

**EXTRAORDINARY
GOVERNMENT OF FIJI GAZETTE SUPPLEMENT**

No. 32

SATURDAY, 24th SEPTEMBER

2016

[LEGAL NOTICE NO. 80]

LAND SALES ACT
(CAP. 137)

Land Sales Regulations 2016

IN exercise of the powers conferred upon me by section 19 of the Land Sales Act (Cap. 137), I hereby make these Regulations—

Short title and commencement

- 1.—(1) These Regulations may be cited as the Land Sales Regulations 2016.
- (2) These Regulations come into force on 24 September 2016.

Interpretation

- 2.—(1) In these Regulations—

“Act” means the Land Sales Act (Cap. 137);

“application” means an application made under regulation 5;

“extension period” means the period appointed by the Minister as an extension of the prescribed period;

“prescribed period” means the period prescribed in section 7A(6) of the Act, as applicable;

“subsequent application” means any application made after a previous application has been approved or refused by the Minister; and

“valuer” means a person appointed under regulation 8(2) who, either as a principal, an employee or agent, is qualified to engage in professional valuations of property or interests in property.

- (2) Words and phrases used in these Regulations have the same meaning as under the Act unless the context otherwise requires.

Members of the Review Committee

- 3.—(1) The Review Committee established under section 7B of the Act is to be constituted by—

- (a) the permanent secretary responsible for finance, as the chairperson;
- (b) the permanent secretary responsible for land matters;
- (c) the permanent secretary responsible for industry and trade;
- (d) the Solicitor-General; and
- (e) up to 3 other members appointed by the Minister.

- (2) The Review Committee may appoint a secretary.

Deliberations of the Review Committee

4.—(1) The chairperson and 3 other members of the Review Committee constitute a quorum.

(2) Where there is an equal number of votes, the chairperson has the deciding vote.

(3) The Review Committee may regulate its own proceedings.

Applications

5.—(1) A person seeking to obtain an extension of the prescribed period must make an application to the Review Committee.

(2) An application must—

(a) be in the form prescribed in Schedule 1; and

(b) specify an address for the service of any document, which must include—

(i) in the case of an individual, a physical address within Fiji; and

(ii) in the case of a company, the registered office of the company.

(3) An applicant must specify and provide a physical address for a contact person within Fiji to be served with any document on the applicant's behalf if it is not practicable, convenient or expedient for the applicant to be served.

(4) In these Regulations, service is deemed to be effected if it—

(a) is made to the address specified in the application as required under regulation 5(2) or (3), as applicable; and

(b) contains an affidavit of service or statutory declaration acknowledging the service of the document, which must outline the date, place and to whom the service of the document was effected and must be witnessed by a Justice of the Peace or Commissioner for Oaths.

(5) An application must be accompanied by a fee of \$1,000 plus VAT.

(6) The Review Committee must, within 7 days of receipt of an application give or cause to be given 30 days' notice of the time and the place that the Review Committee is to consider the application, and the applicant may appear and be heard in person or by any other means as the Review Committee may approve.

(7) An application made to the Review Committee does not exempt the applicant from any penalty or fine under the Act.

(8) A subsequent application may only be made—

(a) in the case of an applicant whose application has been previously approved by the Minister, if the circumstances have substantially changed; or

(b) in the case of an applicant whose application has been previously refused by the Minister—

(i) if the applicant's circumstances have substantially changed; and

(ii) after 6 months from the date of the Minister's decision under regulation 7(2).

Consideration of applications

6.—(1) In considering an application, the Review Committee must not make a recommendation to the Minister for approval of the application unless—

- (a) the application is made in the form prescribed in Schedule 1 and completed in all applicable parts;
- (b) the application is accompanied by the fee prescribed in regulation 5(5);
- (c) the applicant provides sufficient evidence of the amount of time required to complete construction; and
- (d) the applicant proves that the applicant—
 - (i) is not able to complete construction within the prescribed period and is not responsible, through any action or inaction, for the inability to do so;
 - (ii) has sufficient financial resources to complete construction;
 - (iii) has a financial history which is not indicative of an inability to complete construction; and
 - (iv) has taken steps to commence or complete construction and has provided a detailed plan for construction with an estimated time frame for completion.

(2) The Review Committee may request that an applicant provide any information which the Review Committee requires in order to carry out its functions under the Act.

