

BILL NO. 6 OF 2017

A BILL

FOR AN ACT TO ESTABLISH A TRUST FUND FOR THE FUNDING OF THE STATE'S
ROLE AS PRESIDENT OF COP 23 AND TO ASSIST THE GOVERNMENT TO
FINANCE PROGRAMMES, PROJECTS AND ACTIVITIES THAT RELATE TO
THE PARIS AGREEMENT AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji —

PART 1 — PRELIMINARY

Short title and commencement

- 1.—**(1) This Act may be cited as the COP 23 Presidency Trust Fund Act 2017.
- (2) This Act comes into force on the date it is published in the Gazette.

Interpretation

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

“Convention” means the United Nations Framework Convention on Climate Change;

“COP 23” means the twenty-third Conference of the Parties to the Convention;

“COP 23 Presidency Office” means the office, agency, department or other body established by the Government to—

- (a) assist the State in its role as President of COP 23;
- (b) prepare and plan for COP 23 and associated events; and
- (c) facilitate any matter necessary or desirable for the State’s Presidency of COP 23;

“Fund” means the COP 23 Presidency Trust Fund established under section 3;

“Minister” means the Minister responsible for finance;

“Ministry” means the Ministry responsible for finance; and

“Paris Agreement” means the Paris Agreement under the Convention.

PART 2—COP 23 PRESIDENCY TRUST FUND

Establishment of the Fund

3.—(1) This section establishes the COP 23 Presidency Trust Fund consisting of—

- (a) any amount appropriated by Parliament for the purposes of the Fund;
- (b) any grant, contribution or donation to the Fund; and
- (c) any interest accrued from money deposited in the Fund.

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

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

Purposes of the Fund

4. The purposes of the Fund are—

- (a) to receive monies from donors, foundations and other States parties to the Convention to finance the performance of the State’s role as President of COP 23;
- (b) to disburse the monies received for the performance of the State’s role as President of COP 23;
- (c) to ensure the success of the State in its role as President of COP 23, which includes but is not limited to the utilisation of the Fund for—
 - (i) hosting and attending events associated with COP 23;
 - (ii) supporting international diplomacy by the Government to advance the priorities of the COP 23 Presidency;
 - (iii) the training and development of the COP 23 Presidency team and COP 23 Presidency Office staff; and
 - (iv) the provision of a COP 23 Presidency Office and specialist advisors to support the COP 23 Presidency;

- (d) to provide funding to assist programmes, projects and activities associated with or arising out of the COP 23 Presidency and which may include addressing climate change mitigation and adaptation activities under the Paris Agreement; and
- (e) any other climate change related purpose approved by the Minister.

Application of Fund

5.—(1) The Ministry must only expend the monies of the Fund for the purposes provided under section 4.

(2) For the purposes of subsection (1), in expending the monies of the Fund, the Ministry may also—

- (a) pay for operating expenses of the Fund and the COP 23 Presidency Office, including all costs, charges and expenses incidental to the management, operation and activities of the COP 23 Presidency Office;
- (b) pay for expenses incurred prior to the commencement of this Act; and
- (c) reimburse the Government for any expenditure made in relation to the purposes of the Fund.

(3) The permanent secretary of the Ministry must authorise all payments from the Fund.

PART 3—MANAGEMENT AND FINANCIAL PROVISIONS

Procurement

6. Subject to regulations which may be prescribed under this Act, the Procurement Regulations 2010 must be complied with in relation to the utilisation of the Fund.

Accounts and audit

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

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

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

Semi-annual report

8.—(1) The Ministry must prepare a report every 6 months on the activities and expenditure of the Fund, including financial statements for the Fund, and submit the report to Cabinet within 6 months from the end of the 6-month period to which the report relates.

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

PART 4—MISCELLANEOUS

Dissolution

9.—(1) The Fund may be dissolved by regulations made by the Minister.

(2) If the Fund is dissolved, the Minister must ensure that the surplus property of the Fund must be utilised for climate change programmes, projects or activities in the Pacific region.

Regulations

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

Office of the Attorney-General
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Suva

February 2017

COP 23 PRESIDENCY TRUST FUND BILL 2017

EXPLANATORY NOTE

(This note is not part of the Bill and is only intended to indicate its general effect)

1.0 BACKGROUND

- 1.1 The Conference of the Parties (**‘COP’**) is the supreme decision-making body of the United Nations Framework Convention on Climate Change (**‘Convention’**) and has the overall responsibility of keeping under regular review the Convention and any related instrument adopted by the COP.
- 1.2 Fiji was given the Presidency of the twenty-third Conference of the Parties to the Convention (**‘COP 23’**) in November 2016 and is the first small island State in the region to be given this honour.
- 1.3 The COP 23 Presidency Trust Fund Bill 2017 (**‘Bill’**) proposes to establish the COP 23 Presidency Trust Fund (**‘Fund’**), to pool the finances required to organise COP 23, the events surrounding it and for related purposes. The Fund is also envisioned to last beyond COP 23 and be utilised for general climate change mitigation and adaptation activities arising out of COP 23.
- 1.4 The Bill also establishes the Fund, which is separate to the Consolidated Fund, to allow for ring-fencing and thus provides greater certainty to interested donors that the funds donated will be utilised for COP 23. The Bill also mandates the preparation of regular financial reports in relation to the utilisation of the Fund.
- 1.5 The Fund is also a financial mechanism designed to ensure that the financial resources required for the COP 23 Presidency will be clearly sourced from means outside of the 2016/2017 Budget.

2.0 CLAUSES

- 2.1 The Bill is divided into 4 Parts.
- 2.2 Part 1 of the Bill provides for the short title, commencement and the definitions of terms used throughout the Bill.

- 2.3 Part 2 of the Bill establishes the Fund.
- 2.4 Clause 3 of Part 2 establishes the Fund and sets out what the Fund is to consist of. Clause 3 also exempts the Fund from the Trustee Act 1966.
- 2.5 Clause 4 of Part 2 sets out the purposes of the Fund. The purposes of the Fund are to hold monies from donors, foundations and other parties to finance the State's role as President of COP 23.
- 2.6 Clause 5 of Part 2 mandates the use of the Fund for the purposes of the Fund.
- 2.7 Part 3 of the Bill sets out the financial provisions of the Bill.
- 2.8 Clause 6 of Part 3 provides for the application of the Procurement Regulations 2010, subject to regulations which may be made by the Minister.
- 2.9 Clause 7 of Part 3 mandates the keeping of accounts of the Fund and the auditing of the accounts of the Board annually by an independent auditor.
- 2.10 Clause 8 of Part 3 mandates the preparation of a semi-annual report on the activities of the Fund by the Ministry to be submitted to Cabinet every 6 months and laid before Parliament in the next sitting after the submission of the report to Cabinet.
- 2.11 Part 4 of the Bill provides for miscellaneous provisions.
- 2.12 Clause 9 of Part 4 provides for the actions to be taken if and when the Fund is dissolved.
- 2.13 Clause 10 of Part 4 sets out the Minister's power to make regulations.
- 3.0 MINISTERIAL RESPONSIBILITY**
- 3.1 The Act comes under the responsibility of the Minister responsible for finance.

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