



**CONSTITUTION
OF
THE REPUBLIC OF FIJI
2026**

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CONSTITUTION OF THE REPUBLIC OF FIJI

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PREAMBLE

WE, THE PEOPLE OF FIJI,

SEEKING the blessing of God who has always watched over these islands and people of this Nation:

RECALLING the events in our history that have made us what we are, especially the settlement of the islands by the ancestors of the iTaukei and Rotuman people; the arrival of forebearers of subsequent settlers, including Banabans and other Pacific Islanders, Europeans, Indians and Chinese: the conversion of indigenous inhabitants of these islands to Christianity; the development of these islands through the enduring influence of Christianity and its contribution, along with that of other faiths, to the spiritual life of Fiji:

ACKNOWLEDGING our unique constitutional history:

(a) first the Deed of Cession of 10 October 1874 when Ratu Epenisa Seru Cakobau and the High Chiefs of Fiji, signifying their loyalty and devotion to God and the rule of law, ceded Fiji to Great Britain, followed by the cession in May 1881 to Great Britain of Rotuma by the Chiefs of Rotuma;

(b) secondly, our becoming an independent sovereign State upon the promulgation of the Fiji Independence Order 1970 under which the Constitution of Fiji of 1970 came into being;

(c) thirdly, the abrogation of the 1970 Constitution in 1987 followed by the enactment of the 1990 Constitution;

(d) fourthly, the review of the 1990 Constitution and enactment of the 1997 Constitution as a result of that review;

(e) fifthly, the abrogation of the 1997 Constitution in 2009 and its replacement by the 2013 Constitution;

(f) sixthly, the review of the 2013 Constitution undertaken in 2026 involving wide consultations with citizens of Fiji:

RECOGNISING that descendants of all those who chose and continue to make their homes in Fiji form our multicultural society:

AFFIRMING the contributions of all communities to the well-being of that society, and the rich variety of their faiths, traditions, languages and cultures:

TAKING PRIDE in our common citizenship and in the development of our economy and political institutions:

COMMITTING ourselves anew to living in truth, harmony and unity, promoting social justice and economic and social advancement of all communities, respecting their rights and interests and strengthening our institutions of government:

REAFFIRMING our recognition of human rights and fundamental freedoms of all individuals and groups, safeguarded by the bill of rights and the rule of law, and our respect for human dignity and for the importance of family:

RECOGNISING this Constitution as the supreme law of our country:

WITH GOD AS OUR WITNESS, GIVE OURSELVES THIS CONSTITUTION.

CHAPTER 1—THE STATE AND FOUNDING PROVISIONS

1 The Republic of Fiji

The Republic of Fiji is a sovereign democratic State founded on the values of—

- (a) common and equal citizenry and national unity;
- (b) respect for human rights, freedom and the rule of law;
- (c) an independent, impartial, competent and accessible system of justice;
- (d) equality for all and care for the less fortunate based on the values inherent in this section and in the Bill of Rights contained in Chapter 2;
- (e) human dignity, respect for the individual, personal integrity and responsibility, civic involvement and mutual support;
- (f) good governance, including the limitation and separation of powers;
- (g) transparency and accountability; and
- (h) a prudent, efficient and sustainable relationship with nature.

2 Supremacy of the Constitution

- (1) This Constitution is the supreme law of the State.
- (2) Any law inconsistent with this Constitution is invalid to the extent of the inconsistency.
- (3) This Constitution shall be upheld and respected by all citizens of Fiji and the State, including all persons holding public office, and the obligations imposed by this Constitution must be fulfilled.
- (4) This Constitution shall be enforced through the courts, to ensure that—
 - (a) laws and conduct are consistent with this Constitution;
 - (b) rights and freedoms are protected; and
 - (c) duties under this Constitution are performed.
- (5) This Constitution cannot be abrogated or suspended by any person and may only be amended in accordance with the procedures prescribed in this Constitution.
- (7) Any attempt to establish a Government other than in compliance with this Constitution shall be unlawful, and—
 - (a) anything done to further that attempt is invalid and of no force or effect; and
 - (b) no immunities can lawfully be granted under any law to any person in respect of actions taken or omitted in furtherance of such an attempt.

3 Principles of constitutional interpretation

- (1) Any person interpreting or applying this Constitution must promote the spirit, purpose and objects of this Constitution as a whole, and the values that underlie a democratic society based on human dignity, equality and freedom.
- (2) If a law appears to be inconsistent with a provision of this Constitution, the court must adopt a reasonable interpretation of that law that is consistent with the provisions of this

Constitution over an interpretation that is inconsistent with this Constitution.

- (3) This Constitution is to be adopted in the English language and translations in the iTaukei, Rotuman and Hindi languages are to be made available.
- (4) If there is an apparent difference between the meaning of the English version of a provision of this Constitution, and its meaning in the iTaukei, Rotuman and Hindi versions, the English version prevails.
- (5) Every person who transacts business with a department, an office in the public service or a local government body has the right to do so in English, iTaukei, Rotuman or Hindi, either directly or through an interpreter.

4 Religious liberty

- (1) Religious liberty is a founding principle of the State.
- (2) Religious belief is personal.
- (3) Religious liberty means—
 - (a) the State and all persons holding public office must treat all religions equally;
 - (b) the State and all persons holding public office must not dictate any religious belief;
 - (c) the State and all persons holding public office must not prefer or advance, by any means, any particular religion, religious denomination, religious belief, or religious practice over another, or over any non-religious belief;
 - (d) no person shall assert any religious belief as a legal reason to disregard this Constitution or any other law; and
 - (e) no person shall impose any religious practices or control over another other than in accordance with law.

5 Citizenship

- (1) Subject to the provisions of this Constitution, all citizens of Fiji have equal status and identity, which means that they are equally—
 - (a) entitled to all the rights, privileges and benefits of citizenship; and
 - (b) subject to the duties and responsibilities of citizenship.
- (2) Citizenship of Fiji shall only be acquired by—
 - (a) birth;
 - (b) registration; or
 - (c) naturalisation.
- (3) Every child born in Fiji becomes a citizen at the date of birth unless, at the date of birth—
 - (a) a parent of the child is a diplomatic representative of a foreign state; and
 - (b) neither parent is a citizen.
- (4) A child born outside Fiji may become a citizen by registration if, at the date of the child's birth, either parent was a citizen and written law may make further provision in relation to citizenship by registration.

- (5) A person may become a citizen by naturalisation, but it is a condition of naturalisation that the person has been lawfully present in Fiji for a total of 5 of the 10 years immediately before the application for naturalisation is made.
- (6) Citizens of Fiji may hold multiple citizenship, which means that—
 - (a) upon accepting the citizenship of a foreign country, a person remains a citizen of Fiji unless he or she renounces that status;
 - (b) a former citizen of Fiji, who lost that citizenship upon acquiring foreign citizenship, may regain citizenship of Fiji, while retaining that foreign citizenship unless the laws of that foreign country provide otherwise; and
 - (c) upon becoming a citizen of Fiji, a foreign person may retain his or her existing citizenship unless the laws of that foreign country provide otherwise.
- (7) A written law shall make provision for matters relating to citizenship, including the following—
 - (a) the conditions upon which citizenship of Fiji may be acquired and the conditions upon which a person may become a citizen of Fiji;
 - (b) procedures relating to the making of applications for citizenship by registration or naturalisation;
 - (c) conditions relating to the right to enter and reside in Fiji;
 - (d) provisions for the prevention of statelessness;
 - (e) rules for the calculation of periods of a person's lawful presence in Fiji for the purpose of determining citizenship;
 - (f) provisions relating to the renunciation and deprivation of citizenship; and
 - (g) such other matters as are necessary to regulate the granting of citizenship.
- (8) A written law made under subsection (7)(f) must provide that the person concerned is accorded procedural fairness.

6 National Identity

- (1) All citizens of Fiji shall continue to be known as Fijians until consensus has been reached or a final decision made in accordance with the process set out in this section and any written law.
- (2) During an initial interim period of a maximum of 12 months a broad-based and culturally appropriate consultative process shall be conducted with all Fiji's communities in relation to the use of the term "Fijian" to refer to all citizens of Fiji.
- (3) If, at the end of the interim period, national consensus has not been achieved on the question of the most appropriate term for the national identity of citizens of Fiji, a referendum shall be conducted within 12 months after the end of the interim period to determine the majority view of the citizens of Fiji on the most appropriate common term by which citizens of Fiji should be known.
- (4) Parliament shall enact written law providing for the conduct of the consultation process and, if necessary, the method for determining a majority view.

7 **Distribution of Sovereign Authority**

- (1) The Sovereign authority of the people of Fiji is exercised under this Constitution in accordance with the principles and values recognised in this Chapter.
- (2) To secure democracy under the principles of limiting and separating powers, this Constitution distributes the authority of the people of Fiji among—
 - (a) the President, who is the Head of State and symbolises the unity of the nation and the sovereignty of the people, and has the powers set out in Part A of Chapter 5;
 - (b) Parliament, which manifests the diversity and unity of the nation, represents the will of the people, oversees the Government and enacts written laws, in the manner provided in Chapter 4;
 - (c) the Prime Minister, Cabinet and the Leaders of the Opposition, which collectively manage the Government and administer the laws enacted by Parliament, in the manner set out in Part B of Chapter 4 and Part B of Chapter 5;
 - (d) the courts and other tribunals, which administer justice, safeguard the rule of law and protect the rights and freedoms recognised in Chapter 2 by exercising judicial authority of the State in accordance with Chapter 6;
 - (e) autonomous and democratic local governments, which must be established by written law to deliver services and ensure that the needs of the entire community, including youth, women, minorities and the disabled are considered in local government decisions;
 - (f) Independent Commissions, Offices and Bodies, as provided in Chapter 13, which secure and protect constitutional democracy, promote the observance of democratic principles and values by all State bodies, and maintain constitutionality and integrity by insulating essential democratic functions from improper influence, manipulation or interference;
 - (g) the public service, which carries out the policies of the Government and delivers services to the people with high standards of professionalism, ethics, integrity and transparency, in accordance with the principles set out in Part A of Chapter 7;
 - (h) the iTaukei and Rotuman communities and their coordinating entities the BLV and RIC, which maintain and enhance the indigenous sovereignty of those communities, including nurturing their culture, traditions, values and heritages and their internal governance in accordance with Chapter 8 and Chapter 9; and
 - (i) the disciplined forces, provided for in Part B of Chapter 7, which promote the goal of the people to live in peace and harmony among themselves, to be free from fear and to live peaceably with all other nations.

