

HIGHER SALARIES COMMISSION ACT 2023  
(ACT NO. 24 OF 2023)

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SECTIONS

PART 1—PRELIMINARY

1. Short title and commencement
2. Interpretation

PART 2—HIGHER SALARIES COMMISSION

3. Higher Salaries Commission
4. Eligibility for appointment
5. Vacancies
6. Meetings of the Commission
7. Functions of the Commission
8. Powers of the Commission
9. Staff of the Commission
10. Guidelines and directions
11. Delegation
12. Disclosure of interest
13. Commission to maintain confidentiality
14. Validity of acts and decisions
15. Protection from liability

PART 3—DETERMINATION OF SALARIES

16. Determination of salaries
17. Release of determinations
18. Frequency of adjustments
19. Interim adjustments
20. Consultation with Commission
21. Submissions to Commission
22. Determination of Commission to prevail over contracts of service
23. Salary of existing holder not to be reduced

PART 4—ACCOUNTS AND FINANCE

24. Funds of the Commission
25. Annual report

PART 5—MISCELLANEOUS

26. Act to prevail
27. Regulations
28. Power to amend Schedule
29. Repeal
30. Transitional
31. Consequential amendments

SCHEDULE 1—PRESCRIBED BODIES

SCHEDULE 2—CONSEQUENTIAL AMENDMENTS



**ACT NO. 24 OF 2023**

I assent.

S. TEMO  
*Acting Chief Justice*

[14 September 2023]

**AN ACT**

TO PROVIDE FOR THE ESTABLISHMENT OF THE HIGHER SALARIES  
COMMISSION AND 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 Higher Salaries Commission Act 2023.  
(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—

“chairperson” means the chairperson of the Commission;

“Commission” means the Higher Salaries Commission established under section 3;

“financial year” means the Government financial year;

“Minister” means the Minister responsible for public enterprises; and

“salary” means any salary considered and determined under section 16.

## PART 2—HIGHER SALARIES COMMISSION

### *Higher Salaries Commission*

**3.—**(1) This section establishes the Higher Salaries Commission.

(2) The Commission consists of—

- (a) a chairperson appointed by the Minister;
- (b) a nominee of the Minister responsible for finance;
- (c) a nominee of the Minister; and
- (d) 2 other members who have recognised experience in economic, financial, industrial or commercial matters appointed by the Minister.

(3) A member of the Commission holds office for a term of 3 years and is eligible for reappointment.

(4) The Minister may appoint a person to act as a member of the Commission during any period a member is absent from duty or is not in Fiji or is, for any other reason, unable to perform the functions of office.

(5) A member of the Commission, other than a member holding a public office, is entitled to such allowances as may be determined by the Minister following consultation with the Prime Minister.

(6) A member of the Commission may resign from his or her office by giving written notice to the Minister.

(7) Any member of the Commission may be removed from office by the Minister for any reason, including, on the grounds of inability to perform the functions of office, bankruptcy, or neglect of duty or misconduct, proved to the satisfaction of the Minister.

### *Eligibility for appointment*

**4.** A person who—

- (a) is a member of Parliament;
- (b) in Fiji or elsewhere—
  - (i) is an undischarged bankrupt;
  - (ii) has been convicted of any offence involving fraud or dishonesty; or
  - (iii) has been removed from an office on account of misconduct in the exercise of his or her official duties;
- (c) is under a written law in Fiji, adjudged or declared to be of unsound mind; or

(d) is a member of any commission established by the Constitution, is not eligible to be appointed as a member of the Commission.

*Vacancies*

**5.—**(1) The seat of a member of the Commission becomes vacant when he or she—

- (a) dies;
- (b) has served the term of his or her appointment;
- (c) resigns in accordance with section 3(6);
- (d) is removed by the Minister in accordance with section 3(7); or
- (e) ceases to be eligible for appointment to the Commission.

(2) Any person appointed to fill a vacancy must be appointed for the remainder of the term for which the vacating member was appointed.

(3) The powers of the Commission are not affected by any vacancy in its membership.