(3) The Review Committee must, within 14 days of the date the Review Committee considers the application or within such other time as the Minister may approve, and after consideration of the criteria in subregulation (1)—

- (a) make a recommendation to the Minister to either approve or refuse the application; and
- (b) serve a copy of the Review Committee's recommendation on the applicant.

(4) If the Review Committee makes a recommendation to the Minister to approve an application, the Review Committee must also propose an extension period.

Minister's considerations

7.—(1) The applicant may, if the applicant so wishes, submit to the Minister a written response to the recommendation of the Review Committee within 7 days of the date the applicant is served a copy of the Review Committee's recommendation under regulation 6(3)(b).

(2) The Minister must make a decision to approve or refuse the application—

- (a) within 14 days of the Minister's receipt of the applicant's written response; or
- (b) where the applicant does not submit a written response, within 21 days of the Minister's receipt of the Review Committee's recommendation,

or within such time as the Minister may approve.

(3) If the Minister approves the application, the Minister must determine the extension period.

Compliance inspectors and valuers

8.—(1) The permanent secretary responsible for finance may appoint a compliance inspector to assess compliance with any requirement under the Act and to determine whether construction is completed or may be completed within the prescribed period.

(2) The permanent secretary responsible for finance may also appoint a person for the purpose of assessing the value of the construction.

(3) A compliance inspector or valuer has the power to enter any premises and inspect the premises, but only so as to carry out the compliance inspector's or valuer's functions under the Act.

(4) A compliance inspector or valuer may request that an applicant provide any information which the compliance inspector or valuer requires in order to carry out the compliance inspector's or valuer's functions under the Act.

(5) A person who—

- (a) wilfully delays or obstructs a compliance inspector or valuer in the exercise of the compliance inspector's or valuer's powers under the Act; or
- (b) fails to produce, or conceals or attempts to conceal, any document or information requested by a compliance inspector or valuer and relevant to the compliance inspector's or valuer's inspection,

commits an offence.

(6) A person who commits an offence under subregulation (5) is liable upon conviction to—

- (a) in the case of an individual, a fine not exceeding \$50,000 or a term of imprisonment not exceeding 2 years, or to both; or
- (b) in the case of a company—
 - (i) a fine not exceeding \$100,000; and
 - (ii) for each director of the company, a fine not exceeding \$50,000 or a term of imprisonment not exceeding 2 years, or to both.

Fixed penalty notice

9.—(1) A compliance inspector may institute proceedings in respect of the alleged commission of an offence under section 7A(7) of the Act by serving a fixed penalty notice—

- (a) in the case of an individual, personally upon the registered owner or lessee of the land or, if personal service of a fixed penalty notice cannot be practicably, conveniently or expediently effected—
 - (i) where a person resides outside of Fiji but carries on business in Fiji in the person's own name, or under the name of a firm, through an authorised agent, the fixed penalty notice may be served by giving it to such agent, and such service is equivalent to personal service on the person; or

- (ii) by sending the fixed penalty notice by prepaid registered post addressed to the person to be served at the person's known place of abode or business; or
 - (b) in the case of a company, at the registered office of the company.
- (2) A fixed penalty notice must be in the form prescribed in Schedule 2.
- (3) Proceedings instituted by a fixed penalty notice may be pursued in accordance with Division 4 of Part 7 of the Criminal Procedure Decree 2009.

False information

- 10.—(1) A person who knowingly, recklessly or otherwise—
- (a) makes or causes to be made to the Review Committee, compliance inspector or valuer any false statement, record or report or provides any false information, in relation to any requirement under the Act; or
 - (b) misleads the Review Committee, compliance inspector or valuer by providing or omitting information,
- commits an offence.
- (2) A person who commits an offence under subregulation (1) is liable upon conviction to—
- (a) in the case of an individual, a fine not exceeding \$50,000 or a term of imprisonment not exceeding 2 years, or to both; or
 - (b) in the case of a company—
 - (i) a fine not exceeding \$100,000; and
 - (ii) for each director of the company, a fine not exceeding \$50,000 or a term of imprisonment not exceeding 2 years, or to both.

Made this 22nd day of September 2016.

A. SAYED-KHAIYUM
Attorney-General and Minister for Economy

1B. Applicant is a company:

- (a) Company name:
- (b) Company number (if applicable):
- (c) Director(s):
.....
.....
- (d) Country of incorporation:
- (e) Shareholders:

Name	Citizenship(s)	Shares held

[Please annex corporate diagram]

- (f) Please list consolidated revenue for each of the preceding 3 financial years.
.....
.....
.....