CHAPTER 2—BILL OF RIGHTS

PART A – APPLICATION, INTERPRETATION AND ENFORCEMENT

8 Application

- (1) This Chapter binds the legislative, executive and judicial branches of government at all levels, and every person performing the functions of any public office.
- (2) The State and every person holding public office must respect, protect, promote and fulfil the rights and freedoms recognised in this Chapter.
- (3) A provision of this Chapter binds a natural or legal person, taking into account—
 - (a) the nature of the right or freedom recognised in that provision; and
 - (b) the nature of any restraint or duty imposed by that provision.
- (4) A legal person has the rights and freedoms recognised in this Chapter, to the extent required by the nature of the right or freedom, and the nature of the particular legal person.
- (5) Subject to the provisions of this Constitution, this Chapter applies to all laws in force at the commencement of this Constitution.
- (6) Subject to the provisions of this Constitution, laws made, and administrative and judicial actions taken, after the commencement of this Constitution, are subject to the provisions of this Chapter.
- (7) To the extent that it is capable of doing so, this Chapter extends to things done or actions taken outside Fiji.

9 Limitation of Rights under law

- (1) A right or freedom set out in this Chapter must not be limited except by law, and then only to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including—
 - (a) the nature of the right or freedom;
 - (b) the importance of the purpose of the limitation;
 - (c) the nature and extent of the limitation;
 - (d) the relation between the limitation and its purpose and whether there are less restrictive means to achieve the purpose.
- (2) The State or a person seeking to justify a particular limitation must demonstrate to the court, tribunal, or other authority that the requirements of this section have been satisfied.
- (3) A proposed law must be accompanied by explanatory material outlining the anticipated implication of the law on the human rights and freedoms contained in this Chapter.
- (4) When considering a proposed law intending to limit a right or freedom, Parliament must consider whether the proposed law involves an objective that would justify interference with that right or freedom.

10 Interpretation of this Chapter

- (1) In addition to complying with section 3, when interpreting and applying this Chapter, a court, tribunal or other authority—
 - (a) must promote the values that underlie a democratic society based on human dignity, equality and freedom; and
 - (b) must, if relevant, consider international law, applicable to the protection of the rights and freedoms in this Chapter.
- (2) This Chapter does not deny, or prevent the recognition of, any other right or freedom recognised or conferred by common law or written law, except to the extent that it is inconsistent with this Chapter.
- (3) A law that limits a right or freedom set out in this Chapter is not invalid solely because the law exceeds the limits imposed by this Chapter if the law is reasonably capable of a more restricted interpretation that does not exceed those limits, and in that case, the law must be construed in accordance with the more restricted interpretation.
- (4) When deciding any matter according to common law, a court must apply and, where necessary, develop common law in a manner that respects the rights and freedoms recognised in this Chapter.

11 Enforcement

- (1) A right or freedom is enforceable in the High Court either on its own initiative or on application by a person if that person considers that any of the provisions of this Chapter has been or is likely to be contravened and that person—
 - (a) has an interest in enforcement of the right or freedom; or
 - (b) has an interest in the protection and enforcement of the right or freedom acting on behalf of a person unable to fully and freely exercise that right or freedom.
- (2) The right of a person to make application to the High Court under subsection (1) is without prejudice to any other action with respect to the matter that the person concerned may have.
- (3) The High Court has original jurisdiction—
 - (a) to hear and determine applications under subsection (1); and
 - (b) to determine questions that are referred to it under subsection (5), and may make such orders and give such directions as it considers appropriate.
- (4) The High Court may exercise its discretion not to grant relief in relation to an application or referral made under this section if it considers that an adequate alternative remedy is available to the person concerned.
- (5) If in any proceedings in a subordinate court any question arises as to the contravention of any of the provisions of this Chapter, the member presiding in the proceedings may, and must if a party to the proceedings so requests, refer the question to the High Court unless, in the member's opinion (which is final and not subject to appeal), the raising of the question is frivolous or vexatious.
- (6) When the High Court gives its decision on a question referred to it under this section, the court in which the question arose must dispose of the case in accordance with—

- (a) the decision; or
 - (b) if the decision is the subject of appeal to the Court of Appeal or to the Supreme Court, the decision of the Court of Appeal or the Supreme Court, as the case may be.
- (7) The State may intervene in proceedings before the High Court that relates to a matter concerning a provision of this Chapter.
 - (8) If the proceedings before the High Court relate to a matter concerning a provision of this Chapter, the High Court must not proceed to hear and determine the matter until it is satisfied that notice of the matter has been given to the State and a reasonable time has elapsed since the giving of the notice for consideration by the State of the question of intervention in the proceedings.
 - (9) A notice under subsection (8) is not required to be given to the State if the State is a party to the proceedings.
 - (10) The High Court may order that no legal costs be awarded against the applicant to enforcement proceedings if, in the opinion of the High Court, the enforcement proceedings are in the interests of justice or the public interest.
 - (11) The Chief Justice may make rules for the purposes of this section with respect to the practice and procedure of the High Court (including rules with respect to the time within which applications are to be made to the High Court).

PART B – CIVIL AND POLITICAL RIGHTS

12 Right to life

Every person has the right to life, and a person must not be arbitrarily deprived of life.

13 Right to personal liberty

- (1) A person must not be deprived of personal liberty except—
 - (a) for the purpose of executing the sentence or order of a court, whether handed down or made in Fiji or elsewhere, in respect of an offence of which the person had been convicted;
 - (b) for the purpose of executing an order of a court punishing the person for contempt of the court or of another court or tribunal;
 - (c) for the purpose of executing an order of a court made to secure the fulfilment of an obligation imposed on the person by law;
 - (d) for the purpose of bringing the person before a court in execution of an order of a court;
 - (e) if the person is reasonably suspected of having committed an offence;
 - (f) with the consent of the person's parent or lawful guardian or upon an order made by a court, for the purpose of the person's education or welfare during any period ending not later than the date of his or her 18th birthday;
 - (g) for the purpose of preventing the spread of an infectious or contagious disease;
 - (h) for the purpose of the person's care or treatment or for the protection of the

community if he or she is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant; or

- (i) for the purpose of preventing the unlawful entry of the person into Fiji or of effecting the expulsion, extradition or other lawful removal of the person from Fiji.
- (2) Subsection (1)(c) does not permit a court to make an order depriving a person of personal liberty on the ground of failure to pay maintenance or a debt, fine or tax, unless the court considers that the person has willfully refused to pay despite having the means to do so.
- (3) If a person is detained pursuant to a measure authorised under a state of emergency—
 - (a) the person must, as soon as is reasonably practicable and in any event within 7 days after the start of the detention, be given a statement in writing, in a language that the person understands, specifying the grounds of the detention;
 - (b) the person must be given the opportunity to communicate with, and to be visited by—
 - (i) his or her spouse, partner or next-of-kin;
 - (ii) a legal practitioner;
 - (iii) a religious counsellor or a social worker; and
 - (iv) a medical practitioner;
 - (c) the person must be given reasonable facilities to consult with a legal practitioner of his or her choice;
 - (d) the detention must, within one month and thereafter at intervals of not more than one month, be reviewed by a court; and
 - (e) at any review by a court, the person may appear in person or be represented by a legal practitioner.
- (4) At any review of the detention under subsection (3), the court may make orders as to the continued detention of the person.

14 Freedom from slavery, servitude, forced labour and human trafficking

- (1) A person must not be held in slavery or servitude, or subjected to forced labour or human trafficking.
- (2) In this section, “forced labour” does not include—
 - (a) labour required in consequence of a sentence or order of a court;
 - (b) labour reasonably required of a person serving a term of imprisonment, whether or not required for the hygiene or maintenance of the prison;
 - (c) labour required of a member of a disciplined force as part of his or her duties; or
 - (d) labour reasonably required as part of reasonable and normal communal or civic obligations.

15 Freedom from cruel and degrading treatment

- (1) Every person has the right to freedom from torture of any kind, whether physical, mental or emotional, and from cruel, inhumane, degrading or disproportionately severe treatment

or punishment.

- (2) Every person has the right to security of the person, which includes the right to be free from any form of violence from any source, at home, school, work or in any other place.
- (3) Every person has the right to freedom from scientific or medical treatment or procedures without an order of the court or without his or her informed consent, or if he or she is incapable of giving informed consent, without the informed consent of a lawful guardian.

16 Right to remedy and truth

- (1) Every person whose human rights have been violated shall have a remedy, which includes—
 - (a) prompt, impartial and thorough investigation of the alleged violation; and
 - (b) verification of facts and disclosure of truth and reparations to affected persons, their relatives and communities.
- (2) In order to give effect to the right, the State and its agencies shall—
 - (a) preserve documentary and electronic evidence of human rights violations for the purposes of investigation, commemoration and remembrance; and
 - (b) ensure adequate access to archives containing information on human rights violations.
- (3) Relatives of victims and affected communities shall have the right to commemorate and mourn the loss in a culturally appropriate manner, free from interference, intimidation or discrimination.

17 Freedom from unreasonable search and seizure

- (1) Every person has the right to be secure against unreasonable search of his or her person or property and against unreasonable seizure of his or her property.
- (2) Search or seizure is not permissible otherwise than under the authority of the law.

18 Rights of arrested and detained persons

- (1) Every person who is arrested or detained has the right—
 - (a) to be informed promptly, in a language that he or she understands, of—
 - (i) the reason for the arrest or detention and the nature of any charge that may be brought against that person;
 - (ii) the right to remain silent; and
 - (iii) the consequences of not remaining silent;
 - (b) to communicate with a legal practitioner of his or her choice in private in the place where he or she is detained, to be informed of that right promptly and, if he or she does not have sufficient means to engage a legal practitioner and the interests of justice so require, to be given the services of a legal practitioner under a scheme for legal aid by the Legal Aid Commission;
 - (c) to be promptly released if not charged;
 - (d) to be brought before a court as soon as reasonably possible, and in a case of an

adult, no later than 48 hours, and in case of a child no later than 24 hours, after the time of arrest or if that is not reasonably possible as soon as possible thereafter.

