposal in the form set out in Part I of the Schedule—

(a) to be published in the Gazette and in a newspaper published and circulating in Fiji;

(b) to be displayed in a prominent position at or near the entrance to the street from any other street;

(c) to be served-

(i) on each of the owners and occupiers of any land adjoining the street; and

(ii) on any person authorised by any enactment to carry on any undertaking of public utility and having any apparatus (including any structure constructed for the lodging therein of apparatus) under, in, upon, over, along or across the street; and

(d) to be furnished, together with a copy of the plan referred to in the notice, to the Permanent Secretary for Urban Development, Housing and Social Welfare, the Commissioner of Police and the Director of Town and Country Planning.

Notification of stopping up of street

3. Where a council has stopped up a street and declared it no longer to be a street, in exercise of its powers as aforesaid, the council shall cause a notice thereof in the form set out in Part II of

the Schedule to be published, displayed and served as mentioned in regulation 2 and to be furnished, together with a copy of the plan referred to in the notice, as mentioned in that regulation.

Application in relation to portions of street

4. The provisions of regulations 2 and 3 shall apply in relation to any portion of a street as they apply to a street, subject to such modification as may be required.

SCHEDULE
(Regulations 2 and 3)

FORMS OF NOTICE

PART I

Form of notice of proposal to stop up street

..... COUNCIL

NOTICE OF PROPOSAL TO STOP UP STREET

NOTICE IS HEREBY GIVEN that the Council proposes to stop up Street leading from to , and declare that it no longer be a street, in exercise of the powers conferred on the Council by section **109**(1) of the Local Government Act.

The area of the said street is delineated and shown coloured on a plan kept at the office of the Council. Copies of the plan are available for inspection at the offices of the Council and of the Permanent Secretary for Urban Development, Housing and Social Welfare.

Any person having any objection to the Council's proposal should notify the Town Clerk thereof, in writing within the sixty days next following the date of this notice.

Dated the day of, 19.....

.....
Town Clerk

.....
Council

PART II

Form of notice of stopping up of street

..... COUNCIL

NOTICE OF STOPPING UP OF STREET

NOTICE IS HEREBY GIVEN that the Council, has stopped up Street leading from to and declared that it is to be no longer a street, in exercise of the powers conferred on the Council by section **109**(1) of the Local Government Act.

The area of the said street is delineated and shown coloured on a plan kept at the office of the Council. Copies of the plan are available for inspection at the offices of the Council and of the Permanent Secretary for Urban Development, Housing and Social Welfare.

Dated the day of, 19.....

.....
Town Clerk

.....
Council

SECTION **123**—STREETS (REMOVAL OF ENCROACHMENT OR OBSTRUCTION)
(PRESCRIBED ORDER) REGULATIONS

TABLE OF PROVISIONS

REGULATION

1. Short title
2. Form of order requiring removal of encroachment of, or obstruction of, a street

Schedule—Form

Legal Notice No. 65 of 1982

Short title

1. These Regulations may be cited as the Streets (Removal of Encroachment or Obstruction) (Prescribed Order) Regulations.

Form of order requiring removal of encroachment on, or obstruction of, a street

2. An order directed to and served upon any person in pursuance of subsection (2) of section **115** of the Act requiring that person to remove anything encroaching on, or obstructing, a street shall be in the form set out in the Schedule.

SCHEDULE
(Regulation 2)

Form of order requiring removal of encroachment on, or obstruction of, a street

..... COUNCIL

To:

of

.....

.....

TAKE NOTICE that you are hereby required by the council, acting in pursuance of section **115(2)** of the Local Government Act, to remove, within the period ofdays commencing on the date of this order, from Street, being an encroachment or obstruction in contravention of section **115(1)** of that Act.

AND FURTHER TAKE NOTICE that if you fail to comply with this order, the council may, under section **115(1)** of that Act, cause the encroachment or obstruction to be removed and may recover from you the costs and expenses incurred in such removal and all costs and expenses incurred in repairing or making good any injury done to the said street by reason of such encroachment or obstruction.

Dated the day of , 19 .

.....
Town Clerk

.....
Council

LOCAL GOVERNMENT

PART II—SUBSIDIARY LEGISLATION OF LOCAL APPLICATION

BA

SECTION 5—TOWN OF BA

*Proclamations Nos. 6 of 1939, 2 of 1941, 4 of 1960, 25 of 1963,
Local Government Notices Nos. 11 of 1968, 17 of 1973*

The area defined in the Schedule shall be a town for the purposes of the Local Government Act and shall be known as the town of Ba.

SCHEDULE

(Substituted by Local Government Notice 11 of 1968.)

WESTERN PORTION

Commencing at Vadraulilai Trigonometrical Station, thence generally north-easterly following the northern boundary of Deposited Plan No. 2590 western, northern and eastern boundaries of lot 1 on Deposited Plan No. 2378, the northern boundary of Deposited Plan No. 2590 and the production thereof to the east side of Kings Road; thence southerly by the east side of the said road to the north-western corner of lot 5 on Deposited Plan No. 2039; thence easterly to the north-eastern corner of the said lot; thence southerly following the eastern boundaries of lots 5 and 6 on Deposited Plan No. 2039 to the south-eastern corner of lot 6 of the said plan; thence southerly and running parallel to Kings Road to a point being 2½ chains north of Nailega Road; thence easterly and running parallel to the said road to the east side of Yakete Street; thence southerly, following the eastern side of the said street to the south-western corner of lot 14, on Deposited Plan No. 211; thence generally south-easterly following the southern boundary of lot 14 and the western and southern boundaries of lot 19 of the said Deposited Plan to the north-eastern corner of lot 21 of the said Deposited Plan; thence southerly by the eastern boundary of the said lot and the southerly production thereof of the southern side of Kings Road.

Thence westerly following the southern side of the said road to the north-western corner of lot 1 on Deposited Plan No. 531; thence southerly by the western boundary of the said lot to the northern boundary of lot 26 on Deposited Plan No. 211; thence westerly by the northern boundary of the said lot to the east side of Moto Road; thence southerly by the east side of the said road to the left bank of Namosau Creek; thence upstream to the south-eastern corner of lot 1 on Deposited Plan No. 1435; thence generally northerly by the east side of the said lot to the north-western boundary of lot 4 on Deposited Plan No. 2057; thence generally north-westerly and running parallel to the Kings Road to the right bank of Namosau Creek; thence downstream by the bank of the said creek to the north-western corner of lot 1 on Deposited Plan No. 415; thence generally southerly by the western boundaries of lot 1 on Deposited Plan No. 415 and lot 1 on Deposited Plan No. 769 to the east side of Namosau Road.

Thence northerly by the east side of the said road to a point directly opposite the south eastern corner of lot 1 on plan Ba 554; thence generally westerly, crossing the Namosau Road and following the southern boundary of lot 1 on Plan Ba 554 to the left bank of Natuyabia Creek; thence upstream by the bank of the said creek to the north-eastern corner of Plan Ba 760; thence westerly following the northern boundary of the said plan to the western side of the proposed 40 foot wide road on Tracing No. 808; thence generally northerly, following the western boundary of the said road to a point opposite the north-western corner of Plan Ba 1178; thence northerly to the south-western corner of Plan Ba 1070; thence continuing northerly to the south-eastern corner of plan Ba 2046; thence north-westerly to the south-western corner of the said plan; thence continuing north-westerly to the eastern corner of plan Ba 2024; thence following the northern boundary of the said plan to the right bank of Namosau Creek; thence downstream to a point opposite the eastern boundary of plan Ba 499; thence north-easterly, crossing the Namosau Creek and following the eastern boundaries of plan Ba 499 and Ba 1685 to the point of commencement.

And being more particularly delineated on Plan PP 55 deposited at the office of the Director of Lands, Suva, with a copy at the office of Ba Town Council.

EASTERN PORTION

(Amended by Local Government Notice 17 of 1973.)

Commencing at the right bank of Elevuka Creek, at the confluence of Ba River and Elevuka Creek, thence upstream by the said creek to the southerly production of the western boundary of lot 57 on Deposited Plan No. 2263; thence northerly crossing the said creek and following the western boundary of lot 57 of the said plan to the south side of a 10 ft. wide lane; thence easterly by the side of the said lane to the north-eastern corner of lot 41 on Deposited Plan No. 2263; thence by a line bearing 125 degrees for a distance of 3 chains approximately to the west side of Kings Road; thence north-easterly by the said side for a distance of 13½ chains approximately; thence by a bearing of 108 degrees 30 minutes and for a distance of 15 chains approximately to the north-western corner of lot 2 on Deposited Plan No. 2525; thence easterly following the northern boundary of the said plan to the north-western corner of lot 1 on Deposited Plan No. 2901; thence generally south-easterly following the northern boundary of the said lot to the western boundary of Plan Ba 67; thence by a bearing of 105 degrees and for a distance of 5.2 chains approximately; thence by a bearing of 166 degrees 30 minutes and for a distance of 6.3 chains approximately; thence by a bearing of 196 degrees and for a distance of 23 chains approximately to the northern side of Veisaru Road.

Thence by a bearing of 186 degrees and for a distance of 17 chains approximately; thence by a bearing of 280 degrees and for a distance of 21 chains approximately to the south-western corner of lot 3 on Deposited Plan No. 1968; thence by a bearing of 211 degrees for a distance of 8 chains approximately to the left bank of Elevuka Creek; thence downstream by the bank of the said creek to the southern corner of lot 4 on Deposited Plan No. 3002; thence by a bearing of 286 degrees 30 minutes for a distance of 10 chains approximately to the east side of S.P.S.M.'s railway reserve; thence southerly following the said side of the railway reserve to its junction with Koronubu Road.

Thence generally south-easterly following the northern boundary of Koronubu Road for a distance of 3 chains approximately; thence by a line bearing 217 degrees for a distance of 4 chains approximately to Rarawai Creek; thence upstream by the said creek to the eastern boundary of lot 1 on Deposited Plan No. 2768; thence generally south-easterly following the eastern boundary of the said lot to the southern end of boundary line bearing 124 degrees 59 minutes for a distance of 727.6 links; thence by a bearing of 50 degrees 54 minutes for a distance of 661.1 links; thence by a bearing of 140 degrees 54 minutes for a distance of 270.3 links; thence generally south-easterly and north-westerly following the eastern and southern boundaries of lot 1 on Deposited Plan No. 2768 to the right bank of Ba River; thence upstream by the bank of the said river to the point of commencement.

