

INVESTMENT ACT 2021
(ACT NO. 5 OF 2021)

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ACT NO. 5 OF 2021

I assent.

J. K. KONROTE
President

[3 June 2021]

AN ACT

TO ESTABLISH LEGAL, SOCIAL AND ECONOMIC PRINCIPLES FOR THE
DEVELOPMENT OF INVESTMENT ACTIVITY IN FIJI, DEFINE THE RIGHTS,
DUTIES AND RESPONSIBILITIES OF DOMESTIC AND FOREIGN INVESTORS
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 Investment Act 2021.

(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—

“Agency” means the Investment Fiji Board established under section 3 of the Investment Fiji Act 1980;

“direct investment” means an investment, whether single or combined, new, current or successive, which enables an investor or group of investors to establish, acquire or have a lasting interest in a business;

“domestic investor” means—

- (a) any natural person who is a Fijian citizen; or
- (b) any legal person with its headquarters registered or incorporated in Fiji,

making a direct investment in Fiji;

“foreign investor” means—

- (a) any natural person who is not a Fijian citizen; or
- (b) any legal person having its headquarters registered or incorporated outside of Fiji,

making a direct investment in Fiji;

“freely usable currency” means currency defined as such by the International Monetary Fund and approved by the Reserve Bank of Fiji;

“investment” means a direct contribution of domestic or foreign capital to establish or expand a business undertaking including—

- (a) a company;
- (b) shares, stock, partnership interests and other forms of equity participation, bonds, debentures and other forms of debt interests in a company;
- (c) contractual rights, such as under turnkey, construction or management contracts, production or revenue-sharing contracts, concessions, or other similar contracts;
- (d) tangible property, including real property;
- (e) intangible property, including rights such as leases, mortgages, liens and pledges;
- (f) intellectual property, including copyright and related rights, patents, rights in plant varieties, industrial designs, rights in semi-conductor layout designs, trade secrets, including know-how and confidential business information;
- (g) trade and service marks, and trade names; and
- (h) rights conferred under any written law, such as licences and permits,

but does not include claims to money that arise solely from commercial contracts for the sale of goods and services and the domestic financing of such contracts;

“investment dispute” means a dispute between an investor and the State over an investment in Fiji or the interpretation of this Act in relation to an investment;

“investor” means a domestic investor or foreign investor;

“lasting interest in a business” means ownership of at least 10% of the voting power in an incorporated, or the equivalent in an unincorporated, enterprise;

“Minister” means the Minister responsible for investment;

“reserved activity” means investment in an area reserved for domestic investors only; and

“restricted activity” means investment in an area restricted for foreign investments.

Objectives

3. The objectives of this Act are to—

- (a) contribute to an attractive investment climate in Fiji to increase investments;
- (b) generate employment;
- (c) contribute to sustainable and social development;
- (d) promote growth for the benefit of all Fijians; and
- (e) provide equity for investors with transparent, reliable, efficient and fair rules and procedures.

Application

4. This Act applies to all direct investments made by an investor in Fiji.

Reserved and restricted activities

5.—(1) The Minister may, with the approval of Cabinet and following consultations with relevant stakeholders, prescribe by regulations, a complete and exclusive list of reserved activities and restricted activities.

(2) Reserved activities and restricted activities are to be applied as an exception and only in areas in Fiji where domestic businesses are considered vulnerable.

(3) Restricted activities must have preference over reserved activities where the objective can be achieved by both measures.

(4) Restricted activities may have a minimum investment threshold or an ownership ceiling applied generally or to specific activities, or any other measure that achieves its objective effectively.

(5) The Minister must review the list prescribed in subsection (1) every 2 years.