- (e) at the first court appearance, to be charged or informed of the reasons for the detention to continue, or to be released;
 - (f) to be released on reasonable terms and conditions, pending a charge or trial, unless the interests of justice otherwise require;
 - (g) not to be compelled to make any confession or admission that could be used in evidence against that person;
 - (h) to be held separately from persons who are serving a sentence, and in the case of a child, to be kept separate from adults unless that is not in the best interests of the child;
 - (i) to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released;
 - (j) to conditions of detention that are consistent with human dignity, including at least the opportunity to exercise regularly and the provision, at State expense, of adequate accommodation, nutrition, and medical treatment; and
 - (k) to communicate with, and be visited by,—
 - (i) his or her spouse or partner or next-of-kin; and
 - (ii) a religious counsellor or a social worker.
- (2) Whenever this section requires information to be given to a person, that information must be given simply and clearly in a language that the person understands.
- (3) A person who is deprived of liberty by being detained, held in custody or imprisoned under any law retains all the rights and freedoms set out in this Chapter, except to the extent that any particular right or freedom is incompatible with the fact of being so deprived of liberty.

19 Rights of accused persons

- (1) A person shall not be tried for—
 - (a) any act or omission that was not an offence under either domestic or international law at the time it was committed or omitted; or
 - (b) an offence in respect of an act or omission for which that person has previously been either acquitted or convicted.
- (2) Every person charged with an offence has the right—
 - (a) to be presumed innocent until proven guilty according to law;
 - (b) to be informed in legible writing, in a language that he or she understands, of the nature of and reasons for the charge;
 - (c) to be given adequate time and facilities to prepare a defence, including if he or she so requests, a right of access to witness statements;
 - (d) to defend himself or herself in person or to be represented at his or her own expense by a legal practitioner of his or her own choice, and to be informed promptly of this right or, if he or she does not have sufficient means to engage a

legal practitioner and the interests of justice so require, to be given the services of a legal practitioner under a scheme for legal aid by the Legal Aid Commission, and to be informed promptly of this right;

- (e) to be informed in advance of the evidence on which the prosecution intends to rely, to disclosure of all other evidence regardless of whether the prosecution intends to rely on it and to have reasonable access to all evidence;
 - (f) to a public trial before a court of law, unless the interests of justice otherwise require;
 - (g) to have the trial begin and conclude without unreasonable delay;
 - (h) to be present when being tried, unless—
 - (i) the court is satisfied that the person has been served with a summons or similar process requiring his or her attendance at the trial, and has chosen not to attend; or
 - (ii) the conduct of the person is such that the continuation of the proceedings in his or her presence is impracticable and the court has ordered him or her to be removed and the trial to proceed in his or her absence;
 - (i) to be tried in a language that the person understands or, if that is not practicable, to have the proceedings interpreted in such a language at State expense;
 - (j) to remain silent, not to testify during the proceedings, and not to be compelled to give self-incriminating evidence, and not to have adverse inference drawn from the exercise of any of these rights;
 - (k) not to have unlawfully obtained evidence adduced against him or her unless the interests of justice require it to be admitted;
 - (l) to call witnesses and present evidence, and to challenge evidence presented against him or her;
 - (m) to a copy of the record of proceedings within a reasonable period of time and on payment of a reasonably prescribed fee;
 - (n) to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time the offence was committed and the time of sentencing; and
 - (o) of appeal to, or review by, a higher court.
- (3) Whenever this section requires information to be given to a person, that information must be given as simply and clearly as practicable, in a language that the person understands.
- (4) A law is not inconsistent with subsection (1)(b) to the extent that it—
- (a) authorises a court to try a member of a disciplined force for a criminal offence despite his or her trial and conviction or acquittal under a disciplinary law; and
 - (b) requires the court, in passing sentence, to take into account any punishment awarded against the member under the disciplinary law.

20 Access to courts or tribunals

- (1) Every person charged with an offence has the right to a fair trial before a court of law.
- (2) Every party to a civil dispute has the right to have the matter determined by a court of law or if appropriate, by an independent and impartial tribunal.
- (3) Every person charged with an offence and every party to a civil dispute has the right to have the case determined within a reasonable time.
- (4) The hearings of courts and tribunals established by law must be open to the public unless the interests of justice require otherwise.
- (5) Subsection (4) does not prevent—
 - (a) the making of laws relating to the trials of children, or to the determination of family or domestic disputes, in a closed court; or
 - (b) the exclusion by a court or tribunal from particular proceedings (except the announcement of the decision of the court or tribunal) of a person other than parties and their legal representatives if a law empowers it to do so in the interests of justice, public morality, the welfare of children, personal privacy, national security, public safety or public order.
- (6) Every person charged with an offence, every party to civil proceedings, and every witness in criminal or civil proceedings has the right to give evidence and to be questioned in a language that he or she understands.
- (7) Every person charged with an offence and every party to civil proceedings has the right to follow the proceedings in a language that he or she understands.
- (8) To give effect to the rights referred to in subsections (6) and (7), the court or tribunal concerned must, when the interests of justice so require, provide, without cost to the person concerned, the services of an interpreter or of a person competent in sign language.
- (9) If a child is called as a witness in criminal proceedings, arrangements for the taking of the child's evidence must have due regard to the child's age.
- (10) The State, through law and other measures, must provide legal aid through the Legal Aid Commission to those who cannot afford to pursue justice on the strength of their own resources, if injustice would otherwise result.
- (11) If any fee is required to access a court or tribunal, it must be reasonable and must not impede access to justice.
- (12) In any proceedings, evidence obtained in a manner that infringes any right in this Chapter, or any other law, must be excluded.

21 Executive and administrative justice

- (1) Subject to the provisions of this Constitution and such other limitations as may be prescribed by law—
 - (a) every person has the right to executive or administrative action that is lawful, rational, proportionate, procedurally fair, and reasonably prompt;
 - (b) every person who has been adversely affected by any executive or administrative action has the right to be given written reasons for the action; and

- (c) any executive or administrative action may be reviewed by a court, or if appropriate, another independent and impartial tribunal, in accordance with law.
- (2) The rights mentioned in subsection (1) shall not be exercised against any company registered under a law governing companies.
- (3) This section shall not have retrospective effect and shall only apply to executive and administrative actions taken after the first sitting of the first Parliament elected under this Constitution.

22 Freedom of speech, expression and publication

- (1) Every person has the right to freedom of speech, expression, thought, opinion and publication, which includes—
 - (a) freedom to seek, receive and impart information, knowledge and ideas;
 - (b) freedom of the press, including print, electronic and other media;
 - (c) freedom of imagination and creativity; and
 - (d) academic freedom and freedom of scientific research.
- (2) Freedom of speech, expression, thought, opinion and publication does not protect—
 - (a) propaganda for war;
 - (b) incitement to violence or insurrection against this Constitution; or
 - (c) advocacy of hatred that—
 - (i) is based on any prohibited ground of discrimination listed or prescribed under section 31; and
 - (ii) constitutes incitement to cause harm.
- (3) A law may limit, or may authorise the limitation of, the rights and freedoms mentioned in subsection (1) in the interests of—
 - (a) national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - (b) the protection or maintenance of the reputation, privacy, dignity, rights or freedoms of other persons, including—
 - (i) the right to be free from hate speech, whether directed against individuals or groups; and
 - (ii) the rights of persons injured by inaccurate or offensive media reports to have a correction published on reasonable conditions established by law;
 - (c) preventing the disclosure, as appropriate, of information received in confidence;
 - (d) preventing attacks on the dignity of individuals, groups of individuals or respected offices or institutions in a manner likely to promote ill will between ethnic or religious groups or the oppression of, or discrimination against, any person or group of persons;
 - (e) maintaining the authority and independence of the courts;
 - (f) imposing reasonable restrictions on the holders of public offices in order to secure their impartial and confidential service;

- (g) regulating the technical administration of telecommunications.
- (4) In this section, "hate speech" means an expression in whatever form that encourages, or has the effect of encouraging discrimination on a ground listed or prescribed under section 31.

23 Freedom of assembly

- (1) Every person has the right, peaceably and unarmed, to assemble, demonstrate, picket and to present petitions.
- (2) A law may limit, or may authorise the limitation of, the right mentioned in subsection (1)—
 - (a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - (b) for the purpose of protecting the rights and freedoms of others; or
 - (c) for the purpose of imposing restrictions on the holders of public offices in order to secure their impartial and confidential service.

24 Freedom of association

- (1) Every person has the right to freedom of association.
- (2) A law may limit, or may authorise the limitation of, the right mentioned in subsection (1)—
 - (a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - (b) for the purpose of protecting the rights and freedoms of others; or
 - (c) for the purpose of imposing reasonable restrictions on the holders of public offices in order to secure their impartial and confidential service.

25 Employment relations

- (1) Every person has the right to fair employment practices, including humane treatment and proper working conditions.
- (2) Every worker has the right to form or join a trade union, to participate in its activities and programmes and to strike.
- (3) Every employer has the right to form or join an employers' organisation, and to participate in its activities and programmes.
- (4) Trade unions and employers have the right to bargain collectively.
- (5) A law may limit, or may authorise the limitation of, the rights mentioned in this section—
 - (a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - (b) for the purposes of protecting the rights and freedoms of others; or
 - (c) for the purpose of imposing reasonable restrictions on the members of a disciplined force.