And being more particularly delineated on plan PP.55 deposited at the office of the Director of Lands, Suva, with a copy at the office of the Ba Town Council.

Together with all that area of land in the tikina of Ba in the Province of Ba situated on the left bank of the Ba River, extending from the left bank of Namosau Creek on the south to a distance of approximately 22 chains from the Ba Bridge on the north, and being one chain wide except near the Kings Road where the land extends from the river bank to the present town boundaries.

The above described area is more particularly shown by a yellow wash on plan P.P.110 kept at the office of the Permanent Secretary for Lands and Mineral Resources in Suva and a copy available for inspection at the office of the Ba Town Council.

SECTION 5—BA WARDS ORDER

TABLE OF PROVISIONS

PARAGRAPH

1. Short title
2. Division of Ba into wards
3. Boundaries of Wards

Local Government Notices Nos. 12 of 1968, 29 of 1973

Short title

1. This Order may be cited as the Ba Wards Order.

Division of Ba into wards

2. The town of Ba is hereby divided into five wards, designated as the Varodoli Ward, the Central Ward, the Rarawai Ward, the Yalalevu Ward and the Namosau Ward.

Boundaries of Wards

3. The boundaries of the said wards shall be as follows:—

(a) Varadoli Ward—Comprising all that portion of Ba situated on the eastern side of the Ba River and to the east of Kings Road, Nukudrala Street and Koronubu Street and its prolongation south-ward to the southern boundary of the town;

(b) Central Ward—Comprising all that portion of the town of Ba, situated on the eastern side of the Ba River and to the west of Nukudrala Street and Koronubu Street and its prolongation south-ward to the southern boundary of the town, and to the north of a line being 4 chains south of Kings Road and running parallel to the said Kings Road;

(c) Rarawai Ward—Comprising all that portion of the town of Ba situated on the eastern side of the Ba River and to the south of a line being 4 chains south of the Kings Road and running parallel to the said Kings Road;

(d) Yalalevu Ward—Comprising all that portion of the town of Ba situated on the western side of the Ba River and to the north of Namosau Creek;

(e) Namosau Ward—Comprising all that portion of the town of Ba situated on the western side of the Ba River and the south of Namosau Creek.

SECTION 9—NUMBER OF TOWN COUNCILLORS ORDER

Local Government Notices Nos. 7 of 1972, 34 of 1973, 40 of 1973

The number of members of the town councils named in the Schedule and, where the towns are divided into wards, the number of members for each ward shall, with effect from the next general elections to such councils, be as specified in the Schedule.

SCHEDULE

Ba Town Council—15 members, as follows:—

Central Ward—3 members
Namosau Ward—3 members
Varadoli Ward—3 members
Rarawai Ward—3 members
Yalalevu Ward—3 members.

SECTION 122—BA (HAWKERS) BY-LAWS

TABLE OF PROVISIONS

BY-LAW

1. Short title
2. Interpretation
3. Hawkers to be licensed
4. Sale of pigeons and wild birds prohibited
5. Application for licence
6. Council may refuse, cancel or suspend licence
7. Issue of licence
8. Effect of licence
9. Duration of licence
10. Duties and obligations of hawkers
11. Penalty

First Schedule—Application for Hawker's Licence

Second Schedule—Hawker's Licence

Local Government Notice No. 6 of 1975, Legal Notice No. 106 of 1981

Short title

1. These By-laws may be cited as the Ba (Hawkers) By-laws.

Interpretation

2. In these By-laws, unless the context otherwise requires—

"Council" means the Ba Town Council;

"goods" include beads and native curios and articles of food or produce grown in Fiji;

"hawker" means a person who by going from place to place sells goods carried on his person or from a handcart, box, basket, bag, tray and the like, or from a boat, horse-drawn vehicle, bicycle, motor vehicle or any other type of conveyance;

"officer" means the Town Clerk and also any person acting as such for the time being, any sanitary inspector appointed by the Council, or any officer or servant of the Council in the performance of any duty under these By-laws;

"Town Clerk" means the Town Clerk appointed by the Council.

Hawkers to be licensed

3. No person shall within the town follow the calling of a hawker or hawk for sale any produce, livestock, or other goods whatsoever unless he shall be the holder in his own name of an unexpired hawker's licence issued by the Council.

Sale of pigeons and wild birds prohibited

4. No licence issued under these By-laws shall permit the sale of pigeons and/or wild birds.

Application for licence

5. Every person desirous of obtaining a hawker's licence shall make application, in person, in writing, to the Town Clerk in the form in the First Schedule.

Council may refuse, cancel or suspend licence

6. The Council may refuse to grant a hawker's licence to any person and may suspend or cancel the licence of any hawker for any good cause after giving the holder thereof due opportunity of being heard.

Issue of licence

7. The Town Clerk, upon receiving an application mentioned in by-law 5 and subject to such directions as he may receive from the Council, may issue to the applicant, without payment of fee, a licence in the form set out in the Second Schedule.

Effect of licence

8. A hawker's licence issued by the Council under by-law 7 shall authorise only the hawking and sale of such goods as are endorsed on the licence and in such area as is prescribed by the licence.

Duration of licence

9. A hawker's licence under these By-laws shall be issued for a period of one year.

Duties and obligations of hawkers

10. A licensed hawker shall—

(a) at all times when hawking carry his licence with him and shall on demand produce the same to any police officer or officer of the Council;

(b) if by remaining stationary in any road, street or place, he shall cause any obstruction to pedestrian or other traffic, forthwith move away from such road, street or place in such

manner as effectively to remove such obstruction;

(c) when using a hand-cart or vehicle keep such hand-cart or vehicle as near as practicable to the left-hand side of the road or street;

(d) keep his boat, basket, tray, utensils and cart or vehicle clean to the satisfaction of any sanitary inspector appointed by the Council;

(e) prevent any goods intended for human consumption from coming into contact with or being exposed to any dirt, filth, contagion, infection, flies, or anything likely to render such goods injurious to health;

(f) cease to hawk any goods intended for human consumption while he is suffering from any infection, contagious or offensive disease or complaint.

Penalty

11. Any person contravening or failing to comply with these By-laws, shall be liable on conviction to a fine not exceeding \$100.

FIRST SCHEDULE
(Regulation 5)

BA TOWN COUNCIL

APPLICATION FOR HAWKER'S LICENCE UNDER BA (HAWKERS) BY-LAWS

Name of Applicant:

Address:

Goods Hawked:

How Hawked:

Where Hawked:

Dated this day of, 1975:

.....
Applicant

SECOND SCHEDULE

(Regulation 7)

BA TOWN COUNCIL

HAWKER'S LICENCE

Licence No.:

Issued Under Ba (Hawkers) By-laws

Name of Licensee:

Address:

Goods Hawked:

How Hawked:

Where Hawked:

Date of Application:

Date of Issue:

Date Licence Expires:

.....
Town Clerk and Licensing Officer

SECTION 122—BA (LITTER) BY-LAWS

TABLE OF PROVISIONS

BY-LAW

1. Short title
2. Interpretation
3. Prohibition
4. Powers of authorised person
5. Provision for identity card
6. Penalties
7. Evidence in legal proceedings

Local Government Notice No. 7 of 1974

Short title

1. These By-laws may be cited as the Ba (Litter) By-laws.

Interpretation

2. In these By-laws, unless the context otherwise requires—

"abandon" includes to throw, drop, deposit, place, spill, leave, cast or otherwise part with possession;

"authorised person" means a person appointed by the Council to be an authorised person for the purpose of these By-laws or any police officer;

"Council" means the Ba Town Council;

"litter" means any matter of thing whether solid or liquid or partly solid or partly liquid, the possession of which has been abandoned by any person having the control of the same in any street or land or public place, and includes building, household, shop, garden and trade refuse or waste; human, animal, fish and vegetable refuse or waste; containers and packaging of any description, whether manufactured in whole or in part, of wood, glass, metal, paper or plastic; derelict vehicles, household, shop and factory furniture, appliances and machinery or any part thereof; timber, wood, glass, iron, concrete, sand, earth, gravel, stone and clay; or any matter or thing which causes or contributes to or tends to the defacement or defilement of any street, land or public place.

Prohibition

3. No person shall abandon or cause to be abandoned any litter in or upon any street, public place or land save under the authority of or in accordance with the requirements of any law for the time being in force.

Powers of authorised person

4. An authorised person may require the person whom he finds committing or whom he reasonably suspects to be committing or to have committed an offence against these By-laws to state his full name and usual place of residence.

Provision for identity card

5. Every authorised person, other than a police officer shall be issued with an identity card by the Council wherein shall be specified the name of the authorised person to whom it is issued and the fact that he is an authorised person for the purpose of these By-laws, and in the exercise of his powers and functions under these By-laws an authorised person shall carry an identity card and, should the circumstances require it, exhibit it for the purpose of identification.

Penalties

6. Any person who contravenes or fails to comply with the provisions of these By-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20 and to a further fine of \$2 for every day during which such contravention or non-compliance continues.