*Meetings of the Commission*

**6.—**(1) A meeting of the Commission must be held at such time and place as determined by the chairperson.

(2) Subject to subsection (3), the chairperson must preside at each meeting of the Commission.

(3) In the event the chairperson is absent from any meeting of the Commission, the meeting must be presided over by a member who is nominated by the chairperson and failing any such nomination, the meeting must be presided over by a member appointed by the members present.

(4) At all meetings of the Commission, the quorum necessary for the transaction of business of the Commission is 3 members.

(5) All questions arising at any meeting of the Commission must be decided by a majority of votes of the members of the Commission present at the meeting.

(6) At a meeting of the Commission, all members of the Commission present have the right to vote, and in the case of an equality of votes, the chairperson, or in the absence of the chairperson, the member presiding, has a casting vote.

(7) A resolution of the Commission in writing signed or assented to by letter, e-mail or such other electronic means as approved by the Commission, by a majority of the members of the Commission, is as valid and effectual as if it had been passed at a meeting of the Commission duly called and constituted.

(8) Subject to this Act, the Commission may regulate its own proceedings.

*Functions of the Commission*

**7.—**(1) The functions of the Commission are to—

- (a) make determinations of salaries in accordance with this Act;

- (b) conduct consultations with boards of Government commercial companies, commercial statutory authorities, statutory organisations and any other body when reviewing or determining salaries; and
- (c) carry out such other functions as may be conferred or imposed on it by this Act or any other written law.

*Powers of the Commission*

**8.—**(1) For the purposes of this Act, the Commission has 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 1946.

(2) Sections 14 and 17 of the Commissions of Inquiry Act 1946 apply *mutatis mutandis* in relation to the powers vested in the Commission by this section.

*Staff of the Commission*

**9.—**(1) The Commission may appoint officers and employees, including temporary or casual officers and employees as it considers necessary for the efficient exercise of its powers and performance of its functions.

(2) Officers and employees of the Commission must be paid such remuneration and employed on such terms and conditions of employment as may be determined by the Commission.

*Guidelines and directions*

**10.** The Commission may issue guidelines and directions for the exercise of its powers and performance of its functions under this Act.

*Delegation*

**11.—**(1) The Commission may in writing, either generally or particularly, delegate any of its powers and functions to its officers and employees as it thinks fit except the power to delegate.

(2) A delegation made under this section is revocable at will by the Commission, and no such delegation prevents the exercise of any power or performance of any function by the Commission.

(3) Any delegation made under this section continues in force according to its tenor notwithstanding that all or any of the members of the Commission at the time when the delegation was made, has ceased to hold office, and such delegation continues to have effect as if made by a successor in office, unless earlier revoked.

*Disclosure of interest*

**12.—**(1) A member of the Commission or any officer, employee, agent or consultant of the Commission having any interest in any matter under discussion by the Commission must disclose to the Commission the fact and nature of his or her interest.

(2) A member of the Commission or any officer, employee, agent or consultant of the Commission is deemed to have an interest referred to in subsection (1) if his or her spouse, partner, parent, child, adopted child or other immediate family member as may be prescribed by regulations, has an interest in the matter under discussion.

(3) A disclosure under subsection (1) must be recorded in writing, and, after the disclosure, the member of the Commission or the officer, employee, agent or consultant of the Commission must not take part in nor be present at any deliberation or decision making of the Commission.

(4) Any member of the Commission or any officer, employee, agent or consultant of the Commission who fails to disclose his or her interest as required under subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.

*Commission to maintain confidentiality*

**13.—**(1) The Commission or any officer, employee, agent or consultant of the Commission must not, directly or indirectly, make a record of, disclose or communicate to any person any information acquired in the performance of its functions, or his or her duties under this Act, unless it is necessary to do so—

- (a) for the purposes of, or in connection with, the performance of a duty or function under this Act;
- (b) for the purposes of producing a document or giving evidence to a court or tribunal or any other statutory entity in the course of civil or criminal proceedings under this Act or any other written law; or
- (c) for reporting a suspected offence or assisting in the investigation of a suspected offence.

(2) Any person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.