[Please annex financial statements for each of the preceding 3 financial years (audited, if available)]

- (g) Registered office:
- (h) Telephone:
- (i) Fax:
- (j) E-mail:

B. PROPERTY DETAILS

2. Type of land: State land Freehold land

3. Land description:

- (a) Title/Lease/Sublease No (as applicable):
- (b) Lot No:
- (c) Plan No:
- (d) Island:
- (e) Province:
- (f) District/Town (as applicable):

4. Who is/are the registered owner(s) of the land?

.....
.....
.....

[Please annex Certificate of Title/Lease/Sublease (issued by the Office of the Registrar of Titles within 2 weeks from the date this application is lodged)]

5. Date of purchase:

6. Purchase price:.....

[Please annex certified copy of document of transfer]

7. Value of land:.....

[Please annex certified copy of valuation certificate]

8. Has the applicant begun construction? Yes No

[Note: under the Land Sales Act (Cap. 137), **construction** means “the construction of a new residential dwelling which incurs building costs not less than \$250,000”]

[If you have ticked yes in paragraph 8, please fill out paragraph 8A. If you have ticked no, please skip to paragraph 8B.]

8A. **If construction has commenced:**

(a) When did construction commence?

.....
.....
.....
.....

[Please annex evidentiary documentation]

(b) What is the status of construction?

.....
.....
.....
.....

[Please annex evidentiary documentation]

(c) What are the total expenses incurred by the construction so far?

.....
.....
.....
.....

[Please annex evidentiary documentation]

(d) Why is the applicant unable to complete construction within the prescribed period?

.....
.....
.....
.....

[Please annex evidentiary documentation]

F. DECLARATION AND CONSENT

I declare that—

- (a) the information provided in this application form and in any annexure is true and correct at the time of signing;
- (b) all relevant information has been provided with this application; and
- (c) the information provided in this application is not misleading,

and I consent to any inspection of the land described in Part B of this application form by a compliance inspector or valuer in accordance with the Land Sales Regulations 2016.

If an individual:

Applicant’s signature:

Date signed: / /

If a company:

Company name:.....

Company number (if applicable):.....

Country of incorporation:

Director’s name:

Signature:

Date signed: / /

All applications must be submitted to:
The Permanent Secretary for Economy
Ministry of Economy
Level 10, Ro Lalabalavu House
Suva
Fiji

SCHEDULE 2
(Regulation 9(2))

LAND SALES ACT
(CAP. 137)

FIXED PENALTY NOTICE

To: of.....

YOU ARE HEREBY CHARGED as follows:

Statement of offence:

contrary to:

Particulars of offence:

Date of purchase:

Value of land:

Purchase/lease price of land (as applicable):

Penalty: \$.....

TAKE NOTICE that, if not later than 21 days from the date of this fixed penalty notice, payment of the fixed penalty of \$..... is received at the Ministry of Economy, Ro Lalabalavu House, Suva, all liability in respect of the offence will be discharged and no further action will be taken.

HOWEVER, if the fixed penalty is not paid within the specified time you will be required to attend court at Court to answer the charges set out above on the..... day of..... 20.....

UNLESS —

- (a) You admit the offence and plead guilty in writing; OR
- (b) An appearance is made on your behalf by a legal practitioner, in which case your personal attendance will be excused and the case will be disposed of in your absence.*

* see back of form for Affidavit of Service

NOTICE: In case of default in payment within the time specified in the notice, the court may, if the person is found guilty by the court, impose a penalty which is more than the fixed penalty for the offence or if unable to pay the fixed penalty may apply section 37(1) and (2) of the Sentencing and Penalties Decree 2009 (Decree 42 of 2009).

Signed:
[Compliance inspector]

Date:.....

AFFIDAVIT OF SERVICE
[To be completed in all cases]

I,as the compliance inspector whose signature appears at the foot of the Land Sales Act (Cap. 137) fixed penalty notice above, make oath and say that, on the day of at I did serve upon by way of a true copy of that Land Sales Act (Cap. 137) fixed penalty notice.

Sworn by the above-named compliance inspector at, on this day of20.....

Before:

[Justice of the Peace or Commissioner for Oaths]

WRITTEN PLEA OF GUILTY

I, being the person named above hereby enter a plea of guilty to the charge specified.

Signed:.....

Date:.....