Evidence in legal proceedings

7. In any proceedings for an offence against these By-laws—

(a) the onus of proof that any litter has not been abandoned shall be on the defendant;

(b) a statement in the complaint that a place referred to therein is a street or a part of a street or a public place or open to use by the public or is a place of public resort open to use by the public as of right shall be evidence, and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

SECTION 122—BA TOWN BY-LAWS

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By-laws 5 September 1956, Local Government Notices Nos. 5 of 1968, 8 of 1968, 11 of 1969, 4 of 1972, 1 of 1973, 2 of 1975, 11 of 1976, 16 of 1976, 17 of 1976, Legal Notices Nos. 151 of 1978, 74 of 1982, 91 of 1984

PART I—PRELIMINARY

Short title

1. These By-laws may be cited as the Ba Town By-laws.

Interpretation

2. In these By-laws, unless the context otherwise requires—

"attendant" means any servant of the Council or person appointed by the Council to carry out duties in the car park;

"authorised" means duly authorised by the Council;

"book" means any book or other printed or written matter, picture, print, photograph, film, engraving, etching, map, plan, chart, record or similar contrivance for reproducing sound, music score and any article of a like nature forming part of the contents of the library;

"bus operator" includes any person, firm, company or organization which owns or operates a motor omnibus;

"bus shelter" means any shelter owned and controlled by the Council for the use of bus passengers in the town of Ba;

"bus station" means the Ba Bus Station maintained and controlled by the Council and notified as such by description published in the Gazette and in a daily newspaper

published and circulating in Fiji;

"car park" means any area designated from time to time by the Council to be used for the parking of commercial vehicles, private vehicles and taxis;

"commercial vehicle" means any motor vehicle not being a taxi used for the carriage of goods or passengers or both goods and passengers for hire or reward, or used in the course of trade or agriculture and shall include a tractor;

"Council" means the Ba Town Council;

"dance hall" means any hall, house, room, garden or other place kept or used, other than on an isolated occasion or during the course of religious festivals, for public dancing, singing, music or other public entertainment of a similar nature, but does not include any licensed hotel or licensed cinematograph theatre;

"dump" means the area of land used by the Council for the disposal of garbage;

"fish" means all edible aquatic animals and foods other than shell-fish and turtles;

"handicrafts" means mats, baskets, earthenware or wooden vessels and other articles made, ornamented, finished or adapted for sale manually in Fiji;

"library" means any public library belonging to or controlled by the Council;

"librarian" means the person appointed as such by the Council or any other person authorised in that behalf by the Council;

"loud speaker" includes a megaphone and any other device for amplifying sound;

"market" means the place established as a market in the town of Ba;

"Market Master" means the Market Master appointed by the Council and includes a deputy duly appointed by the Council;

"motor omnibus" means a public service vehicle constructed or adapted to carry more than six passengers excluding the driver;

"private vehicle" and "taxi" respectively mean any motor vehicle registered as such under the Traffic Act;

(Cap. 176.)

"offensive matter" means and includes offal, night soil, putrid meat, entrails of fish or poultry, carrion, blood, dung, manure, shells, bones, rags, fruit or vegetable refuse, soap lees, impure water and any other matter giving off an offensive odour or being in any way a nuisance or likely to be injurious to health;

"poultry" means any edible live bird;

"produce" means fish (fresh, frozen, dried or smoked), shell-fish, turtles, turtle meat, poultry, eggs, fresh fruits and vegetables, rice, split peas, pulses and any other agricultural, forest or marine product which is an article of food or drink, and includes locally grown tobacco, vegetable oils and ghee;

"public park" means any park, gardens, reserve, recreation area or sports ground vested in, controlled or maintained by the Council;

"shell-fish" means crabs, prawns, crayfish, oysters, mussels and all other edible molluscs and crustaceans;

"stall" means any place within the market where produce or handicrafts are sold or offered for sale;

"supplier" means a person who supplies produce to a miller, manufacturer or processor.
(Amended by Local Government Notices 5 of 1968, 11 of 1969, 16 of 1976, 17 of 1976; Legal Notice 151 of 1978.)

PART II—SANITATION

Clearing of scrub, brushwood or undergrowth

3.—(1) The Council or an authorised officer thereof may serve upon the owner, occupier or lessee of any land (whether built upon or not) within the town a notice requiring him to keep such land clear of all scrub, brushwood, undergrowth and garbage, and maintain such land in a sanitary condition to the satisfaction of the Council or of an authorised officer thereof.

(2) Any owner, occupier or lessee of any land failing to comply with the provisions of paragraph (1) shall be guilty of an offence.

Public drains, etc.

4.—(1) No person shall throw or deposit, or cause or suffer to be thrown or deposited, any refuse, garbage or offensive matter or any other kind of matter of a type likely to cause an obstruction, into any public culvert, drain, ditch, sewer or waterway.

(2) Any person failing to comply with the provisions of paragraph (1) shall be guilty of an offence.

Private drains

5.—(1) The owner, occupier or lessee of any building, premises or land, shall construct such drains as the Council may, by notice, require for the effectual removal of all storm, sloop and

waste water from such building, premises or land.

(2) Such drains shall be properly connected to a public drain or to such other outlet approved by the Council, and shall be kept in a clean and sanitary condition.

(3) Any person failing to comply with the provisions of paragraphs (1) or (2) shall be guilty of an offence.

Council may undertake work

6. If any owner, occupier, or lessee of any building, premises or land shall fail to comply with a notice given under the provisions of by-laws 3 or 5 within such time as the Council may in such notice prescribe, the Council may undertake the work, and the cost thereof shall be a debt due to the Council and may be sued for before a court of competent jurisdiction.

Collection and disposal of garbage

7.—(1) Garbage shall be deposited only in garbage pans supplied by the occupier and approved by the Council or an authorised officer thereof and such garbage pans shall be in accordance with the requirements of Part X of the Public Health Regulations and shall be fitted with one or more handles.

(See Cap. 111.)

(2) No person, other than a servant of the Council, shall collect garbage without the permission in writing of the Council.

(3) No person, other than a servant of the Council, shall deposit or cause or permit any other person to deposit any garbage or any other refuse of any kind at the dump without the permission in writing of the Council, or an authorised officer thereof, and only at such times and places and in such a manner as the Council or an authorised officer thereof may direct.

(4) Garbage receptacles shall be placed at the side of the road taken by the collecting vehicle, or in such other places as the Council or any authorised officer thereof may permit in respect of any particular premises, in which case the owner of such premises shall provide an easy means of access thereto for removal of garbage.

(5) The occupier of any residence, shop, business premises or other building where there may be an accumulation of kitchen refuse or decomposing matter of any kind shall provide the number of garbage receptacles required by the local authority.

(6) Any person committing any breach of the provisions of this by-law shall be guilty of an offence and, in addition to any penalty to which he is liable under the provisions of by-law 87, shall remove or cause to be removed such garbage or other refuse in such a manner and within such time as the Council or an authorised officer thereof may direct:

Provided that the Council may cause the garbage or other refuse to be removed and may

recover the costs and expenses incurred in such removal from the occupier.

Latrines and privies

8.—(1) The owner of any dwelling-house, business premises, lodging house or any place where persons are accommodated or labour is employed shall construct latrines or privies of such type and number as the Council may, by notice, require.

(2) Any person failing to comply with the provisions of paragraph (1) shall be guilty of an offence.

Cleaning of streets

9.—(1) No person shall upon any street or public place throw or deposit or cause or suffer to be thrown or deposited any offensive matter, tins or refuse of any description.

(2) No person shall upon any street or in the bus station permit the leakage of oil of any description from any vehicle.

(Inserted by Local Government Notice 4 of 1972.)

(3) The occupier of any business premises shall not allow trade goods, cases, boxes, barrels or any merchandise of any description to remain on any street.

(4) No person shall permit any cattle, horse, sheep, pig or goat to graze upon any public place without the written consent of the Clerk or any person authorised by the Council.

(5) Any person failing to comply with the provisions of this by-law shall be guilty of an offence.

Obstruction, etc., an offence

10. Any person who obstructs, molests or hinders any officer or servant of the Council in the execution of his duty or who uses violent or threatening language to or attempts in any way whatsoever to intimidate such servant or who endeavours by any bribe, threat or promise to cause any such servant to neglect or exceed his duty, shall be guilty of an offence.

PART III—PUBLIC PARKS

Exclusive user of public parks may be granted

11.—(1) Subject to the provisions of these By-laws the Council may grant permission to any sporting, social or other organization or body to have exclusive use of the whole or any part of any public park on any particular day or days for purposes approved by the Council and may give such organization or body power to levy charges for admission:

Provided that—

(a) notwithstanding the grant of any such permission, the Council may, in its absolute discretion, revoke such permission to enable the public park to be used for other purposes in connection with a special occasion;

(b) the Council may, in its absolute discretion at any time, declare any public park to be unusable, in which case the flying of a red flag and the posting of a notice declaring such park to be unusable, at the entrance to the park shall be deemed to be sufficient notice to all persons that the park is unusable.

(2) Any person using any public park for sporting, recreational or social purposes when such park has been declared to be unusable shall be guilty of an offence.

Method of application and approval

12.—(1) Subject to the provisions of paragraph (2) any application for the grant of exclusive user of any public park shall be made to the Clerk not less than fourteen days before the day, or the first of the days, when such user is required and shall be subject to approval by resolution of the Council.

(2) Where, by reason of special circumstances, it is not possible for an application to be made at least fourteen days before the user, or first user, of any park is required such application may be made to the Clerk who shall consult the Mayor, whose decision shall be deemed to be the decision of the Council and shall be reported to the Council at the next meeting thereof.

Council may retain exclusive user of any public park

13.—(1) The Council may, by resolution, retain to itself the exclusive user of the whole or any part of any public park on any special occasion.

(2) The Council may from time to time set aside any public park or any portion thereof for use as a children's playground and install therein equipment for use by children in which event the Council may prohibit the use of such equipment by persons of above such age as the Council may, by resolution, determine.

Charges may be made for admission

14. The Council may, by resolution, from time to time—

(a) make a charge to be paid by the organization or body to which permission has been granted for the exclusive user of any public park or any part thereof under the provisions of by-law 11, which charge may be a lump sum or a percentage of the gross gate receipts;
or

(b) make a charge to be paid by members of the public on any occasion when the Council retains to itself the exclusive user of any public park or any part thereof.

Gatekeeper, etc., to be employed by the Council

15.—(1) The Council shall provide a gatekeeper and such other persons as may be necessary for the purpose of controlling admission to any public park, the collection of admission charges and the sale of tickets, whenever the Council, by resolution, makes a charge based on a percentage of gross gate receipts under the provisions of paragraph (a) of by-law 14.