26 Freedom of movement and residence

- (1) Every person has the right to freedom of movement.
- (2) Every citizen has the right to apply for and be issued a passport or similar travel document, in accordance with any condition prescribed by written law.
- (3) Every citizen, and every other person lawfully in Fiji, has the right to move freely throughout Fiji and the right to leave Fiji.
- (4) Every citizen, and every other person who has a right to reside in Fiji, has the right to reside in any part of Fiji.
- (5) Every person who is not a citizen but is lawfully in Fiji has the right not to be expelled from Fiji except pursuant to an order of a court or a decision of the Minister responsible for immigration on a ground prescribed by law.
- (6) A law, or anything done under the authority of a law, is not inconsistent with the rights granted by this section to the extent that the law—
 - (a) provides for the detention of the person or enables a restraint to be placed on the person's movements, whether—
 - (i) for the purpose of ensuring his or her appearance before a court for trial or other proceedings;
 - (ii) in consequence of his or her conviction for an offence; or
 - (iii) for the purpose of protecting another person from apprehended violence;
 - (b) provides for a person who is a non-citizen to be detained or restrained as a consequence of his or her arrival in Fiji without the prescribed entry documentation;
 - (c) provides for the extradition, on the order of the High Court, of a person from Fiji;
 - (d) provides for the removal from Fiji, on the order of the High Court, of any child who had previously been unlawfully removed from another country, for the purpose of restoring the child to the lawful custody of his or her parent or lawful guardian;
 - (e) provides for the removal from Fiji of a person who is not a citizen for the purpose of enabling the person to serve a sentence of imprisonment in the country of the person's citizenship in relation to a criminal offence of which he or she has been convicted in Fiji; or
 - (f) regulates, controls or prohibits the entry of persons on to land or property owned or occupied by others.
- (7) A law may limit, or may authorise the limitation of, the rights mentioned in this section—
 - (a) in the interests of national security, public safety, public order, public morality, public health or the orderly conduct of elections;
 - (b) for the purpose of protecting the rights and freedoms of others;
 - (c) for the purpose of implementing a decision of customary authorities under the iTaukei Affairs Act made in the interests of maintaining peace and good order in the community;

- (d) for the purpose of protecting the economy of a particular area or the ecology or distinctive culture of an area;
 - (e) for the purpose of imposing a restriction on the person that is reasonably required to secure the fulfilment of an obligation imposed on the person by law; or
 - (f) for the purpose of imposing reasonable restrictions on the holders of public offices as part of the terms and conditions of their employment.
- (8) Section 13(3) and (4) apply to a person whose right to freedom of movement is restricted pursuant to a measure authorised under a state of emergency in the same way as they apply to a person detained pursuant to such a measure.

27 Freedom of religion, conscience and belief

- (1) Every person has the right to freedom of religion, conscience and belief.
- (2) Every person has the right, either individually or in community with others, in private or in public, to manifest and practice their religion or belief in worship, observance, practice or teaching.
- (3) Every person has the right not to be compelled to—
 - (a) act in any manner that is contrary to the person's religion or belief; or
 - (b) take an oath, or take an oath in a manner, that—
 - (i) is contrary to the person's religion or belief; or
 - (ii) requires the person to express a belief that the person does not hold.
- (4) Every religious community or denomination, and every cultural or social community, has the right to establish, maintain and manage places of education whether or not it receives financial assistance from the State, provided that the educational institution maintains any standard prescribed by law.
- (5) In exercising its rights under subsection (4), a religious community or denomination has the right to provide religious instruction as part of any education that it provides, whether or not it receives financial assistance from the State for the provision of that education.
- (6) Except with his or her consent or, in the case of a child, the consent of a parent or lawful guardian, a person attending a place of education is not required to receive religious instruction or to take part in or attend a religious ceremony or observance if the instruction, ceremony or observance relates to a religion that is not his or her own or if he or she does not hold any religious belief.
- (7) The rights and freedoms set out in this section may be made subject to such limitations prescribed by law—
 - (a) to protect—
 - (i) the rights and freedoms of other persons; or
 - (ii) public safety, public order, public morality or public health; or
 - (b) to prevent public nuisance.

28 Political rights

- (1) Every citizen has the freedom to make political choices, and the right to—

- (a) form or join a political party;
 - (b) participate in the activities of, or recruit members for, a political party; and
 - (c) campaign for a political party, candidate or cause.
- (2) Every citizen has the right to free, fair and regular elections for any elective institution or office established under this Constitution.
- (3) Every citizen who has reached the age of 18 years has the right—
- (a) to be registered as a voter;
 - (b) to vote by secret ballot in any election or referendum under this Constitution;
 - (c) to be a candidate for public office, or office within a political party of which the citizen is a member, subject to satisfying any qualifications for such an office; and
 - (d) if elected, to hold office.
- (4) A law may limit, or may authorise the limitation of, the rights mentioned in this section—
- (a) for the purpose of regulating the registration of voters, and prescribing persons who do not have or have ceased to have the right to be registered as a voter;
 - (b) for the purpose of regulating the registration of political parties and prescribing persons who do not have the rights prescribed under subsection (1) and subsection (3)(c) and (d);
 - (c) for the purpose of regulating persons who are not eligible to contest for a place in Parliament or in a public office, or an office within a political party; or
 - (d) for the purpose of imposing restrictions on the holders of public offices (as defined in any such law) from the rights set out in this section.

29 Right to privacy

Every person has the right to personal privacy, which includes the right to—

- (a) confidentiality of their personal information and data;
- (b) confidentiality of their communications; and
- (c) respect for their private and family life.

30 Access to information

- (1) Every person has the right of access to—
 - (a) information held by any public office; and
 - (b) information held by another person and required for the exercise or protection of any legal right.
- (2) Every person has the right to the correction or deletion of false or misleading information that affects that person.
- (3) The State shall publish and publicize any significant information affecting the nation that would ordinarily be published in a free and democratic society.
- (4) A law may regulate the procedure under which information held by a public office may be made available.

31 Right to equality and freedom from discrimination

- (1) Every person is equal before the law and has the right to equal protection, treatment and benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and freedoms recognised in this Chapter or any other written law.
- (3) A person must not be unfairly discriminated against, directly or indirectly on the grounds of his or her—
 - (a) actual or supposed personal characteristics or circumstances, including race, culture, ethnic or social origin, colour, place of origin, sex, gender, sexual orientation, gender identity and expression, birth, primary language, economic or social or health status, disability, age, religion, conscience, marital status or pregnancy; or
 - (b) opinions or beliefs, except to the extent that those opinions or beliefs involve harm to others or the diminution of the rights or freedoms of others, or on any other ground prohibited by this Constitution.
- (4) A law or an administrative action taken under a law may not directly or indirectly impose a limitation or restriction on any person on a prohibited ground.
- (5) Every person has the right of access, membership or admission, without discrimination on a prohibited ground, to shops, hotels, lodging-houses, public restaurants, places of public entertainment, clubs, education institutions, public transportation services, taxis and public places.
- (6) The proprietor of a place or service referred to in subsection (5) must facilitate reasonable access for persons with disabilities to the extent prescribed by law.
- (7) Treating one person differently from another on any of the grounds prescribed under subsection (3) is discrimination, unless it can be established that the difference in treatment is not unfair in the circumstances.
- (8) A law, or an administrative action taken under a law, is not inconsistent with the rights mentioned in this section on the ground that it—
 - (a) appropriates revenues or other moneys for particular purposes;
 - (b) imposes a retirement age on a person;
 - (c) imposes restrictions on persons who are not citizens, or confers on them a privilege or advantage, not imposed or conferred on citizens;
 - (d) makes provision with respect to adoption, marriage, devolution of property on death, and pension;
 - (e) limits a right or freedom in accordance with subsections (9), (10) and (11) (relating to communal ownership of iTaukei, Rotuman and Banaban lands and access to marine resources, or the bestowing of iTaukei, Rotuman and Banaban chiefly title or rank).
- (9) A law, or an administrative action taken under a law, may limit a right or a freedom for the purpose of:
 - (a) providing for the application of the customs of iTaukei or Rotuman or of the

Banaban community:

- (i) to the holding, use or transmission of, or the distribution of the produce of, land or fishing rights; or
- (ii) to the entitlement of any person to any chiefly title or rank:
- (b) imposing a restriction on the alienation of land or fishing rights held in accordance with iTaukei or Rotuman custom or in accordance with Banaban custom;
- (c) permitting the temporary alienation of that land or those rights without the consent of the owners.
- (10) To the extent permitted by subsection (10), a law or an administrative action taken under a law, may limit a right or a freedom set out in this section for the purpose of providing for the governance of iTaukei or Rotuman or of the Banaban community and of other persons living as members of an iTaukei, Rotuman or Banaban community.
- (11) A limitation referred to in subsection (10) is valid only if it:
 - (a) accords to every person to whom it applies the right to equality before the law without discrimination other than on the ground of race or ethnic origin; and
 - (b) does not infringe a right or freedom set out in any other section of this Chapter.

32 Freedom from compulsory or arbitrary acquisition of property

- (1) Every person has the right not to be deprived of property by the State other than in accordance with a written law referred to in subsection (2), and no law may permit arbitrary acquisition or expropriation of any interest in any property.
- (2) A written law may authorise compulsory acquisition of property—
 - (a) when necessary for a public purpose; and
 - (b) on the basis that the owner will be promptly paid the agreed compensation for the property, or failing agreement, just and equitable compensation as determined by a court or tribunal, after considering all relevant factors, including—
 - (i) the public purpose for which the property is being acquired;
 - (ii) the history of its acquisition by the owner;
 - (iii) the market value of the property;
 - (iv) the interests of any person affected by the acquisition; and
 - (v) any hardship to the owner.
- (3) Nothing contained in, or done under the authority of, a law is inconsistent with this section to the extent that the law makes provision for the acquisition of property by way of—
 - (a) taxation;
 - (b) sequestration of bankrupt estates;
 - (c) confiscation of the proceeds of crime;
 - (d) penalty for breach of the law;

- (e) satisfaction of a mortgage, charge or lien; or
- (f) execution of a judgment of a court or tribunal.

PART C SOCIAL, ECONOMIC AND CULTURAL RIGHTS

33 Application

In applying any right under this Part, the State must take reasonable measures within its available resources to achieve the progressive realisation of the right.

34 Right to education

- (1) Every person has the right to—
 - (a) free early childhood education;
 - (b) free primary and secondary education; and
 - (c) free further education for persons who were unable to complete their primary and secondary education.
- (2) Conversational and contemporary iTaukei, Rotuman and Hindi languages shall be taught in all primary schools.
- (3) The State may direct any educational institution to teach subjects pertaining to health, civic education and issues of national interest, and any educational institution must comply with any such directions made by the State.

