



I assent.

[L.S.]

L. BRIAN FREESTON,

Governor

29th September, 1948.

### AN ORDINANCE

TO MAKE PROVISION FOR THE VESTING OF CERTAIN FUNDS HELD BY THE GOVERNMENT OF THE GILBERT AND ELLICE ISLANDS COLONY ON BEHALF OF THE BANABANS IN A BOARD OF TRUSTEES ESTABLISHED FOR THE PURPOSE, AND FOR THE CONTROL AND DISPOSITION OF SUCH FUNDS AND FOR MATTERS CONNECTED WITH THE PURPOSES AFORESAID.

[1st January, 1949.]

BE it enacted by the Governor of Fiji with the advice and consent of the Legislative Council thereof:—

1. This Ordinance may be cited as the Banaban Funds Ordinance, 1948, and shall come into operation on the first day of January, 1949. Short Title

2. In this Ordinance—"Island Council" or "Council" means the Rabi Island Council established by the Banaban (Settlement) Ordinance, 1945. Interpretation.

No. 28 of 1945.

3.—(1) There is hereby established a Board to be known as the Banaban Funds Trust Board hereinafter referred to as the Board. Establishment of Banaban Funds Trust Board.

(2) The Board shall consist of the Banaban Adviser who shall be Chairman and five members of the Rabi Island Council elected annually by the Council.

(3) Unless he resigns or otherwise ceases to be a member every elected member shall hold office from the date of his election until the next annual election of members, but shall be eligible for re-election.

(4) The Chairman of the Board may by writing under his hand appoint a member of the Board to be Deputy Chairman.

(5) If the Chairman is absent from any meeting of the Board the Deputy Chairman shall be Chairman.

(6) A quorum of the Board shall consist of the Chairman or Deputy Chairman and three other members.

(7) No business shall be transacted at any meeting of the Board unless at least a quorum of members is present.

(8) All acts of the Board and all questions before it shall be done and decided by the majority of such members of the Council as are present and vote at a meeting held in pursuance of this Ordinance.

(9) The Chairman of a meeting of the Board shall have a deliberative vote and in the case of an equality of votes a casting vote also.

(10) The Board may make standing orders governing its own procedure.

(11) No act or proceeding of the Board or any member thereof shall be invalidated in consequence of there being a vacancy in the membership of the Board at the time of such act or proceeding.

Election of  
members and  
residential  
qualification.

4.—(1) As soon as may be after the passing of this Ordinance and thereafter at yearly intervals the Island Council shall meet and shall elect by secret ballot five of their members to be members of the Board.

(2) If a member of the Board ceases to be a member before the normal expiry of his term of office the Council shall elect a member to fill the vacancy.

(3) No person shall be elected a member of the Board unless he has been resident on Rabi Island for at least six months during the twelve months preceding his election.

(4) If a member of the Board is absent from Rabi Island for more than six months in the calendar year he shall cease to be a member of the Board.

Provided that such person shall be eligible for re-election after further residence on Rabi Island for an unbroken period of not less than six months.

The Board  
to be a body  
corporate.

5. The Board shall be a body corporate under the name of the Banaban Funds Trust Board with perpetual succession and a common seal.



6. The Chairman of the Board may appoint a Secretary and Treasurer from amongst the members, or may himself act in one or both of these offices. Officers.

7.—(1) Minutes of the proceedings of the Board shall be kept in a book which shall be kept in the office of the Board and which shall be open to inspection by members of the Board. Minutes.

(2) The minutes when duly entered and confirmed shall be authenticated by the signature of the Chairman or Deputy Chairman and one member present at the meeting, and when so authenticated shall be prima facie evidence of the proceedings recorded and of the validity thereof.

8. No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith. Liability of members.

9.—(1) All monies standing to the credit of the Banaban Royalty Trust Fund and the Banaban Provident Fund on the date of the coming into operation of this Ordinance shall vest in the Board and shall be amalgamated under the name of the Banaban Trust Fund. The Banaban Trust Fund.

(2) The Trust Fund shall be operated, controlled, invested and expended by the Board in accordance with the provisions of this Ordinance.

10. All sums payable by way of royalties in respect of minerals mined by the Phosphate Commission on Ocean Island shall be paid into and form part of the Trust Fund. Royalties.

11. Payments may be made by the Board from the monies constituting the Trust Fund for all or any of the following purposes— Payments from the Trust Fund.

(a) for the benefit of members of the Banaban community and of the community generally;

(b) for the payment of the reasonable expenses incurred by the Board in carrying out the provisions of this Ordinance;

(c) any other purpose for which the Board considers payments may properly be made;

Provided that no such payment shall be made unless it has been approved by the Governor in accordance with the provisions of section 12.

12.—(1) The Board shall, on or before such date as the Governor may appoint, in every year cause to be prepared and shall submit to the Island Council an estimate of the Estimates.

proposed expenditure and the estimated revenue of the Trust Fund for the year beginning on the first day of January next, together with a statement showing the estimated financial position of the Fund on the thirty-first day of December of the year in which the said estimates are submitted.

(2) The estimates of expenditure shall be considered by the Island Council and shall be submitted by the Council to the Governor together with such recommendations as the Council may deem fit to make.

(3) It shall be lawful for the Governor on receiving the estimates of expenditure and the recommendations of the Island Council either to approve such estimates or to direct that they be returned to the Board for reconsideration.

(4) When the estimates of expenditure are finally approved the Governor's approval shall be certified thereon under the hand of the Colonial Secretary and the estimates so approved shall be sufficient authority for the Board to incur the expenditure authorized by the estimates.

(5) Supplementary estimates of expenditure may be submitted to the Council by the Board at any time and the provisions of subsections (2), (3) and (4) of this section shall, *mutatis mutandis*, apply.

Landholders'  
Fund.

**13.** All monies standing to the credit of the Banaban Landholders' Fund on the date of the coming into operation of this Ordinance shall vest in the Board and shall be held by the Board in trust for the payment of the interest accruing from the fund to the persons lawfully entitled thereto:

Provided that the Board may, with the consent of the Governor, pay to any person entitled to a payment of interest as aforesaid the whole or any part of the capital sum representing his interest in the fund.

Order for  
payment from  
the Royalty  
Fund.

**14.** No payment from the funds held by the Board under this Ordinance shall be made except upon an order in writing signed by the Chairman and one other member of the Board designated by the Chairman.

Accounts and  
returns.

**15.** The Board shall keep such accounts and render such returns as the Governor may direct but so always that—

(a) separate accounts are kept and returns made in respect of the Trust Fund and the Landholders' Fund respectively;



(b) an annual statement showing the financial position of each fund on the thirty-first day of December in each year together with a statement showing the approved expenditure for the following year and the estimated revenue is published in such a manner as the Island Council may direct.

**16.**—(1) Subject to the provisions of this Ordinance the monies constituting the funds held by the Board in pursuance of the provisions of this Ordinance shall be operated, controlled and invested in such manner as the Governor may direct. Operation, control and investment of funds.

(2) The dividends interest or produce of the Banaban Trust Fund shall be paid into and shall form part of the fund.

**17.** The funds held by the Board and monies payable to the Board under the provisions of this Ordinance shall not be chargeable to Income Tax. Income Tax.

**18.** The funds held by the Board shall be audited annually by an auditor appointed by the Governor. Audit.

Passed in Council this twenty-first day of September in the year of our Lord one thousand nine hundred and forty-eight.