(2) The gatekeeper shall be responsible to the Council for certifying the gross gate receipts, and the charges referred to in paragraph (1) shall be calculated in accordance with such certificate and be deducted from such receipts. All such charges shall thereupon be paid by the gatekeeper to the Clerk.

Falling to pay charge for admission

16. Any person who shall enter or remain within the bounds of any public park or any part thereof without having paid any lawful charge made for admission thereto under the authority of these By-laws or who shall neglect or refuse to pay such charge on demand, may forthwith be removed therefrom and shall be guilty of an offence.

Fairgrounds

17.—(1) No fair, circus or amusement park run for profit shall be established at any place nor shall any equipment be installed in any fairground or amusement park run for profit except with the permission in writing of the Council and on payment of such fees as the Council may, by resolution, from time to time, prescribe, and subject to such conditions as the Council may, by resolution, impose.

(2) The Council or its officers shall at all times have access to the place prescribed and shall have the right to inspect all equipment used therein.

(3) Any person who contravenes the provisions of paragraph (1) or who fails to observe any condition imposed by the Council under such provisions shall be guilty of an offence.

Hours of entry

18.—(1) Subject to the provisions of paragraph (2), any person may enter any public park at any time.

(2) The Council may, by resolution, prescribe particular hours during which any public park, other than a reserve, shall remain closed, in which case the Council shall cause a notice to be posted or affixed in a prominent place in such park specifying details of such hours.

(3) Any person who shall enter or remain within any public park during the hours specified under the provisions of paragraph (2) without the general or specific permission of the Clerk may forthwith be removed therefrom and shall be guilty of an offence.

Public parks

19.—(1) No person other than an authorised officer or servant of the Council shall in any public park—

(a) cut, pluck, injure or destroy any turf, tree, bush, shrub, flower, plant or other thing in or upon any part thereof, or dig, cut or remove any sod, turf, loam, sand, gravel or other substance thereon or therefrom;

(b) negligently or wilfully injure, deface or remove any seat, notice, notice board, post, chair, railing, fence, barrier or other thing which may from time to time be erected or placed therein by or with the authority of the Council;

(c) post or paint any bill, placard or notice therein;

(d) climb any tree therein;

(e) wilfully obstruct any entrance, thoroughfare or walk thereof or therein;

(f) wilfully interfere with the authorised user thereof or with any game or sport permitted by the Council therein;

(g) sell or offer or expose for sale any food or other goods therein without the prior permission of the Council or an authorised officer thereof;

(h) deliver or read any public lecture, prayer, sermon or address of any kind or hold or take part in or cause any public assemblage without the prior permission of the Council, and then only at such times and places as the Council may permit;

(i) draw, take or drive any truck, car, motor-cycle, bicycle, scooter, wheelbarrow, carriage or other vehicle, other than an invalid's chair or child's perambulator or pushcart, therein without the prior permission of the Council or an authorised officer thereof;

(j) bathe, wade or wash in any pond or pool therein or wilfully or negligently foul or pollute the water of any such pond or pool, or take, injure or destroy, or attempt to take, injure or destroy, any fish in any such pond or pool;

(k) throw or deposit, or cause or suffer to be thrown or deposited, in a pavilion therein any litter, garbage or offensive matter, except in a receptacle provided by the Council for that purpose;

(l) aid in or abet any act or thing which may not be specifically mentioned in these By-laws and which may tend to the injury or disfigurement thereof or to interfere with the use and enjoyment thereof by the public for the purpose of exercise or recreation.

(2) No person shall in any public park—

(a) play at or engage in any game or exercise in such a manner as to injure any path, turf, tree, shrub, flower, plant, building or other structure or thing therein or upon any part thereof;

(b) wilfully obstruct any officer or servant of the Council in the execution of any work in connection with such public park.

(3) Any person contravening or failing to comply with any of the provisions of this by-law shall be guilty of an offence.

PART IV—BUS STATION

Management of bus station

20.—(1) The bus station shall be under the immediate management and control of the Town Clerk.

(2) The Council may appoint an attendant or attendants to assist the Town Clerk in the discharge of his functions.

(3) Subject to the overall direction of the Council, the Town Clerk shall have responsibility for the allocation to bus operators of stands in the bus station and for the erection of traffic signs therein.

(4) Any person who stops or parks a motor omnibus at a stand other than that allocated to the bus operator by the Town Clerk or who fails to comply with any direction on a traffic sign erected at the bus station shall be guilty of an offence.

(Substituted by Legal Notice 151 of 1978.)

Licence to use bus station

21. Each bus operator desiring to use the bus station shall make application in the form set out in the First Schedule, for a licence for his motor omnibus to use the bus station.

Licences

22. All licences to use the bus station shall be issued on behalf of the Council by the Clerk and in the form of licence set out in the Second Schedule and shall have effect in respect only of the motor omnibus described therein.

Fees

23.—(1) The licence fees for the use of the bus station by motor omnibuses shall be in accordance with the fees set out in the Third Schedule and shall be collected and charged in accordance with the provisions of the succeeding paragraphs of this by-law.

(2) The licence fees payable in respect of each motor omnibus using the bus station shall be charged in respect of each calendar month and in arrear.

(3) In respect of motor omnibuses, the licence fees to be charged for any such monthly period shall be computed on the total number of visits of the motor omnibus to the bus station during the month and shall be calculated from the time-table approved by the Transport Control Board in respect of the road service licence under which the motor omnibus shall have been operating during the month or from any other information which the Transport Control Board shall think fit to supply to the Clerk from its records or from any other information obtained by the Clerk under the provisions of paragraph (4).

(4) If the Clerk considers that the number of visits to the bus station of any motor omnibus cannot be satisfactorily calculated from any time-table, he may, by written notice, require the bus operator concerned to supply him with particulars of the numbers of visits to the bus station and the times thereof, of each motor omnibus operating under the operator's road service licence during the month the subject of the computation and any bus operator so required to supply such particulars shall within seven days after the receipt by him of such notice, deliver to the Clerk a written statement, signed by such operator, or under his authority, and containing a true and correct statement of the total number of visits to the bus station and the times thereof of each such motor omnibus during the said month.

(5) All licence fees payable to the Council under the provisions of these By-laws shall be recoverable by the Council as civil debts by due process of law.

Payment of fees

24. Each bus operator shall pay to the Council the licence fees payable by him within fifteen days after he has been notified of the amount thereof.

Bus station not to be used without licence

25.—(1) No bus operator shall be entitled to use the bus station for the purpose of any motor omnibus unless he holds a valid licence issued under the provisions of these By-laws in respect of such motor omnibus.

(2) No motor omnibus shall enter or use the bus station at any time unless a valid licence issued under the provisions of these By-laws is held by a bus operator in respect thereof and any person who contravenes the provisions of this paragraph shall be guilty of an offence.

(3) No bus operator shall be entitled to use the bus station while any licence fees owing by him under the provisions of these By-laws remain unpaid after the due date thereof.

Revocation of licence

26. The Council may revoke the licence of any bus operator who fails to pay by the due date any

licence fees payable by him or who is convicted of any offence under the provisions of this Part.

Control of bus station

27.—(1) No person shall without the written authority of the Council sell or offer or expose for sale any produce or goods in or around the bus station.

(2) No person shall place or deposit in or on any motor omnibus standing in the bus station any placard, hand-bill, advertisement or notice without the prior consent of the owner or driver of such motor omnibus.

(3) No person shall display in or on the bus station or any bus shelter any placard, hand-bill, advertisement or notice, pamphlet, book or paper without the prior consent of the Council and on such terms and conditions as the Council shall, by resolution, determine.

(4) Any person contravening the provisions of this by-law shall be guilty of an offence.

PART V—NOISE PREVENTION

Noise prevention

28.—(1) Subject to the provisions of paragraph (2), no person shall sound or play upon any musical or noisy instrument or operate a loud speaker in any street, public park or any other park, garden, recreation area, sports ground or reserve to which the public have access, or in any vehicle in any street therein.

(1A) Subject to the provisions of paragraph (2), a person shall not, so as to cause annoyance or disturbance to the public or a member of the public—

(a) play, or cause or permit to be played, a record player, tape recorder, radio or musical instrument, loud hailer, loudspeaker, or other noisy instrument; or

(b) shout, stamp, clap, chant, sing, or otherwise cause excessive noise either personally or by way of any vehicle, machine or other contraption,

except to such extent as may be reasonably necessary in connection with the pursuance of an authorised business.

(Inserted by Legal Notice No. 91 of 1984.)

(2) This by-law shall not apply—

(a) to the operation of a loud speaker for military or police purposes;

(b) to the sounding or playing of musical instruments by a band or musician playing with the prior permission of the Council;

(c) to the operation of a loud speaker or the sounding or playing of a musical or noisy instrument at a pleasure fair field with the prior permission of the Council;

(d) to the sounding or playing of any musical or noisy instrument or the operation of any loud speaker in a procession or public assembly if permission for such instrument or loud speaker has been given under the provisions of the Public Order Act;

(Cap. 20.)

(e) to the operation of any mobile cinema van by any department of Government or by any person with the prior permission of the Council;

(f) to the operation of any loud speaker or the sounding or playing of any musical or noisy instrument operated or played with the prior permission of the Council at any sporting, recreational, social, religious or charitable assembly, event or fixture, conducted with the prior permission of the Council under the provisions of paragraph (1) of by-law 11, or sub-paragraph (h) of paragraph (1) of by-law 19;

(g) to the operation of any loud speaker or the sounding or playing of any Musical or noisy instrument, operated or played with the prior permission of the Council, at any sporting, recreational, social, religious or charitable assembly, event or fixture, conducted in any park, garden, recreation area, sports ground or reserve, other than a public park, to which the public have access;

(h) to the operation of any loud speaker or the sounding or playing of any noisy or musical instrument in any place in respect of which the Council has granted exemption, either generally or on any particular occasion;

(i) to the operation of any loud speaker in case of emergency.

(3) Any person failing to comply with the provisions of this by-law shall be guilty of an offence.