35 Right to economic participation

Every person has the right to full and free participation in the economic life of the State, which includes the right to choose their own work, trade, occupation, profession or other means of livelihood.

36 Right to work and a just minimum wage

Every person has the right to work and to a just minimum wage.

37 Right to reasonable access to transportation

Every person has the right to have reasonable access to transportation.

38 Right to housing and sanitation and freedom from arbitrary evictions

- (1) Every person has the right to—
 - (a) accessible and adequate housing and sanitation; and
 - (b) freedom from arbitrary evictions from his or her home or to have his or her home demolished, without an order of a court made after considering all the relevant circumstances.
- (2) No law may permit arbitrary evictions.

39 Right to adequate food and water

Every person has the right to be free from hunger, to have adequate food of acceptable quality and to clean and safe water in adequate quantities.

40 Right to social security schemes

Every person has the right to social security schemes, whether private or public, for their support in times of need, including the right to such support from public resources if they are unable to support themselves and their dependents.

41 Right to health

- (1) The State must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to health, and to the conditions and facilities necessary to good health, and to health care services, including reproductive health care.
- (2) A person must not be denied emergency medical treatment.

42 Rights of children

- (1) Every child has the right—
 - (a) to be registered at or soon after birth, and to have a name and nationality;
 - (b) to basic nutrition, clothing, shelter, sanitation and health care;
 - (c) to family care, protection and guidance, which includes the equal responsibility of the child's parents to provide for the child—
 - (i) whether or not the parents are, or have ever been, married to each other; and
 - (ii) whether or not the parents are living together, have lived together, or are separated;
 - (d) to be protected from abuse, neglect, harmful cultural practices, any form of violence, inhumane treatment and punishment, and hazardous or exploitative labour; and
 - (e) not to be detained, except as a measure of last resort, and when detained, to be held—
 - (i) only for such period of time as is necessary; and
 - (ii) separate from adults, and in conditions that take account of the child's sex and age.
- (2) The best interests of a child are the primary consideration in every matter concerning the child.

43 Rights of persons with disabilities

- (1) A person with any disability has the right—
 - (a) to reasonable access to all places, public transport and information;
 - (b) to use sign language, Braille or other appropriate means of communication; and
 - (c) to reasonable access to necessary materials, substances and devices relating to the person's disability.
- (2) A person with any disability has the right to reasonable adaptation of buildings, infrastructure, vehicles, working arrangements, rules, practices or procedures, to enable

their full participation in society and the effective realisation of their rights.

- (3) A law or an administrative action taken under a law may limit, or may authorise the limitation of, the rights set out in this section.

44 Human Rights and Anti-Discrimination Commission

- (1) There is a Human Rights and Anti- Discrimination Commission.
- (2) The Commission consists of—
 - (a) a chairperson, who must be a person who is or is qualified to be appointed as a judge; and
 - (b) 4 other members, appointed by the President on the advice of the Constitutional Offices Commission.
- (3) In advising the President as to the person to be appointed as chairperson or other members of the Commission, the Constitutional Offices Commission must have regard not only to their personal attributes but also to their knowledge or experience of the various aspects of matters likely to come before the Commission.
- (4) Subject to this Constitution, the Commission is responsible for—
 - (a) promoting the protection and observance of, and respect for, human rights in public and private institutions, and to develop a culture of human rights in Fiji;
 - (b) education about the rights and freedoms recognised in this Chapter, as well as other internationally recognised rights and freedoms;
 - (c) monitoring, investigating and reporting on the observance of human rights in all spheres of life;
 - (d) making recommendations to Government concerning matters affecting the rights and freedoms recognised in this Chapter, including recommendations concerning existing or proposed laws;
 - (e) receiving and investigating complaints about alleged abuses of human rights and take steps to secure appropriate redress if human rights have been violated, including making applications to court for redress or for other forms of relief or remedies;
 - (f) investigating or researching, on its own initiative or on the basis of a complaint, any matter in respect of human rights, and make recommendations to improve the functioning of public or private entities;
 - (g) monitoring compliance by the State with obligations under treaties and conventions relating to human rights; and
 - (h) performing any other functions or exercising any powers as are conferred on the Commission by a written law.
- (5) Subject to this Constitution, any person has the right to lodge a complaint with the Commission, alleging that a right or freedom in this Chapter has been denied, violated or infringed, or is threatened.
- (6) The Commission may apply for a determination from the Supreme Court on any matter concerning the interpretation or application of this Constitution.

CHAPTER 3—LAND AND ENVIRONMENT, AND GROUP RIGHTS

Part A – LAND AND ENVIRONMENT

45 Principles of land use and environmental protection

- (1) Security of land rights shall be assured for all legitimate users and occupiers.
- (2) All foreshore land, being land between low spring tide to mean high spring tide, is public land.
- (3) All land and natural resources must be protected and managed for the benefit of present and future generations in a manner that—
 - (a) promotes conservation; and
 - (b) protects biodiversity, genetic resources and ecologically sensitive areas.
- (4) The State may—
 - (a) promote good land use; and
 - (b) regulate the use of any land, or any interest in or right of way over any land, to promote public safety, public order, public health or sound rural or urban development.
- (5) Land use planning laws, and procedures for granting permits, must require owners to provide reasonable notice to neighbouring owners and occupiers before undertaking any alteration in land use that may be anticipated to affect their rights or interests.
- (6) Land administration, including land records, land use consultation, planning, procedures for granting permits and environmental impact studies, must be participatory, transparent, accessible and cost effective.

46 Duty to consult with respect to land and resources

- (1) If any project is proposed to develop infrastructure, or to develop or extract resources, on any land in a manner that may reasonably be anticipated to adversely affect the rights or interests of other persons or a community with respect to that land or any other land, the State and the proponent of the project have a joint duty, before licensing, permitting or undertaking that project to—
 - (a) inform those persons or that community about the project in sufficient detail for the affected persons to assess the possible effects of the project on their rights and interests;
 - (b) engage in constructive discussions with the affected persons to identify any reservations they may have about the effects of the project;
 - (c) obtain the free, prior and informed consent of the affected persons or communities, which consent must in accordance with their traditions and customs; and
 - (d) seek consensus with the affected persons by making any reasonable and necessary modifications to the project to protect their rights and interests and accommodate their reservations.
- (2) State bodies, when licensing or permitting a project, must impose conditions which, so far

as reasonably possible, protect the rights and interests and accommodate the reservations of the affected person with respect to the project.

- (3) The duty to obtain consent, as required in subsection (1)(c), only applies to large, proposed projects.
- (4) The duty to consult, as set out in subsection (1), continues while the project is underway, so long as it affects the rights or interests of other persons or communities.

47 National Consultative Land Forum

- (1) Parliament must enact a law to establish a National Consultative Land Forum.
- (2) The Forum must—
 - (a) be chaired by a person with knowledge of land law or land administration in Fiji, who is not a holder of any public office, and not a representative of the interests of either landowners or tenants; and
 - (b) otherwise consist of an equal number of persons drawn from each of the three following stakeholder groups:
 - (i) State bodies or enterprises engaged in land policy, land management or the administration of land law, including local government bodies;
 - (ii) land owners, with a balance between owners of freehold and customary land owners;
 - (iii) tenants, reflecting the diversity of urban and rural tenants, tenants of freehold, customary and public land, and agricultural, commercial and residential users.
- (3) The purposes of the National Consultative Land Forum are to—
 - (a) educate the public on land ownership, land use and land administration;
 - (b) research issues respecting land, land use and land administration;
 - (c) convene meetings for deliberation of land issues in the broader social and economic context, and seek to reach consensus on any issue;
 - (d) make proposals to the government on matters of policy or law concerning land and related institutions; and
 - (e) review and express advisory opinions on policy or legislative proposals of the Government with respect to land.

48 Environmental rights

- (1) Every person has the right to a clean and healthy environment, which includes the right to have the natural world protected for the benefit of present and future generations through legislative and other measures.
- (2) In applying an environmental right under this section, the State must make reasonable measures within its available resources to achieve the progressive realisation of the right.

49 Ownership of minerals

- (1) All minerals in or under any land or water, are owned by the State, provided however, that

the owners of any particular land (whether customary or freehold), or of any particular registered customary fishing rights shall be entitled to receive a fair share of royalties or other money paid to the State in respect of the grant by the State of rights to extract minerals from that land or the seabed in the area of those fishing rights.

- (2) Any distribution of royalties amongst the owners of land or fishing rights must be fair and equitable in respect of the product of the extraction of minerals from the land or seabed.
- (3) A written law may determine the framework for calculating fair shares under subsection (1), taking into account all relevant factors, including the following—
 - (a) any benefit that the owners received or may receive as a result of mineral exploration or exploitation;
 - (b) the risk of environmental damage;
 - (c) any legal obligation of the State to contribute to a fund to meet the cost of preventing, repairing or compensating for any environmental damage;
 - (d) the cost to the State of administering exploration or exploitation rights; and
 - (e) the appropriate contribution to the general revenue of the State to be made by any person granted exploration or exploitation rights.

50 Land: iTaukei, Rotuman and Banaban

- (1) The ownership of iTaukei land and rights over foreshore, seabed, reefs and riverbeds shall remain with the customary owners and iTaukei land and rights over foreshore, seabed, reefs and riverbeds shall not be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 32.
- (2) Any iTaukei land acquired by the State for a public purpose after the commencement of this Constitution in accordance with section 32 shall revert to the customary owners if the land is no longer required by the State.
- (3) The ownership of Rotuman land and rights over foreshore, seabed, reefs and riverbeds shall remain with the customary owners and Rotuman land and rights over foreshore, seabed, reefs and riverbeds shall not be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 32.
- (4) Any Rotuman land acquired by the State for a public purpose after the commencement of this Constitution in accordance with section 32 shall revert to the customary owners if the land is no longer required by the State.
- (5) The ownership of Banaban land and rights over foreshore, seabed, reefs and riverbeds shall remain with the customary owners and Rotuman land and rights over foreshore, seabed, reefs and riverbeds shall not be permanently alienated, whether by sale, grant, transfer or exchange, except to the State in accordance with section 32.
- (6) Any Banaban land acquired by the State for a public purpose after the commencement of this Constitution in accordance with section 32 shall revert to the customary owners if the land is no longer required by the State.