*Validity of acts and decisions*

**14.** An act or decision of the Commission is not invalid in the case of—

- (a) a defect or irregularity in, or in connection with, the appointment of a member of the Commission; or
- (b) an acting appointment where the occasion for acting had not arisen or had ceased.

*Protection from liability*

**15.—**(1) No civil or criminal proceedings lie against the Commission for anything it may do or fail to do in the course of the exercise or intended exercise of its functions unless it is shown that it did not act in good faith or with reasonable care.

(2) No civil or criminal proceedings lie personally against any member, officer or employee of the Commission or other person acting under the direction of the Commission for anything done or said, or any failure to do or say anything in the course of the operation of the Commission unless, it is shown that the member, officer or employee did not act in good faith or with reasonable care.

## PART 3—DETERMINATION OF SALARIES

*Determination of salaries*

**16.—**(1) The Commission must—

- (a) consider and determine the salary of the chief executive officer or any other similar titled position of any board, corporation, authority or body and any Government controlled company listed in Schedule 1; and
- (b) consider and determine the salary of the special administrator and the chief executive officer or any other similar titled position of any city, town and district council constituted under the Local Government Act 1972.

(2) The Commission may consider and determine any allowance or benefit that any other written law states must be determined in accordance with this Act.

(3) The Commission may fix scales of salary and may specify the manner in which a scale of salary fixed is to be applied.

(4) Except as provided in this Act, where the salary payable to any person is fixed under this Act, no amount in excess of the salary fixed is to be paid to any person on account of that salary.

(5) Any person who contravenes subsection (4) commits an offence and is liable on conviction to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both.

*Release of determinations*

**17.—**(1) The Commission must ensure that any determination it makes in respect of the salary of any person is known to that person and to the person responsible for the payment of the salary, and to any other person that, in the opinion of the Commission, has a direct interest in the subject matter of the determination.

(2) The Commission must submit to the Minister, a copy of any determination it makes under section 16.

*Frequency of adjustments*

**18.—**(1) The salary to be determined by the Commission under section 16 must be determined by the Commission at a date fixed by it, whether before or after the date of that determination.

(2) A determination of the Commission must continue in force for a period of at least 12 months from the date on which the salary fixed by the Commission takes effect.

(3) The Commission must review the salary of a person to whom section 16 applies every 2 years unless a request is made by a prescribed body listed in the Schedule for a review of the salary at an earlier date.

(4) The Commission may publish particulars of each review it undertakes under subsection (3) after consultation with the Minister.



(5) Notwithstanding subsection (2), the rate of salary determined at a review under subsection (3) may continue in force for a period of less than 12 months from the date on which it takes effect if the Commission is satisfied the period is justified.

*Interim adjustments*

**19.**—(1) Between the reviews under section 18(3), the Commission may determine an interim adjustment to the salary of the chief executive officer or any other similar titled position of any board, corporation, authority, body or any Government controlled company listed in the Schedule, or the special administrator and the chief executive officer or any other similar titled position of any city, town and district council constituted under the Local Government Act 1972.

(2) The salary determined as an interim adjustment may continue in force for a period of less than 12 months from the date on which it takes effect if the Commission is satisfied that in all the circumstances, there are particular and special reasons that justify a period of less than 12 months.

*Consultation with Commission*

**20.** When any prescribed body listed in the Schedule considers that any salary which it proposes to agree to, or pay, will or may tend to lead to unreasonable disparities or inappropriate relativities with any salary determined by the Commission under section 16, it may, before agreeing to or committing itself to the payment of such salary, consult with the Commission and have due regard to any opinion expressed by the Commission and to any relevant salary determined by the Commission.

*Submissions to Commission*

**21.** For the purpose of a review under section 18(3), any prescribed body listed in the Schedule is entitled to make written submissions to the Commission.

*Determination of Commission to prevail over contracts of service*

**22.**—(1) A determination of the Commission prevails over any contract of service to the extent that there is any conflict between the determination and the contract.

(2) The contract under subsection (1) is construed and has effect as if it had been modified so far as necessary in order to conform to the determination.

*Salary of existing holder not to be reduced*

**23.** When any office is subject to the determination of the Commission under section 16 and the Commission determines the salary for that position to be lower than that being received by the holder of the office, the salary must not be reduced as a result of that determination.