PART VI—DANCE HALLS

(Inserted by Local Government Notice 11 of 1969)

Dance halls to be licensed

29.—(1) No person shall, within the town keep or use or permit to be kept or used any dance hall without first obtaining from the Council a licence in respect thereof on payment of an annual fee of \$6:

Provided that a licence may be granted for any period not exceeding thirty days upon payment of a fee of \$2.

(2) Notwithstanding the provisions of paragraph (1), no dance hall may be used as such on a Sunday, on Good Friday or on Christmas Day.

(Inserted by Local Government Notice 11 of 1969.)

Exemptions

30.—(1) No licence shall be required for the use of the Ba Town Hall as a dance hall.

(2) The Board may by resolution exempt from the provisions of paragraph (1) of by-law 29 any club the main purpose of which is to provide entertainment for its members, but which occasionally holds entertainments which are open to the public if the Council is satisfied that such exemption is not likely to result in annoyance to or disturbance of the public.

(3) The Council may by resolution revoke any exemption granted under the provisions of paragraph (2) if annoyance to or disturbance of the public has occurred.

(Inserted by Local Government Notice 11 of 1969.)

Licences

31.—(1) Any person desirous of obtaining a licence under the provisions of these By-laws shall make application to the Clerk in Form A set out in the Fourth Schedule.

(2) The Council may grant a licence to any person as it shall think fit upon such terms and conditions and subject to such restrictions as it may consider appropriate. Any licence, other than one issued under the provisions of the proviso to paragraph (1) of by-law 29, shall remain in force for a period of one year from the date of issue.

(3) A licence issued under the provisions of this By-law shall be in Form B set out in the Fourth Schedule.

(Inserted by Local Government Notice 11 of 1969.)

Transfer of licence

32. Upon the application of any licensee, the Clerk may permit the transfer of any licence issued under the provisions of these By-laws to such other person as he may consider appropriate.

(Inserted by Local Government Notice 11 of 1969.)

Refusal revocation, etc., of licence

33.—(1) The Council may refuse to grant a licence to any person or in respect of any premises or may revoke or suspend or amend any licence on any grounds which it considers sufficient.

(2) Where it is proposed that a licence be refused, revoked, suspended or amended under the provisions of paragraph (1), the Council shall give to the applicant or the licensee, as the case may be, fourteen days' notice in writing of the meeting of the Council at which the refusal, revocation, or suspension is to be considered and in such notice the Council shall set out the grounds upon which consideration is being given to such refusal, revocation or suspension.

(3) No licence shall be refused, revoked, suspended or amended by the Council unless the

applicant or the licensee has been given an opportunity of being heard by the Council.
(*Inserted by Local Government Notice 11 of 1969.*)

Offences

34. Any person who contravenes the provisions of by-law 29 or any licensee who fails to comply with any condition of a licence granted to him under these By-laws shall be guilty of an offence.
(*Inserted by Local Government Notice 11 of 1969.*)

PART VII—MARKET

Market Master

35. The market shall be under the immediate management and control of the Market Master, who shall be appointed by and be responsible to the Council.

Produce which may be sold

36. No person, except the holder of a wholesale or retail store licence or a butcher's licence issued under the provisions of any Act relating to the licensing of businesses, shall sell or offer for sale any produce, other than fresh fish, or shell-fish in any place within the town, other than in the market:

Provided that this by-law shall not apply to the sale of produce—

(a) by any producer, to a miller, manufacturer or processor where such produce is sold within the confines of property in the occupation of such producer or of such miller, manufacturer or processor; or

(b) by any miller, manufacturer or processor to any of his employees or suppliers where such produce is sold within the confines of property in the occupation of such miller, manufacturer or processor.

Cleaning and gutting fish

37. No person shall bring to the market or offer for sale in the market any fish, other than white-bait or other similar small fish, unless such fish shall first have been gutted, gilled and cleaned.

Fresh fish

38. During the hours in which the market is open for business no person shall sell by retail fresh fish at any place outside the market:

Provided that this by-law shall not apply to the sale of fresh fish wholesale, or by a butcher or fishmonger or a retail or wholesale store holder licensed under the provisions of any Act for the time being in force relating to the licensing of businesses.

Restriction on sales

39. No person shall sell or offer for sale in the market any article other than produce or handicrafts.

Hours of business

40. The market shall be open for business during such hours as the Council may direct.

Directions given by Market Master

41. All persons using or being within the precincts of the market shall obey all reasonable directions given by the Market Master for the purpose of observing the good order and cleanliness of the market.

Sales prohibited except from stalls

42. No person shall sell or offer for sale any article in the market except at a stall allotted to him by the Council or the Market Master and during the hours that the market is open for business.

Allocation of stalls

43. The allocation of stalls in the market shall be made by the Council or the Market Master in as fair and reasonable a manner as possible.

Alterations to stalls

44. No person shall make any alteration to a stall, or exhibit any notice thereon or introduce any fittings, fixtures, furniture or impediments of any kind, without the authority of the Market Master, and any such thing introduced without his authority may be removed by the Market Master.

Use of stalls

45. No person shall occupy or use a stall so long as any charges which are due and payable for the use thereof are outstanding.

Charges

46.—(1) The charges for the use of stalls and other market facilities shall be in accordance with the rates set out in the Fifth Schedule and shall be payable in advance to the Market Master.

(2) The Market Master shall, at the time of receiving payment of any charges under this by-law, issue a receipt accordingly.

(Substituted by Legal Notice No. 91 of 1984.)

Stall receipts and prices to be exhibited

47. Every stallholder shall exhibit and keep exhibited on his stall while the same is in use, his current receipt for the payment of the market charges in such manner as the Market Master shall direct and in such position that it can conveniently be read and inspected at all times by the Market Master or any attendant, and shall have all produce and handicrafts for sale by him at such stall legibly and conspicuously marked with the prices at which he offers the same for sale and in a manner clearly to indicate that price to the public.

Exchange, subletting and sharing of stalls

48. No stallholder shall exchange, sublet, surrender or part with the possession of his stall or share his stall with another vendor or person except with the permission of the Market Master.

Advertising and auctions

49. No person shall in the market advertise goods by shouting, or conduct a sale by auction except with the permission of the Market Master.

Selling mixed yaqona prohibited

50. No person shall sell or offer for sale mixed yaqona in any part of the market without the prior approval of the Council.

Cooking in the market

51. No person shall do any cooking in any part of the market without the prior approval of the Council.

Intoxicating liquor prohibited

52. No person shall bring into the market any intoxicating liquor or methylated spirit.

Unwholesome products

53. No person shall bring into the market anything which in the opinion of the Market Master is bad, obnoxious, unwholesome or dangerous, and the Market Master may remove or cause to be removed any such thing brought within the precincts of the market.

Hygiene

54. Stallholders shall keep their produce and expose it for sale in as hygienic a manner as is practicable and shall obey all reasonable directions of the Market Master in this regard.

Cleanliness

55. Stallholders shall keep their stalls in a clean and orderly condition, and shall, as and when required, dispose of any litter, empty containers and refuse as directed by the Market Master. Any stallholder refusing or neglecting to obey the reasonable directions of the Market Master under the provisions of this by-law may, in addition to any fine to which he may be liable under the provisions of these By-laws, lawfully be refused the allocation of a stall by the Council or the Market Master.

Dogs prohibited

56. No person shall bring a dog into the market or suffer it to remain there, and the Market Master shall have power to remove or order the removal of any dog from the market.

Spitting

57. No person shall spit or discharge any nasal fluid or mucus on to any roadway, footpath, floor or other part of the market or any utensils, produce, article or thing standing or being in the market.

Disease

58. No person suffering from any infectious or contagious disease or having recently been exposed to infection by such a disease shall engage in the sale of any goods in the market.

Restriction on entry

59. No person shall enter or remain in the market outside the hours during which the market is open for business without the authority of the Market Master.

Obstruction of officials

60. No person shall obstruct, prevent, hinder or interfere with the Market Master or any attendant in the performance of any duty under the provisions of this Part and no person shall enter the market whilst drunk or excite a riot or curse or swear or use any gross, indecent, filthy or abusive language or gamble or be guilty of any other misconduct therein.

Obstruction of market

61. No person shall place any matter or thing on any roadway, footpath or passage in the market so as to obstruct the free use of such roadway, footpath or passage, or neglect or refuse to remove such matter or thing on being required to do so by the Market Master.

Unsold goods

62.—(1) Goods unsold at the close of the day may be left in the market at the owner's risk with the permission of the Market Master and any goods so left without such permission may be

removed by the Market Master and disposed of in such manner as he may consider reasonable.

(2) With his consent goods may be left in the care of the Market Master upon payment in advance of a charge to be prescribed by the Council.

Offences

63. Any person contravening or failing to comply with the provisions of this Part, other than those of by-laws 35, 40, 43, 46 and 62 shall be guilty of an offence.

PART VIII—LIBRARIES

Offences

64. Any person who—

(a) wilfully obstructs the librarian in the performance of his duties;

(b) wilfully disturbs any other user of the library;

(c) causes or allows any dog or other animal belonging to him or under his control to enter or remain in the library;

(d) brings into any part of the library any wheeled vehicle or conveyance, other than an invalid chair or child's perambulator;

(e) except in such place as the Council may set aside as a place where smoking is permitted, smokes tobacco or strikes any naked light in the library;

(f) wilfully soils, tears out, defaces, damages, injures or destroys any book forming part of the contents of the library;

(g) except with the permission of the librarian, fixes any bill, placard or notice to or upon any part of the library;

(h) except with the permission of the Council, partakes of any food or drink in the library,

shall be guilty of an offence.

Taking of books

65. No person shall, except in accordance with rules to be made by the Council under the provisions of these By-laws, take any book away from the library, and any person contravening the provisions of this by-law shall be guilty of an offence.

Return of books

66. Any person having charge or being in possession of any book forming part of the contents of the library shall return such book to the librarian within seven days of the service upon him of a notice requiring him so to do, and any person contravening the provisions of this by-law shall be guilty of an offence.

Rules and charges

67. The Council may, by resolution—

(a) make rules relating to the use of the library or any part thereof or with regard to the borrowing of any book therefrom;

(b) levy a charge for the use of any book in the library;

(c) levy a charge in respect of the late return of any book.