51 Land: Freehold and rights of lessees and tenants

- (1) All ownership of land, and all rights and interests in land leases and land tenancies that existed immediately before the commencement of this Constitution shall continue to exist

under this Constitution.

- (2) All land that existed as freehold land immediately before the commencement of this Constitution shall remain as freehold land even if it is sold or purchased, unless it is sold to the State or is acquired by the State for a public purpose in accordance with section 32.
- (3) No law shall be made to diminish or adversely affect the rights and interests in land leases and land tenancies, whether existing immediately before the commencement of this Constitution or made or issued after the commencement of this Constitution.
- (4) All land leases and land tenants have the right to not have their land leases or land tenancies terminated other than in accordance with their land leases or land tenancies.
- (5) Parliament and Cabinet, through legislative and other measures, must ensure that all land leases and land tenancies provide for a fair and equitable return to the landowners while protecting the rights of land lessees and land tenants, including security and protection of tenure of land leases and land tenancies and terms and conditions of land leases and land tenancies which must be just, fair and reasonable.
- (6) For the purposes of this section—
“land leases” or “land tenancies” includes sub-leases, sub-tenancies and tenancies-at-will, but shall not include leases, agreements or tenancies for any building, structure or dwelling, whether used for residential, commercial, industrial or for tourism purposes, and shall not include any leases, agreements or tenancies for any fixture, equipment, plant or fittings on any land;
“land lessees” or “land tenants” includes sub-lessees, sub-tenants or tenants-at-will of land leases or land tenancies.

52 Entrenchment of statutes on land and natural resources

- (1) A Bill that alters any of the Acts listed in subsection (2), including a Bill prepared in consequence of the enactment of this Constitution:
 - (a) must be expressed as a Bill for an Act to alter the Act concerned;
 - (b) must not be presented for the President’s assent unless it has been read 3 times in each House and motions for the second and third readings are carried in each House; and
 - (c) at its third reading it is supported by the votes of at least 2 thirds of the members of the House of Representatives and 2 thirds of the members of the Senate.
- (2) The Acts are:
 - (a) iTaukei Affairs Act;
 - (b) iTaukei Development Fund Act;
 - (c) iTaukei Lands Act;
 - (d) iTaukei Land Trust Act;
 - (e) Rotuma Act;
 - (f) Rotuma Lands Act;
 - (g) Banaban Lands Act;

- (h) Banaban Settlement Act.
- (3) A Bill that alters the Agricultural Landlord and Tenant Act:
 - (a) must be expressed as a Bill for an Act to alter that Act; and
 - (b) must not be presented for the President's assent unless:
 - (i) it has been read 3 times in each House and motions for the second and third readings are carried in each House; and
 - (ii) at its third reading in that House it is supported by the votes of at least 2 thirds of the members of the House of Representatives and 2 thirds of the members of the Senate.

Part B – GROUP RIGHTS

53 Respect for rights of all individuals, communities and groups

The people of Fiji recognise that, within the framework of this Constitution and other laws of the State, the conduct of government is based on the following principles:

- (a) the rights of all individuals, communities and groups are fully respected; and
- (b) as citizens, the members of all communities enjoy equal rights, including the right to make their permanent homes in Fiji.

54 Languages of Fiji and its communities

- (1) iTaukei and Rotuman are indigenous languages and all State bodies must respect, protect and promote the use of indigenous languages.
- (2) English, iTaukei, Rotuman and Hindi have equal status in Fiji.
- (3) This Constitution is to be adopted in English but translations in iTaukei, Rotuman and Hindi are to be available.
- (4) The official language of Parliament is English but a member of either House may address the person presiding in iTaukei, Rotuman or Hindi.
- (5) Acts of Parliament must be enacted in English, and may be published in English, iTaukei, Rotuman and Hindi.
- (6) Every person who transacts business with a State body has the right to do so in English, iTaukei, Rotuman and Hindi either directly or through a competent interpreter.
- (7) All other languages used in Fiji must be recognised and respected.

55 Recognition of customary law

- (1) Parliament recognises iTaukei and Rotuman custom as a source of law for the iTaukei and Rotuman communities, subject to this Constitution and any written law, including in relation to:
 - (a) customary land, management of resources in, on or under the land and customary fishing rights;
 - (b) the right of the iTaukei and Rotuman people to governance through their separate administrative systems, including those provided in the iTaukei Affairs Act and

any other relevant written law relating to those systems.

- (2) Parliament may make provision for the application of customary law.
- (3) In doing so, Parliament may have regard to the customs, traditions, usages, values and aspirations of the iTaukei and Rotuman people.
- (4) This section does not deny, or prevent recognition of, any other right or freedom recognised or conferred by common law or written law, except to the extent it is inconsistent with this section.

56 Heritage and cultures of all communities of Fiji

- (1) The people of Fiji recognise the contribution of all communities to the unity, harmony and wellbeing of Fiji derived from the language, arts, customs, festival traditions and histories of each of Fiji's communities.
- (2) The State and all of Fiji's communities recognise the need to—
 - (a) respect the equal rights of all communities to the recognition, use of, and respect for their respective cultures and heritage and heritage infrastructure; and
 - (b) nurture the heritage and culture of all communities by—
 - (i) promoting increased awareness of Fiji and its history and cultures; and
 - (ii) protecting sites of historical, spiritual or cultural significance and cultural artefacts.
- (3) The State, in consultation with all of Fiji's communities, must develop policies, programmes and law to give effect to this section.

CHAPTER 4—PARLIAMENT

Part A—COMPOSITION AND LEGISLATIVE AUTHORITY OF PARLIAMENT

57 Legislative power

The power to make laws for the State is vested in Parliament.

58 Composition of Parliament

Parliament consists of—

- (a) the House of Representatives; and
- (b) the Senate.

59 Term of Parliament

- (1) Subject to this section, Parliament unless, sooner dissolved in accordance with this Constitution, continues for 4 years from the date of its first meeting after a general election of the members of the House of Representatives.
- (2) The President shall, acting on the advice of the Prime Minister, dissolve Parliament by proclamation, but only after a lapse of 3 years and 6 months from the date of its first meeting after a general election of the members of the House of Representatives.

60 Early dissolution of Parliament

- (1) Notwithstanding section 59(1), the President must declare Parliament dissolved early if the House of Representatives has adopted a resolution to dissolve early, supported by at least 2 thirds of the members of the House of Representatives.
- (2) A resolution for early dissolution of the House of Representatives under subsection (1) may be moved—
 - (a) only on the grounds that the Government lacks the confidence of the House of Representatives;
 - (b) only by the Leader of the Opposition; and
 - (c) only if the House of Representatives has first rejected a motion of no confidence in the Prime Minister under section 117.
- (3) No motion for early dissolution may be moved within—
 - (a) 18 months immediately after the beginning of the House of Representative's term; or
 - (b) 6 months immediately before the end of the House of Representative's ordinary 4 year term.

61 Exercise of legislative powers

- (1) Any member of the House of Representatives may introduce a Bill in the House of Representatives, but only the Minister responsible for finance, or another Minister authorised by Cabinet, may introduce a Money Bill, as described in section 62.
- (2) Parliament may proceed to consider any Bill in accordance with its standing orders, which

must provide—

- (a) a structured process for the introduction, deliberation, amendment and enactment of Bills; and
 - (b) sufficient time to elapse between the steps in the process for members and committees to give due consideration to each Bill.
- (3) A Bill may proceed more quickly than permitted by the standing orders and be presented to the President for assent (with amendments, if any agreed to by both Houses) if—
- (a) the Prime Minister certifies in writing to the President of the Senate that a Bill passed by the House of Representatives is an urgent measure;
 - (b) the Bill is sent to the Senate at least 7 sitting days before the end of the session; and
 - (c) the Senate does not pass the Bill within a period of 7 sitting days after the Senate receives it, or the Senate passes it with an amendment to which the House of Representatives does not agree within that period.

62 Money Bills

A money Bill is any Bill that—

- (a) imposes, increases, alters, remits, grants exemptions from, reduces or abolishes taxes;
- (b) imposes charges on a public fund or varies or repeals any of those charges;
- (c) appropriates public money or otherwise relates to public moneys;
- (d) raises or guarantees any loan, or its repayment;
- (e) deals with the receipt, custody, investment, issue or audit of money; or
- (f) deals with anything incidental to those matters.

63 Limitation on powers of Senate with respect to money Bills

- (1) The Senate may not amend Bills imposing taxation or appropriating revenue or moneys.
- (2) The Senate may not amend any Bill so as to increase any proposed charge or burden on the people.
- (3) A Bill must, unless the House of Representatives otherwise resolves, be presented to the President for assent if
 - (a) the Bill passed by the House of Representatives is certified by the Speaker as an appropriation Bill; and
 - (b) the Bill is not passed by the Senate without amendment by the end of the sitting day after the day on which it was sent to the Senate.
- (4) A Bill must, unless the House of Representatives otherwise resolves, be presented to the President for assent if
 - (a) a money Bill (other than a Bill referred to in subsection (3)) passed by the House of Representatives is certified by the Speaker as a money Bill;
 - (b) the Bill is sent to the Senate at least 21 sitting days before the end of the session;

and

- (c) the Bill is not passed by the Senate without amendment within 21 sitting days after it was sent to the Senate.

64 Presidential assent

- (1) When a Bill has been passed by both Houses, the Speaker must present it to the President for assent.
- (2) Within 7 days after receipt of a Bill, the President must provide his or her assent.
- (3) If the President does not assent to a Bill within the period set out in subsection (2), the Bill will be taken to have been assented to on the expiry of that period.

65 Coming into force of laws

- (1) Within 7 days after a Bill has been assented to, the Bill must be published in the Gazette as an Act of Parliament.
- (2) An Act of Parliament comes into force—
 - (a) on a date determined by or in accordance with the Act; or
 - (b) on the 7th day after its publication in the Gazette, if the Act does not determine a date or does not provide for a date to be determined.

66 Subordinate laws

- (1) No person may make subordinate laws, except as expressly authorised by this Constitution or an Act of Parliament.
- (2) A person making any subordinate laws must, so far as practicable, provide reasonable opportunity for public participation in the development and review of the law before it is made.