PART 4—ACCOUNTS AND FINANCE

*Funds of the Commission*

**24.** All expenditure payable or incurred under or in the administration of this Act is payable out of money appropriated by Parliament.

*Annual report*

**25.** Without limiting the right of the Commission to report at any time, the Commission must, as soon as practicable after the end of each financial year, publish an annual report on the performance of the Commission's functions under this Act during the year, and must submit a copy to the Minister, who must table it in Parliament.

## PART 5—MISCELLANEOUS

*Act to prevail*

**26.** This Act prevails over any other written law authorising any person or body to fix any salary which may be fixed or determined pursuant to section 16.

*Regulations*

**27.—(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 fine of \$10,000 or imprisonment for a term of 5 years or both.

*Power to amend Schedule*

**28.** The Minister may, with the approval of the Prime Minister, amend the Schedule by notice in the Gazette.

*Repeal*

**29.** The Higher Salaries Act 2011 is repealed.

*Transitional*

**30.—(1)** A determination of salary of the chief executive officer or any other similar titled position of any board, corporation, authority, body or Government controlled company listed in the Schedule, or the special administrator and the chief executive officer (or any other similar titled position) of any city, town and district council constituted under the Local Government Act 1972 made prior to the commencement of this Act remains valid unless otherwise determined in accordance with this Act.

(2) Any application for determination of the salary of the chief executive officer or any other similar titled position of any board, corporation, authority or body and any Government controlled company listed in the Schedule or the special administrator and the chief executive officer (or any other similar titled position) of any city, town and district council constituted under the Local Government Act 1972 for which a decision has not been made on the commencement of this Act, is to be determined in accordance with this Act.

*Consequential amendments*

**31.** The Acts listed in Schedule 2 are amended as set out in that schedule.

SCHEDULE 1  
(Section 16)

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PRESCRIBED BODIES

1. Airports Fiji Pte Limited
2. Agricultural Marketing Authority
3. Biosecurity Authority of Fiji
4. Civil Aviation Authority of Fiji
5. Consumer Council of Fiji
6. Fiji Broadcasting Corporation Pte Limited
7. Fiji Coconut Millers Pte Limited
8. Fiji Development Bank
9. Fiji Hardwood Corporation Pte Limited
10. Fiji Meat Industry Board
11. Fiji Public Trustee Corporation Pte Limited
12. Fiji Sports Council
13. Food Processors (Fiji) Pte Limited
14. Fiji Rice Pte Limited
15. Higher Education Commission
16. Housing Authority
17. iTaukei Land Trust Board
18. Land Development Authority
19. Land Transport Authority
20. National Fire Authority
21. Pacific Fishing Company Pte Limited
22. Post Fiji Pte Limited
23. Tourism Fiji
24. Water Authority of Fiji
25. Unit Trust of Fiji (Management) Ltd
26. Yaqara Pastoral Company Pte Limited
27. Fiji Agromarketing Authority

SCHEDULE 2  
(Section 31)

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CONSEQUENTIAL AMENDMENTS

*Agricultural Marketing Authority Act 2004*

1. The Agricultural Marketing Authority Act 2004 is amended in section 9(3) by deleting “Higher Salaries Act 2011” and substituting “Higher Salaries Commission Act 2023”.

*Civil Aviation Authority of Fiji Act 1979*

2. The Civil Aviation Authority of Fiji Act 1979 is amended by—

- (a) in section 10(3), deleting “Higher Salaries Act 2011” and substituting “Higher Salaries Commission Act 2023”; and
- (b) in section 12(1), deleting “Subject to the provisions of the Higher Salaries Act 2011, the” and substituting “The”.

*Consumer Council of Fiji Act 1976*

3. The Consumer Council of Fiji Act 1976 is amended by—

- (a) in section 4(6A), deleting “Higher Salaries Act 2011” and substituting “Higher Salaries Commission Act 2023”; and
- (b) in section 13, deleting “Subject to the provisions of the Higher Salaries Act 2011, the” and substituting “The”.