PART IX—STREET NUMBERING

(Inserted by Local Government Notice 8 of 1968.)

Street numbering

68.—(1) Where the Council decides that numbers shall be affixed on land or on or to buildings for the purpose of designating and numbering such land or building in any road or street, the owners or occupiers of such land or buildings shall be informed of the Council's intention to affix such numbers at least twenty-one days before they are affixed by the publication of a notice in the Gazette and in two consecutive editions of any newspaper published in Fiji and circulating within the town area.

(2) Where any employee of the Council has affixed any number on any land or on or to any building for the aforesaid purpose, it shall be an offence for any person unlawfully to remove, deface, mutilate or tamper with such number.

(3) It shall be an offence for any person to obstruct any person who enters any land or building under the instructions of the Council in order to inspect, affix, reaffix or change such numbers.

(Inserted by Local Government Notice 8 of 1968.)

PART X—CAR PARK

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Establishment of car park

69.—(1) The Council may from time to time by resolution, set apart any area to be used for the parking of commercial vehicles, private vehicles and taxis.

(2). A description of any such area shall be advertised by the Council at least once each in the Gazette and a daily newspaper circulating in Fiji.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Attendant

70.—(1) A car park shall be under the immediate management and control of the car park attendant.

(2) All persons using or being within the precincts of a car park shall obey all reasonable directions given by the attendant for the purpose of observing the good order and cleanliness of the car park.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Prohibitions

71. No person shall without the prior approval of the Council, make any alterations to the alignments of a car park or exhibit any notice within a car park or introduce any fittings, fixtures or impediments of any kind into a car park and any such thing introduced may be removed by the attendant.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Entry to and from car park

72. All drivers of motor vehicles using a car park shall observe the directions posted thereat.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Charges

73. The charges for admission to, and use of, a car park shall be in accordance with the rates set out in the Sixth Schedule.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976 and Legal Notice 91 of 1984.)

Parking

74. Taxis, commercial vehicles and private vehicles using a car park shall park only within the limits set apart for the use of vehicles of the class to which they respectively belong as indicated by notices and as directed by the attendant.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Allocation of stands

75.—(1) The allocation of stands in a car park shall be made by the Council upon application.

(2) A vehicle shall park only at the stand allotted to it and specified in the parking receipt or ticket issued by the Council.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Production of receipts

76. Drivers of taxis, commercial vehicles and private vehicles shall produce for inspection their parking receipts or tickets upon demand by the attendant.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Validity of receipt/ticket

77. A parking receipt or ticket issued in respect of a taxi, commercial vehicle or a private vehicle shall be valid for the period specified in the receipt.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Obstructing attendant, etc.

78. No person shall obstruct, prevent, hinder or interfere with any attendant in the performance of any duties under these By-laws.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Obstructing entrances, etc.

79. No person shall obstruct any of the entrances, thoroughfares or divisions of a car park or shall loiter therein.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Power to refuse admission, etc.

80. The attendant shall have power to refuse admission to or to eject from a car park any persons of undesirable character or any young children unattended.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Obstructing footpath

81. No person shall place any matter or thing on any roadway, footpath or passage in a car park so as to obstruct the free use of such roadway, footpath or passage, or neglect or refuse to remove such matter or thing on being required to do so by the attendant.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Spitting

82. No person shall spit or discharge any nasal fluid or mucus on to any roadway, footpath or other part of a car park.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Offence in connection with vehicle

83. The owner or driver of any taxi, commercial vehicle or a private vehicle using a car park upon which the prescribed fees have not been paid or in respect of which a valid parking receipt or ticket is not produced to the attendant on demand shall be guilty of an offence.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Protection from liability

84. Nothing contained in these By-laws or in any parking receipt or ticket issued by the Council shall be deemed to make the Council responsible for any loss or damage to any vehicle admitted to or using a car park or for injury to any person entering therein.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Restriction on sale or exposure for sale articles

85. No person shall sell or offer or expose for sale any produce or goods in a car park without the prior consent in writing of the Council.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

Offences

86. Any person contravening or failing to comply with the provisions of this Part except those of by-laws 70(1), 73, 77, 80 and 84 shall be guilty of an offence.

(Inserted by Local Government Notice 5 of 1968; substituted by Local Government Notice 17 of 1976.)

PART XI—MISCELLANEOUS

Penalty

87. Any person guilty of an offence under the provisions of these By-laws shall be liable on conviction to a fine not exceeding \$100, or in the case of a continuing offence to a fine of \$4 for each day during which such offence continues, and, in addition to any such penalty, any expense incurred by the Council in consequence of any breach of these By-laws shall be refunded by such person to the Council.

(Amended by Local Government Notice 11 of 1976.)

FIRST SCHEDULE

(By-law 21)

BA TOWN COUNCIL

BA TOWN BY-LAWS

(By-law 21)

APPLICATION FOR LICENCE FOR MOTOR OMNIBUS TO USE THE BA BUS STATION

I/We of hereby apply for a licence for my/our undermentioned vehicle(s) to use the Ba Bus Station.

Registered No. Make No. of Passengers

I/We agree to pay the licence fees prescribed under and to comply with the provisions of the Ba Town By-laws.

Dated this day of , 19 .

.....
Bus operator

SECOND SCHEDULE

(By-law 22)

BA TOWN COUNCIL

BA TOWN BY-LAWS

(By-law 22)

LICENCE TO USE BA BUS STATION

..... of Bus operator, is hereby licensed to use the Ba Bus Station with the following vehicle(s) subject to the Ba Town By-laws.

Registered No MakeNo. of Passengers

Dated this day of, 19

For the Ba Town Council.

.....
Town Clerk

THIRD SCHEDULE

(By-law 23)

(Substituted by Legal Notice 74 of 1982)

For each visit of a motor omnibus to the bus station in each calendar month 15 cents.

FORM A

FOURTH SCHEDULE

(By-law 31)

(Inserted by Local Government Notice 11 of 1969.)

BA TOWN COUNCIL

BA TOWN BY-LAWS

APPLICATION FOR DANCE HALL LICENCE

(By-law 31)

I/Weof hereby apply
for a licence for a period of one year days to use
..... for the
.....
(premises)
purpose of between the hours of
.....and on
(days)

Signed

Date:

FORM B

BA TOWN COUNCIL

BA TOWN BY-LAWS.

DANCE HALL LICENCE

(By-law 31)

Licence is hereby granted to to use as a dance hall for the purpose of (nature of entertainment)

This licence is valid for a period of one year days from the date of issue and is granted subject to the following conditions:—

1. The licensed premises may be used for the above purpose on but not before the hour of nor after the hour of on any such days and not at any time on Sundays, Good Friday or Christmas Day.

2.

Dated this day of, 19.....

for the Ba Town Council,

..... Town Clerk

FIFTH SCHEDULE

(By-law 46)

(Inserted by Legal Notice 91 of 1984.)

MARKET CHARGES

Table with 2 columns: Description of market charges and Amount in dollars. Includes categories like 'Stalls other than stalls for the sale of fish...', '(a) stall inside market building', and '(b) stall outside market building'.

(i) used for sale of groceries	0.85
(ii) used otherwise than for the sale of groceries	0.60
2. Stalls for the sale of fish, shell-fish, poultry or livestock—a charge, per stall per day or part thereof, calculated in relation to the fish, shell-fish, poultry or livestock offered for sale from that stall on that day (whether brought into the market on that or previous day) according to the following scales:—	
(a) fish, per kg	0.15
(b) crabs, per bundle	0.60
(c) kai (regardless of quantity)	0.30
(d) poultry-	
(i) meat birds, per head	0.20
(ii) day-old chicks, per dozen	0.25
(e) goats, per head	1.00
3. Sweet-meat cart spaces, per space per week	6.50
4. Cool-room storage, per kg per day or part thereof	0.12

SIXTH SCHEDULE

(By-law 73)

(Inserted by Legal Notice 91 of 1984.)

CAR-PARK CHARGES

	\$
1. For use of carrier or taxi base with telephone, per vehicle per week	2.50
2. For use of carrier or taxi base without telephone, per vehicle per week	2.00

SUBSIDIARY LEGISLATION OF LOCAL APPLICATION

LABASA

SECTION 5—TOWN OF LABASA

Proclamation No. 7 of 1939, Local Government Notice No. 4 of 1971

The area defined in the Schedule shall be a town for the purposes of the Local Government Act and shall be known as the town of Labasa.

SCHEDULE

(Substituted by Local Government Notice 4 of 1971.)

All that area of land situated in the Tikina of Labasa in the Province of Macuata extending, in irregular widths varying from approximately one hundred and fifteen chains to one chain, from approximately eight chains east of Nasekula Village to the eastern boundary of Vaturekuka Government Station (Survey Plan No. M197).

This area is shown verged red and is more particularly delineated on plan P.P. 83 deposited in the Office of the Director of Lands in Suva and available for inspection at the Office of the Labasa Town Council.

SECTION 5—LABASA WARDS ORDER

TABLE OF PROVISIONS

PARAGRAPH

1. Short title
2. Division of Labasa into wards

Local Government Notice No. 27 of 1973

Short title

1. This Order may be cited as the Labasa Wards Order.

Division of Labasa into wards

2. The town of Labasa is, with effect from the date of the next general election to the Labasa Town Council, divided into three wards, namely—

(1) the Qawa Ward, comprising all that portion of the town of Labasa situated to the east of the Labasa River;

(2) the Nasea Ward, comprising all that portion of the town of Labasa situated between the Labasa River and a line starting at the north-western intersection of the town boundary with the Labasa River, thence following the town boundary to the intersection of Nasea Village Road and Nadawa Street, thence in a generally south-eastern direction along the centreline of Nadawa Street, thence in an easterly direction along the centreline of Yaka Street to Damanu Street, thence in a southerly direction along the centreline of Damanu Street to Nasekula Street, thence in an easterly direction along the centreline of Nasekula Street to Sangam Avenue, thence in a southerly direction along the centreline of Sangam Avenue to the end thereof, thence in the same direction along the centre of an imaginary projection of Sangam Avenue to the Labasa River, at which point the said line terminates; and

(3) the Nasekula Ward comprising all that portion of the town of Labasa situated between the Nasea Ward and the western boundary of the town.