67 Parliamentary authority over international treaties and conventions

An international treaty or convention binds the State only after it has been approved by Parliament.

Part B—HOUSE OF REPRESENTATIVES

68 Members of the House of Representatives

The House of Representatives is chosen by secret ballot in free and fair elections administered by the Electoral Commission, in accordance with this Constitution and any written law governing elections.

69 Composition of the House of Representatives

- (1) The House of Representatives shall be composed in a manner that reflects, as closely as practicable, the proportion of votes cast for political parties.
- (2) The election of members of the House of Representatives comprises the following—
 - (a) 26 constituency members, which includes 5 maritime constituencies listed in subsection (9), chosen directly by the registered voters of those constituencies;

and

- (b) 15 party list members allocated to political parties in proportion to the total number of votes for the candidates of that party in the constituency seats.
- (3) A political party shall be entitled to proportional representation if it secures not less than 5% of the party vote or wins at least one constituency seat.
- (4) Constituency seats won shall be deducted from each party's proportional entitlement, with the balance filled from party lists.
- (5) Party list seats shall be allocated in accordance with a written law prescribing an appropriate mathematical rounding method (which rounds fractions to whole numbers) to determine seat allocations.
- (6) Candidates unaffiliated with a political party may contest constituency seats, and if elected, shall serve as independent members without affecting proportional allocation.
- (7) A candidate of a party can stand for election in a constituency seat and be included in the party's list for a party list seat.
- (8) The party lists must alternate between female and male candidates to ensure, as far as possible, equal numbers of male and female candidates and the first of the alternate candidates must be female.
- (9) The maritime constituencies are Rotuma, Yasawa, Kadavu, Lomaiviti and Lau.

70 **Qualifications for candidates for election to House of Representatives**

- (1) A candidate for election to the House of Representatives must be either nominated by a registered political party or nominated as an independent candidate in accordance with the laws governing elections.
- (2) A person may be a candidate for election to the House of Representatives only if the person—
 - (a) is a citizen of Fiji;
 - (b) is qualified to be registered as a voter and is registered on the Register of Voters;
 - (c) is ordinarily resident in Fiji for at least 2 years immediately before being nominated;
 - (d) is not an undischarged bankrupt;
 - (e) is not a member of the Electoral Commission and has not been a member of that Commission at any time during the 4 years immediately before being nominated;
 - (f) is not subject to a sentence of imprisonment when nominated;
 - (g) has not, at any time during the 8 years immediately before being nominated, been convicted of an offence under any law for which the maximum penalty is a term of imprisonment of 12 months or more; and
 - (h) has not been found guilty of any offence under a law relating to elections, registration of political parties or registration of voters.
- (3) The total number of candidates which a political party may nominate for any general election must not be more than the total number of seats in the House of Representatives, and the total number of candidates which a political party may nominate for any by-

election must not be more than the total number of vacant seats in the House of Representatives for which the by-election is held.

- (4) A written law may make provision relating to the nomination of candidates for election to the House of Representatives.
- (5) Every candidate, and every political party nominating a candidate, must comply with any written law governing elections.

71 Writ for election

- (1) The writ for the election of members of the House of Representatives shall be issued by the President on the advice of the Prime Minister.
- (2) The writ for a general election must be issued within 7 days from the expiry of the House of Representatives or from the date of the proclamation of its dissolution by the President.
- (3) The writ for a by-election must be issued within 7 days from the date when a constituency seat in the House of Representatives becomes vacant, or within 7 days from the date of determination by the Court of Disputed Returns if an application is made to it under section 73(4) or section 103.

72 Dates of nomination and polling

- (1) The last day for the receipt of a nomination of a candidate for election to the House of Representatives is 14 days after the date of the issue of the writ.
- (2) Polling commences no later than 30 days after the last day for the receipt of nominations.

73 Vacation of seat of member of House of Representatives

- (1) The constituency seat of a member of the House of Representatives becomes vacant if the member—
 - (a) dies, or resigns by giving to the Speaker a signed resignation;
 - (b) ceases to have the right to be a registered voter in an election to the House of Representatives;
 - (c) is convicted of an offence punishable by imprisonment for 12 months or longer;
 - (d) is an undischarged bankrupt;
 - (e) is absent from 2 consecutive sittings of the House of Representatives without having obtained the permission of the Speaker;
 - (f) resigns from the political party for which he or she was a candidate at the time he or she was elected to the House of Representatives within 18 months from a Prime Minister taking office;
 - (g) votes or abstains from voting in the House of Representatives contrary to any direction issued by the political party for which he or she was a candidate at the time he or she was elected to the House of Representatives, without obtaining the prior permission of the political party within 18 months after a Prime Minister takes office; or
 - (h) is expelled from the political party for which he or she was a candidate at the time he or she was elected to the House of Representatives within 18 months from a

Prime Minister taking office and—

- (i) the expulsion was in accordance with the rules of the political party relating to party discipline; and
 - (ii) the expulsion did not relate to any action taken by the member in his or her capacity as a member of a committee of Parliament; or
- (i) is appointed as a member of the Senate.
- (2) The constituency seat of a member of the House of Representatives becomes vacant on the day immediately before the first sitting of the House of Representatives after a general election.
- (3) The seat of a member of the House of Representatives becomes vacant on receipt by the Speaker of a written notification signed by the leader and the secretary of the political party notifying the Speaker that—
 - (a) the member has resigned from the political party;
 - (b) the member has voted or abstained from voting in the House of Representatives contrary to any direction issued by the political party, without obtaining the prior permission of the political party; or
 - (c) the member has been expelled from the political party.
- (4) If a member of the House of Representatives whose seat becomes vacant under subsection (1) seeks to question or challenge the validity of his or her seat in the House of Representatives becoming vacant, the member must, within 7 days of the member's seat becoming vacant, by way of a proceeding, make an application to the Court of Disputed Returns for a declaration on whether the seat of the member has become vacant.
- (5) Any application made to the Court of Disputed Returns under this section must be determined by the Court of Disputed Returns within 21 days of the date when the application is made to it.
- (6) A determination by the Court of Disputed Returns under this section is final and not subject to any appeal.
- (7) If the member of the House of Representatives whose seat becomes vacant under subsection (1) makes an application to the Court of Disputed Returns under subsection (4), the member is taken to be suspended from the House of Representatives pending the determination by the Court of Disputed Returns.

74 Vacancies

If a seat in the House of Representatives becomes vacant, the vacancy shall be filled—

- (a) in the case of a constituency seat, by a by-election; and
- (b) in the case of a party list seat, by the next candidate on the party list.

75 By-elections

If the seat of a member of the House of Representatives in a constituency seat becomes vacant before the end of his or her service, an election must be held for the purpose of filling the seat of the member for the remainder of the term unless the vacancy occurs more than 3 years and 6 months after the first meeting of the House following the last

general election.

76 Speaker and Deputy Speaker of Parliament

- (1) The House of Representatives must, at its first sitting after a general election and whenever required to fill a vacancy, elect, with support of the votes of a majority of the members of the House of Representatives—
 - (a) a Speaker, who is not a member of the House but who is qualified to be a candidate for election as a member of the House; and
 - (b) a Deputy Speaker from amongst the members of the House (excluding Ministers).
- (2) The Speaker and the Deputy Speaker assume office by taking the oath or affirmation of allegiance and office set out in the Schedule, as administered by the Secretary-General to the House of Representatives or the Secretary-General to the Senate, as the case may be.
- (3) The Speaker shall preside over every sitting of the House of Representatives.
- (4) The Deputy Speaker shall perform the duties of the Speaker if the Speaker is absent from duty or from Fiji or is, for any other reason, unable to perform those duties.
- (5) If neither the Speaker or the Deputy Speaker is able to perform the duties of the Speaker, the members of the House of Representatives must elect one of their members to preside at meetings of the House.
- (6) The Speaker, Deputy Speaker, or any other person presiding at any time, in the performance of the functions of the Speaker—
 - (a) is independent and subject only to this Constitution and any other law;
 - (b) serves to secure the honour and dignity of Parliament;
 - (c) is responsible for ensuring—
 - (i) the rights and privileges of all members; and
 - (ii) public access to the proceedings of the House of Representatives and its committees;
 - (d) has authority to maintain order and decorum in the House of Representatives, in accordance with its standing orders and parliamentary tradition; and
 - (e) must act impartially, and without fear, favour or prejudice.
- (7) The office of the Speaker becomes vacant—
 - (a) on the day immediately before the first sitting of the House of Representatives after a general election; or
 - (b) if, before that day, the Speaker—
 - (i) resigns by giving to the President a written notice of resignation;
 - (ii) becomes the holder of another public office;
 - (iii) ceases to have the right to be registered as a voter in an election to the House of Representatives;
 - (iv) is absent without leave from 2 consecutive sittings of the House of Representatives; or

- (v) is removed from office by a resolution supported by not less than 2 thirds of the members of the House of Representatives.
- (8) The office of the Deputy Speaker becomes vacant if the Deputy Speaker—
 - (a) resigns by giving to the Speaker a written notice of resignation;
 - (b) vacates his or her seat as a member of the House of Representatives;
 - (c) is appointed as a Minister; or
 - (d) is removed from office by a resolution supported by a majority of the members of the House of Representatives.