*Fiji Development Bank Act 1966*

4. The Fiji Development Bank Act 1966 is amended in section 7 by—

- (a) in subsection (1A), deleting “by in accordance with the Higher Salaries Act 2011” and substituting “in accordance with Higher Salaries Commission Act 2023”; and
- (b) in subsection (1B), deleting “Subject to the provisions of the Higher Salaries Act 2011, the” and substituting “The”.

*Fiji National Provident Fund Act 2011*

5. The Fiji National Provident Fund Act 2011 is amended in section 12 by deleting “Subject to the Higher Salaries Act 2011, a” and substituting “A”.

*Fiji Sports Council Act 1978*

6. The Fiji Sports Council Act 1978 is amended in section 6A by—

- (a) in subsection (2), deleting “Higher Salaries Act 2011” and substituting “Higher Salaries Commission Act 2023”; and
- (b) in subsection (3), deleting “Subject to the provisions of the Higher Salaries Act 2011, the” and substituting “The”.

*Housing Act 1955*

7. The Housing Act 1955 is amended by—

- (a) in section 3B(3), deleting “by the Higher Salaries Act 2011” and substituting “in accordance with Higher Salaries Commission Act 2023”; and
- (b) in section 8, deleting “Subject to the provisions of the Higher Salaries Act 2011, the” and substituting “The”.

*iTaukei Land Trust Act 1940*

8. The iTaukei Land Trust Act 1940 is amended in section 30(2) by deleting “Higher Salaries Act 2011” and substituting “Higher Salaries Commission Act 2023”.

*Land Development Act 1961*

9. The Land Development Act 1961 is amended in section 20 by—

- (a) in subsection (2), deleting “Higher Salaries Act 2011” and substituting “Higher Salaries Commission Act 2023”; and
- (b) in subsection (3), deleting “Subject to the provisions of the Higher Salaries Act 2011, the” and substituting “The”.

*Land Transport Act 1998*

10. The Land Transport Act 1998 is amended in section 17(1) by deleting “Higher Salaries Act 2011” wherever it appears and substituting “Higher Salaries Commission Act 2023”.

*Local Government Act 1972*

11. The Local Government Act 1972 is amended in section 35 by—

- (a) in subsection (2A), deleting “Higher Salaries Act 2011” and substituting “Higher Salaries Commission Act 2023”; and
- (b) in subsection (2B), deleting “Subject to the provisions of the Higher Salaries Act 2011, other” and substituting “Other”.

*Meat Industry Act 1969*

12. The Meat Industry Act 1969 is amended in section 5 by—

- (a) in subsection (2), deleting “Higher Salaries Act 2011” and substituting “Higher Salaries Commission Act 2023”; and
- (b) in subsection (3), deleting “Subject to the provisions of the Higher Salaries Act 2011, other” and substituting “Other”.

*National Fire Service Act 1994*

13. The National Fire Service Act 1994 is amended by—

- (a) in section 13(3), deleting “Higher Salaries Act 2011” and substituting “Higher Salaries Commission Act 2023”; and
- (b) in section 15(1), deleting “Subject to the provisions of the Higher Salaries Act 2011, the” and substituting “The”.

*Public Enterprises Act 2019*

14. The Public Enterprises Act 2019 is amended in section 51 by deleting subsection (3) and inserting the following—

“(3) The chief executive officer is entitled to remuneration determined in accordance with the Higher Salaries Commission Act 2023.

(4) The board of a public enterprise must provide the following information to the Higher Salaries Commission—

- (a) the specified performance criteria achieved by the chief executive officer;
- (b) the commercial outcomes achieved by the public enterprise; and
- (c) an annual review of the chief executive officer’s performance.”.

*Tourism Fiji Act 2004*

15. The Tourism Fiji Act 2004 is amended in section 11(2) by deleting “Higher Salaries Act 2011” and substituting “Higher Salaries Commission Act 2023”.

*Water Authority of Fiji Act 2007*

16. The Water Authority of Fiji Act 2007 is amended in section 14(4) by deleting “to be fixed by the Higher Salaries Act 2011” and substituting “as determined in accordance with the Higher Salaries Commission Act 2023”.

Passed by the Parliament of the Republic of Fiji this 14th day of September 2023.