SECTION 9—NUMBER OF TOWN COUNCILLORS ORDER

Local Government Notices Nos. 7 of 1972, 34 of 1973, 40 of 1973

The number of members of the town councils named in the Schedule and, where the towns are divided into wards, the number of members for each ward shall, with effect from the next general elections to such councils, be as specified in the Schedule.

SCHEDULE

Labasa Town Council—12 members, as follows:—

Nasea Ward—4 members

Nasekula Ward—4 members

Qawa Ward—4 members

SECTION 122—LABASA (BUS STATION) BY-LAWS

TABLE OF PROVISIONS

BY-LAW

1. Short title
2. Interpretation
3. Management of bus station
4. Application for licence

5. Licence to be issued by Town Clerk
6. Fees
7. Fees to be charged monthly
8. Payment of fees
9. Bus station not to be used without licence
10. Overdue fees
11. Revocation of licence
12. Licence for shop, kiosk, etc.
13. Selling goods, etc., at bus station
14. Advertising space
15. Placards, etc., in motor omnibus
16. Placards, etc., in bus station
17. Restricted use
18. Recovery of fees
19. Offences

First Schedule—Application for Licence to Use Labasa Bus Station
Second Schedule—Licence to Use Labasa Bus Station

Legal Notice No. 15 of 1979

Short title

1. These By-laws may be Cited as the Labasa (Bus Station) By-laws.

Interpretation

2. In these By-laws, unless the context otherwise requires—

"bus operator" includes any person who owns or operates a motor omnibus;

"bus station" means the Labasa Bus Station maintained and controlled by the Council and notified as such by description in the Gazette and in a daily newspaper published and circulating in Fiji;

"bus shelter" means any shelter owned and controlled by the Council for the use of bus passengers in the town of Labasa;

"Council" means the Labasa Town Council;

"motor omnibus" has the meaning assigned to it by the Traffic Act;

(Cap. 176.)

"Town Clerk" means the Town Clerk appointed by the Council.

Management of bus station

- 3.—(1) The bus station shall be under the immediate management and control of the Town Clerk.
- (2) The Council may appoint an attendant or attendants to assist the Town Clerk in the discharge of his functions.
- (3) Subject to the overall direction of the Council, the Town Clerk shall have responsibility for the allocation to bus operators of stands in the bus station and for the erection of traffic signs therein.
- (4) Any person who stops or parks a motor omnibus at a stand other than that allocated to the bus operator by the Town Clerk or who fails to comply with any direction on a traffic sign erected at the bus station shall be guilty of an offence.

Application for licence

4. Each bus operator desiring to use the bus station shall make application in the form prescribed in the First Schedule for a licence for his motor omnibus to use the bus station.

Licence to be issued by Town Clerk

5. All licences to use the bus station shall be issued on behalf of the Council by the Town Clerk in the form prescribed in the Second Schedule upon payment of the fees prescribed by the Council and shall be valid in respect only of the vehicle described in such Schedule.

Fees

- 6.—(1) The Council may, with the prior approval of the Minister, by resolution prescribe the charges for use of the bus station.
- (2) Every resolution made by the Council in terms of this by-law shall be published in the Gazette.

Fees to be charged monthly

- 7.—
- (a) The licence fees to be charged under by-law 5 shall be charged in respect of each calendar month and in arrear.
- (b) Such monthly licence fees shall be computed on the total number of visits of the motor omnibus to the bus station during the month and shall be calculated from the timetable approved by the Transport Control Board in respect of the road service licence under which the motor omnibus shall have been operating during the month or from any

other information which the said Board shall think fit to supply to the Town Clerk from its record or from any other information obtained by the Town Clerk under paragraph (c) of this by-law.

(c) If the Town Clerk considers that the number of visits to the bus station of any motor omnibus cannot be satisfactorily calculated (from any timetable, he may by written notice require the bus operator concerned to supply him with particulars of the numbers of visits to the bus station, and the times thereof, of each motor omnibus operating under the bus operator's road service licence during the month the subject of the computation; and any bus operator so required to supply such particulars shall, within seven days after the receipt by him of such notice, deliver to the Town Clerk a written statement, signed by such operator or under his authority, and containing a true and correct statement of the total number of visits to the bus station, and the times thereof, of each such motor omnibus during the said month.

Payment of fees

8. Each bus operator shall pay to the Council the licence fees payable by him within fifteen days after the account thereof is rendered to him.

Bus station not to be used without licence

9.—(1) No bus operator shall be entitled to use the bus station for the purpose of any motor omnibus unless he holds a valid licence issued under these By-laws in respect of such motor omnibus.

(2) No motor omnibus shall enter or use the bus station at any time unless such a valid licence under these By-laws is held by a bus operator in respect thereof.

Overdue fees

10. No bus operator shall be entitled to use the bus station while any licence fees owing by him under these By-laws remain unpaid after the due date thereof.

Revocation of licence

11. The Council may revoke the licence of any bus operator who fails to pay by the due date thereof any licence fees payable by him or is convicted of any offence under these By-laws.

Licence for shop, kiosk, etc.

12. The Council may at any time let to any person, or licence any person to use, any part of the bus station as a shop, kiosk, or stall or as a booth for a telephone or for the purpose of the installation and use of an automatic dispensing machine, for such period, at such rent or fee and upon such terms and conditions as the Council shall think fit.

Selling goods, etc., at bus station

13. No person not being the holder of a valid hawker's licence shall sell, or offer or expose for sale, any produce or goods in or around the bus station except at a shop, kiosk, stall, or automatic dispensing machine, in respect of which the person selling or offering or exposing for sale produce or goods, or his employer shall be the Council's tenant or the holder of a licence issued under by-law 12.

Advertising space

14. The Council may at any time let to any person space in or at the bus station or any bus shelter for advertising purposes, for such period, at such rent or fee and upon such terms and conditions as the Council shall think fit.

Placards, etc., in motor omnibus

15. No person shall place or deposit in or on any motor omnibus standing in the bus station any placard, print, hand-bill, card, advertisement, notice, pamphlet, book or paper without the prior consent of the owner or driver of such vehicle.

Placards, etc. in bus station

16. No person shall place or deposit in or at the bus station or any bus shelter any placard, print, hand-bill, card, advertisement, notice, pamphlet, book or paper without the prior consent of the Council and on such terms and conditions as the Council shall think fit.

Restricted use

17. No vehicle other than a licenced motor omnibus may enter or use the bus station.

Recovery fees

18. All licence fees payable to the Council under these By-laws shall be recoverable by the Council as civil debts by due process of law.

Offences

19. Any person who fails to comply with any of the provisions of these By-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100 or to imprisonment for three months or to both such fine and imprisonment.

FIRST SCHEDULE
(By-law 4)

LABASA TOWN COUNCIL

LABASA (BUS STATION) BYLAWS
(BY-LAW 4)

APPLICATION FOR LICENCE FOR MOTOR OMNIBUS TO USE LABASA BUS STATION

I/We of hereby apply for a licence for my/our undermentioned motor omnibus(es) to use the Labasa Bus Station.

Registered No Make:No. of Passengers:

I/We agree to pay the licence fees prescribed under the Labasa (Bus Station) By-laws and to comply with the provisions of such By-laws.

Dated this day of 19 .. .

.....
Bus Operator

SECOND SCHEDULE
(By-law 5)

LABASA TOWN COUNCIL

LABASA (BUS STATION) BY-LAWS
(BY-LAW 5)

LICENCE TO USE LABASA BUS STATION

..... of Bus Operator is hereby licensed to use the. Labasa Bus Station with the following motor omnibus(es) subject to the Labasa (Bus Station) By-laws.

Registered No. Make: No of Passengers:

Dated this day of 19 .. .

For the Labasa Town Council
.....
Town Clerk

SECTION 122—LABASA (CAR PARK) BY-LAWS

TABLE OF PROVISIONS

BY-LAW

1. Short title
2. Interpretation
3. Attendant
4. Duty to obey directions
5. Prohibitions
6. Entry and exit
7. Charges
8. Opening hours
9. Parking receipt and fees
10. Parking ticket and fees
11. Validity of parking receipt
12. Parking permits
13. Parking places
14. Production of receipt, etc.
15. Obstruction of attendant
16. Obstruction of entrances, etc.
17. Loitering
18. Avoidance of liability
19. Sale of goods
20. Offences

Legal Notice No. 18 of 1979

Short title

1. These By-laws may be cited as the Labasa (Car Park) By-laws.

Interpretation

2. In these By-laws, unless the context otherwise requires—

"attendant" means any person appointed by the Council to carry out duties in a car park;

"car park" means any area set apart by the Council for the use of motor vehicles as a parking place and notified as such by description published in the Gazette and in a daily newspaper published and circulating in Fiji;

"commercial vehicle" means a motor vehicle used for the carriage of goods or passengers or both goods and passengers for hire or reward or used in the course of trade or agriculture;

"Council" means the Labasa Town Council;

"private motor vehicle" and "taxi" have the meanings assigned to them in the Traffic Act.
(Cap. 176.)

Attendant

3. A car park shall be under the immediate management and control of the attendant.

Duty to obey directions

4. All persons using or being within the precincts of a car park shall obey all reasonable directions given by the attendant for the purpose of observing good order and cleanliness in the car park.

Prohibitions

5. No person shall make any alteration to the alignments of a car park or introduce any unauthorised fitting, fixture or obstruction into a car park and any thing so introduced may be removed forthwith by the attendant.

Entry and exit

6. All persons driving motor vehicles using a car park shall observe the directions posted at such car park relating to means of entrance thereto and egress therefrom.

Charges

7.—(1) The Council may, with the prior approval of the Minister, by resolution prescribe the charges for admission to and use of a car park and may prescribe different fees for different classes of vehicles and for different car parks.

(2) Every resolution made by the Council in terms of this by-law shall be published in the Gazette.

