

ACT NO. 11 OF 2018

I assent.

J. K. KONROTE
President

[18 May 2018]

AN ACT

TO GIVE EFFECT TO SECTION 30 OF THE CONSTITUTION OF THE REPUBLIC OF FIJI, TO ESTABLISH THE PROCESS FOR THE FAIR SHARING OF ROYALTIES FOR THE EXTRACTION OF MINERALS AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

- 1.—(1) This Act may be cited as the Fair Share of Mineral Royalties Act 2018.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Interpretation

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

“Constitution” means the Constitution of the Republic of Fiji;

“grant” means a grant by the State of a right to extract any mineral from the land or seabed;

“iTaukei land” has the meaning given in section 2 of the iTaukei Lands Act 1905, and includes iTaukei land designated in accordance with the Land Use Act 2010;

“land” means —

- (a) freehold land;
- (b) iTaukei land;
- (c) Rotuman land; or
- (d) land on Rabi Island;

“land on Rabi Island” means land on Rabi Island as referred to in the Banaban Lands Act 1965;

“landowner” means —

- (a) in the case of freehold land, the registered proprietor of the freehold land;
- (b) in the case of iTaukei land, the registered iTaukei landowner;
- (c) in the case of Rotuman land, the owner of the land in accordance with the Rotuma Lands Act 1959; or
- (d) in the case of land on Rabi Island, the owner of the land in accordance with the Banaban Lands Act 1965;

“minerals” has the meaning given in section 163(1) of the Constitution, but does not include clay, gravel, sand or other common mineral substances;

“Minister” means the Minister responsible for mineral resources;

“Ministry” means the ministry responsible for mineral resources;

“owner” means—

- (a) in the case of minerals extracted from the land, the landowner from whose land the minerals are extracted; or
- (b) in the case of minerals extracted from the seabed, the holder of registered customary fishing rights in accordance with the Fisheries Act 1941;

“Rotuman land” means land in Rotuma as referred to in the Rotuma Lands Act 1959; and

“royalty” means any royalty or other money paid to the State in respect of a grant, and includes any interest accrued on the royalty.

Objective

3. The objective of this Act is to give effect to section 30 of the Constitution and to establish the process for the fair sharing of royalties for the extraction of minerals.

Act to bind the State

4. This Act binds the State.

Fair share of royalties

5. For the purpose of section 30(1) of the Constitution and taking into account all relevant factors including the factors specified in section 30(2) of the Constitution, any royalty must be shared in the following manner—

- (a) 20% of the royalty to the State; and
- (b) 80% of the royalty to the owner.

Royalties to be held in trust

6. Any royalty received by the State must be held in trust by the Ministry until such time as the royalty is shared in accordance with this Act.

Payment of royalties

7.—(1) The Ministry must, following the receipt of any royalty—

- (a) liaise with the relevant agencies and consider the relevant registers to correctly identify the owner; and
- (b) ensure that—
 - (i) the royalty is shared in accordance with section 5 and paid to the State and the owner; and
 - (ii) if the land is communally-owned land, the share of the royalty that is paid to the owner is equally distributed to all the owners of the communally-owned land.

(2) If the Ministry is unable to identify the owner for the sharing of any royalty, the Ministry must hold the royalty in trust until such time as the owner is identified.

(3) Any royalty that is shared in accordance with this Act must be paid—

- (a) in the case of the State, into the Consolidated Fund; and
- (b) in the case of an owner, to the person who is the owner at the time the royalty becomes payable.

Regulations

8.—(1) The Minister may make regulations to prescribe 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 and generally for achieving the purposes of this Act.

(2) Without affecting the generality of subsection (1), the Minister may make regulations prescribing offences and penalties not exceeding—

- (a) in the case of a natural person, a fine of \$10,000 or imprisonment for a term of 5 years or both; or
- (b) in the case of a body corporate, a fine of \$100,000.

Passed by the Parliament of the Republic of Fiji this 16th day of May 2018.