Opening hours

8. The Council may, by resolution, prescribe the hours of opening and closing of any car park.

Parking receipt and fees

9—(1) Subject to paragraph (2), the charge for the use of a car park for which the Council has not prescribed hours of opening and closing shall be paid in advance to the attendant in exchange for which a parking receipt will be issued.

(2) No fee shall be paid for entry into a car park referred to in paragraph (1) before 8 a.m. on Mondays to Saturdays inclusive, after 5 p.m. on Mondays to Fridays inclusive, after 2 p.m. on

Saturdays or on Sundays:

Provided that any private motor vehicle remaining in a car park after 8 a.m. on week days shall be deemed to have entered the car park after that hour and fees in accordance with these By-laws shall be payable by the driver or owner of the vehicle.

Parking ticket and fees

10.—(1) On admission to a car park for which the Council has prescribed hours of opening and closing the attendant shall issue to the driver of the motor vehicle a parking ticket and payment of the charges for the use of the car park shall be made to the attendant when the motor vehicle leaves the car park.

(2) In any case where the parking ticket is not presented to the attendant before the motor vehicle leaves the car park a charge shall be made for that vehicle from the hour at which the car park opened on that day until the time the vehicle leaves the car park.

(3) No person shall remove any motor vehicle from a car park after the prescribed closing hour.

Validity of parking receipt

11. A parking receipt issued under by-law 10 in respect of a taxi or commercial vehicle shall be valid for seven days including the day of issue and only for the vehicle in respect of which it is issued and a parking receipt issued in respect of a private motor vehicle shall be valid for the day of issue only.

Parking permits

12. Nothing in these By-laws shall preclude the Council from issuing a pre-paid monthly or annual permit granting the holder thereof exclusive rights to park a motor vehicle in the parking place specified in the permit.

Parking places

13. Different classes of motor vehicles using a car park shall park only within the limits set apart for the use of vehicles of the class to which they belong as indicated by car park notices and as directed by the attendant.

Production of receipt, etc.

14. The driver of any motor vehicle shall show for inspection his parking receipt, ticket or permit upon demand by the attendant.

Obstruction of attendant

15. No person shall obstruct, prevent or interfere with an attendant in the performance of his

duties.

Obstructing entrances, etc.

16.—(1) No motor vehicle shall be parked in a car park so as to obstruct any of the entrances, divisions or thoroughfares of the car park and the driver of any such vehicle, if called upon to do so by the attendant, shall forthwith remove the vehicle.

(2) If the driver of any motor vehicle fails to comply with a direction given by the attendant under paragraph (1) or if the driver is not available the attendant may cause the vehicle to be removed to such other place, whether in the car park or not as the attendant considers reasonable in the circumstances and the Council shall not be responsible for any loss or damage to the vehicle resulting from such removal.

(3) Any costs incurred by the Council in effecting the removal of a vehicle in terms of this by-law shall be recoverable from the registered owner of the vehicle.

Loitering

17. No person shall loiter in any of the entrances, thoroughfares or divisions of a car park.

Avoidance of liability

18. Nothing in these By-laws or in any parking receipt, ticket or permit shall be deemed to make the Council responsible for any loss or damage to any motor vehicle admitted to or using a car park or for injury to any person entering a car park.

Sale of goods

19. No person shall sell or offer or expose for sale any produce or goods in a car park without the prior consent in writing of the Council.

Offences

20. Any person who fails to comply with any of the provisions of these By-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100 or to imprisonment for three months or to both such fine and imprisonment.

SECTION 122—LABASA (LITTER) BY-LAWS

TABLE OF PROVISIONS

BY-LAW

1. Short title
2. Interpretation
3. Prohibition
4. Powers of an authorised person
5. Provision for an identity card
6. Penalties
7. Evidence in legal proceedings

Local Government Notice No. 18 of 1973

Short title

1. These By-laws may be cited as the Labasa (Litter) By-laws.

Interpretation

2. In these By-laws, unless the context otherwise requires—

"abandon" includes to throw, to drop, to deposit, to place, to scatter, to spill, to leave, to cast or otherwise to part with possession;

"authorised person" means a person appointed by the Council to be an authorised person for the purpose of these By-laws or any police officer;

"Council" means the Labasa Town Council;

"litter" means any matter or thing whether solid or liquid or partly solid or partly liquid, the possession of which has been abandoned by any person having the control of the same in any street or land or public place, and includes building, household, shop, garden and trade refuse or waste; human, animal, fish and vegetable refuse or waste; containers and packaging of any description, whether manufactured in whole or in part, of wood, glass, metal, paper or plastic; derelict vehicles, household, shop and factory furniture, appliances and machinery or any part thereof; timber, wood, glass, iron, concrete, sand, earth, gravel, stone and clay; or any matter or thing which causes or contributes to or tends to the defacement or defilement of any street, land or public place.

Prohibition

3. No person shall abandon or cause to be abandoned any litter in or upon any street, public place or land save under the authority of and/or in accordance with the requirements of any law for the time being in force.

Powers of an authorised person

4. An authorised person may require the person whom he finds committing or whom he reasonably suspects to be committing or to have committed an offence against these By-laws to

state his full name and usual place of residence.

Provision for an identity card

5. Every authorised person, other than a member of the Police Force, shall be issued with an identity card by the Council wherein shall be specified the name of the authorised person to whom it is issued and the fact that he is an authorised person for the purpose of these By-laws, and in the exercise of his powers and functions under these By-laws an authorised person shall carry an identity card and, should the circumstances require it, exhibit it for the purpose of identification.

Penalties

6. Any person who contravenes or fails to comply with the provisions of these By-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20.00 and to a further fine of \$2.00 for every day during which such contravention or non-compliance continues.

Evidence in legal proceedings

7. In any proceedings for an offence against these By-laws—

(a) the onus of proof that any litter has not been abandoned shall be on the defendant;

(b) a statement in the complaint that a place referred to therein is a street or a part of a street or a public place or open to use by the public or is a place of public resort open to use by the public as of right shall be evidence, and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein.

SECTION 122—LABASA (OPEN FIRES) BY-LAWS

TABLE OF PROVISIONS

BY-LAW

1. Short title
2. Interpretation
3. Burning of objects prejudicial to health or safety
4. Pollutants
5. Authority to burn dead trees, etc.
6. Camp fires
7. Burning of vegetation
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Short title

1. These By-laws may be cited as the Labasa (Open Fires) By-laws.

Interpretation

2. In these By-laws, unless the context otherwise requires:—

"Council" means the Labasa Town Council;

"Fire Officer" means the Fire Officer employed by the Council;

"incinerator" means any receptacle or construction whether within a building or outside constructed or adapted for the destruction by fire of any object;

"pollutant" means any solid, liquid or gaseous matter prejudicial to health or the safety of any person or, by odour or appearance, offensive or objectionable.

Burning of objects prejudicial to health or safety

3. No person shall without the consent in writing of the Council or the Fire Officer first had and obtained, burn, other than in a building or in an incinerator, any object or matter which may constitute a hazard to health or the safety of any person or property.

Pollutants

4. No person shall, without the consent in writing of the Council or the Fire Officer first had and obtained, light any fire from which a pollutant is released into the environment.

Authority to burn dead trees, etc.

5. The Council may, upon receipt of written application authorise in writing the applicant to burn dead trees, wood, long grass, scrub, stubble, weeds or the cuttings of mowing or trimming arising out of the normal course of agriculture or horticulture, at such times and subject to such conditions as the Council may prescribe.

Camp fires

6. Nothing in these By-laws shall affect the lighting of camp fires for the purpose of the preparation of food or drink.

Burning of vegetation

7. Nothing in these By-laws shall affect a controlled burning of vegetation for the protection of

life or property.

Penalty

8. Any person who contravenes or fails to comply with the provisions of these By-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20 and to a further fine of \$5 for every day during which such contravention or non-compliance continues.

SECTION 122—LABASA (STREET NUMBERING) BY-LAWS

TABLE OF PROVISIONS

BY-LAW

1. Short title
2. Marking of buildings, etc., with numbers
3. Failure to mark
4. Expenses of marking
5. Destruction, etc., of marking
6. Application
7. Penalties

Local Government Notice No. 2 of 1976

Short title

1. These By-laws may be cited as the Labasa (Street Numbering) By-laws.

Marking of buildings, etc., with numbers

2. The owners or occupiers of lands on which buildings are erected or which are subdivided into building allotments and which have frontages to or entrances from roads shall for the purpose of distinguishing them mark the buildings or fences or road frontages with such numbers and in such manner and form as the Labasa Town Council may from time to time direct or approve, so that such markings may be readily seen from the road, and shall renew such markings as often as they are destroyed, obliterated or defaced.

Failure to mark

3. If any such owner or occupier neglects for one week after written notice to him from the Labasa Town Council to mark any such building, or fence or road frontage with such number and in such manner and form as the Council may direct or approve, or to renew the marking thereof as aforesaid, he shall be guilty of an offence under these By-laws.

Expenses of marking

4. Where the occupier of any land incurs expenses in complying with the requirements of any notice given to him under by-law 3 he shall be entitled to recover such expenses from the owner of the land.

Destruction, etc., of marking

5. Any person who without the authority of the Council destroys, pulls down, obliterates or defaces any such marking or who marks any such number otherwise than in accordance with these By-Laws shall be guilty of an offence under these By-laws; and the Council may cause any unlawful marking to be obliterated or destroyed.

Application

6. These By-laws shall apply only to such part or parts of the town of Labasa as the Labasa Town Council shall from time to time direct by notice published in the Gazette and a newspaper circulating within the Labasa town area.

Penalties

7. Any owner or occupier aforesaid who is convicted of any offence under these By-laws shall be liable to a fine not exceeding \$10 for each offence and in the case of a continuing offence to a fine not exceeding \$2 for each day during which the offence continues after conviction.

¹ Act No 28 of 1973 inserted a new section 5A which validated the boundaries of the town of Nadi as defined in Proclamation No. 42 of 1966, published as Legal Notice No. 224 of 1966. This section has not been included in this revision.

² See Legal Notice No. 44 of 1977.

³ Varied to 11 per cent by Order published as Legal Notice No. 82 of 1982.