77 Leader of the Opposition

- (1) The members of the House of Representatives who—
 - (a) do not belong to the Prime Minister's political party or any party which is in coalition with, or which supports, the Prime Minister's political party; or
 - (b) are independent candidates who do not support the Prime Minister or the Prime Minister's political party,
 must elect a person from amongst themselves to be the Leader of the Opposition, in accordance with this section.
- (2) At the first sitting of the House of Representatives after a general election, the Speaker must call for nominations from those members of the House mentioned in subsection (1), and, if only one person is nominated and seconded, the Speaker shall declare that person elected as the Leader of the Opposition, but if more than one person is nominated and seconded, the Speaker must conduct a vote, as follows—
 - (a) if after the first vote, any nominee has the support of the majority of the members of the House of Representatives referred to in subsection (1), the Speaker shall declare that person elected as the Leader of the Opposition; and
 - (b) if no nominee in the first vote receives the support of the majority of the members of the House of Representatives referred to in subsection (1), a second vote must be held within 24 hours of the first vote and the nominee who has the support of the majority of the members of the House of Representatives in the second vote shall be declared by the Speaker as being elected as the Leader of the Opposition.
- (3) If after the second vote held under subsection (2), no person receives the support of the majority of the members of the House of Representatives mentioned in subsection (1), the position of the Leader of the Opposition shall remain vacant until such time the majority of the members of the House of Representatives write to the Speaker requesting him or her to call for fresh nominations for the election of the Leader of the Opposition in accordance with the procedure set out in subsection (2).
- (4) If a majority of the members mentioned in subsection (1) consider that the person who is the Leader of the Opposition should no longer hold the position of the Leader of the Opposition, then they shall inform the Speaker of their decision and they may elect another member of the House of Representatives, in accordance with the procedure set out in subsection (2).
- (5) On the expiry or dissolution of Parliament, the Leader of the Opposition continues in

office until the next appointment of a Prime Minister.

- (6) If a Leader of the Opposition is unable to be elected in accordance with this section, then the provisions of this Constitution providing for any action by the Leader of the Opposition, including any advice, nomination or consultation of the Leader of the Opposition, are of no effect, and an appointment may be made or action may be taken under a provision of this Constitution without reference to the Leader of the Opposition.
- (7) For the purposes of this section any members who do not support the Prime Minister's political party and who wish to be independent are not to be included in the group of members referred to in subsections (2) to (5).

Part C—SENATE

78 Role of the Senate

The purpose of the Senate is to review Bills that have been passed by the House of Representatives and any other purposes and responsibilities that are provided for in this Constitution or prescribed by written law.

79 Members of the Senate

- (1) The Senate consists of 19 members, of whom—
 - (a) 8 are appointed by the BLV;
 - (b) 5 are appointed by the Prime Minister;
 - (c) 4 are appointed by the Leader of the Opposition;
 - (d) 1 is appointed by the Rotuma Island Council; and
 - (e) 1 is appointed by the Rabi Council of Leaders.
- (2) Appointments made by the BLV, the Prime Minister and the Leader of the Opposition shall reflect the diversity of Fiji, including its minority groups.
- (3) If, at the time when an appointment is to be made to the Senate, the position of Leader of the Opposition is vacant, the Prime Minister must adopt the role of the Leader of the Opposition as to the 4 persons proposed for appointment under paragraph (1)(c).
- (4) A person is not eligible to be appointed as a member of the Senate unless he or she is eligible to be a candidate in elections in the House of Representatives.

80 Vacation of seat of member of Senate

- (1) The seat of a member of the Senate (other than the President of the Senate) becomes vacant if the member—
 - (a) dies, or resigns by giving to the Speaker a signed resignation;
 - (b) is convicted of an offence punishable by imprisonment for 12 months or longer;
 - (c) ceases to have the right to be a registered voter in an election to the House of Representatives;
 - (d) is absent from 2 consecutive sittings of the Senate without having obtained the permission of the President or the Vice-President; or

- (e) is nominated as a candidate for election to the House of Representatives.
- (2) The seat of a member of the Senate becomes vacant on the day immediately before the first sitting of the Senate after a general election.

81 Vacancies

If the seat of a Senator becomes vacant before the end of his or her term of service, an appointment to fill the vacancy may be made under section 79(1) under which the Senator was appointed.

82 President and Vice-President of the Senate

- (1) The members of the Senate must, at its first sitting after a general election for members of the House of Representatives and whenever the office of President of the Senate is vacant, elect from their members a President of the Senate.
- (2) A person elected as President of the Senate must make an Oath of Allegiance before the Secretary-General to the Senate.
- (3) The members of the Senate must, at their first sitting after a general election for members of the House of Representatives and whenever the office of Vice-President of the Senate is vacant, elect one of their members as Vice-President of the Senate.
- (4) The Vice-President of the Senate shall perform the duties of President of the Senate if the President of the Senate is absent from duty or from Fiji or is, for any other reason, unable to perform those duties.
- (5) If neither the President nor the Vice-President is able to perform the duties of the Senate, the members of the Senate must elect one of their members to preside at meetings of the Senate.
- (6) The office of President of the Senate does not become vacant on the expiry of the term of the Senate but becomes vacant:
 - (a) on the day immediately before the first sitting of the Senate after a general election for members of the House of Representatives; or
 - (b) if, before that day, the President of the Senate:
 - (i) resigns by giving to the Secretary-General to the Senate a signed resignation;
 - (ii) with the consent of the President of the Senate, becomes the holder of another public office;
 - (iii) would, if he or she were a member of the House of Representatives, vacate his or her place by reason of the operation of section 73;
 - (iv) is absent from 2 consecutive sittings of the Senate;
 - (v) is nominated as a candidate for the election to the House of Representatives;
 - (vi) is appointed as Attorney-General; or
 - (vii) is removed from office by a resolution supported by not less than two-thirds of the members of the Senate.

- (7) The office of Vice-President of the Senate becomes vacant if the Vice-President:
- (a) resigns by giving to the President of the Senate a signed resignation;
 - (b) vacates his or her place in the Senate;
 - (c) is appointed as Attorney-General; or
 - (d) is removed from office by a resolution supported by not less than two-thirds of the members of the Senate.

Part D—PARLIAMENTARY SITTINGS, BUSINESS AND ADMINISTRATION

83 Standing orders and rules

Each House may make standing orders and rules with respect to—

- (a) the way in which its powers, privileges and immunities may be exercised and upheld; and
- (b) the order and conduct of its business and proceedings either separately or jointly with the other House and its committees.

84 Sessions of Parliament

- (1) After a general election of members of the House of Representatives, the Parliament shall be summoned to meet by the President no later than 14 days after the announcement of the results of the general election.
- (2) At the first meeting, the agenda of business shall include—
 - (a) swearing-in of members, presided over by the Secretary-General to the House of Representatives;
 - (b) the election of the Speaker in accordance with section 76, presided over by the Secretary-General to the House of Representatives;
 - (c) swearing-in of the Speaker, presided over by the Secretary-General to the House of Representatives;
 - (d) the election and swearing-in of the Deputy Speaker, presided over by the Speaker;
 - (e) in the event that the Prime Minister has not assumed office under section 116(2), the appointment of the Prime Minister by the members of the House of Representatives in accordance with section 116(3); and
 - (f) the election of the Leader of the Opposition, presided over by the Speaker, and conducted in accordance with section 77.
- (3) Other sessions of Parliament commence on a date appointed by the President on the advice of the Prime Minister but no longer than 6 months must elapse between the end of one session and the start of another.
- (4) If—
 - (a) Parliament is not in session; and
 - (b) the President receives a request in writing from not less than one-third of the members of the House of Representatives requesting that Parliament be summoned to meet to consider without delay a matter of public importance,

the President shall summon Parliament to meet.

- (5) If—
 - (a) Parliament is in session but more than 2 months have elapsed between the sittings of the House of Representatives; and
 - (b) the Speaker receives a request in writing from the Prime Minister or from not less than one-third of the members of House of Representatives requesting that a sitting be held to consider without delay a matter of public importance,

the Speaker must call a sitting of the House of Representatives within one week of the date on which the request was made.
- (6) Subject to this section, the sittings of each House of Parliament are held at such times and places as the House determines in accordance with its rules and orders.

85 Committees

- (1) Parliament must, under its rules and orders, establish committees with the functions of scrutinising Government administration and examining Bills and subordinate legislation and such other functions as are specified from time to time in its rules and orders.
- (2) Members of the House of Representatives and the Senate may serve on any committees.
- (3) Ministers are not eligible for election to committees of the House of Representatives or the Senate.

86 Quorum

- (1) A sitting of either House may not begin, or continue, unless a majority of the members of that House are present.
- (2) A vote on a Bill may not be held in either House of Parliament unless a majority of the members are present.
- (3) The Speaker must adjourn a sitting if a quorum is not present.

87 Voting

- (1) Except as otherwise provided in this Constitution, any question proposed for decision in either House must be determined by a majority vote of the members present and voting.
- (2) On a question proposed for decision in either House—
 - (a) the person presiding does not have a casting vote; and
 - (b) in the case of an equality of votes, the question is deemed to be lost.
- (3) The person presiding must not be counted when considering the number of members for the purpose of voting or determining if a quorum is present.

88 Powers, privileges, immunities and discipline

- (1) Every member of Parliament, and anyone else speaking in Parliament, has—
 - (a) freedom of speech and debate in Parliament or its committees, subject to the standing orders; and
 - (b) parliamentary privilege and immunity in respect of anything said in Parliament or

its committees.

- (2) Parliament may prescribe the powers, privileges and immunities of members of Parliament and may make rules and orders for the discipline of members of Parliament.

89 Vacancies in House membership

Each House of Parliament may act despite a vacancy in its membership, and the presence at, or the participation in, its proceedings of a person not entitled to be a member does not invalidate the proceedings.

90 Power to call for evidence

- (1) Parliament, and each of its committees, has the power to summon any person to appear before it for the purpose of giving evidence or providing information.
- (2) For the purposes of subsection (1), Parliament and each of its committees has the same powers as the High Court to—
 - (a) enforce the attendance of witnesses and examine them on oath, affirmation or otherwise; and
 - (b) compel the production of documents or other materials or information as required for its proceedings.

91 Petitions, public access and participation

- (1) Parliament must—
 - (a) conduct its business in an open manner, and hold its sittings and those of its committees, in public; and
 - (b) facilitate public participation in the legislative and other processes of Parliament and its committees.
- (2) Parliament and its committees may not exclude the public, including any media, from any sitting unless, in exceptional circumstances, the Speaker has ordered the exclusion of the public on grounds that are reasonable and justifiable.

92 Languages of Parliament

- (1) The business of Parliament may be conducted in English, iTaukei, Rotuman or Hindi.
- (2) Acts of Parliament must be enacted in English, and may be published in English, iTaukei, Rotuman or Hindi.
- (3) In case of a conflict between different language versions of an Act of Parliament, the English language version prevails.

93 Secretary-General to the House of Representatives and Secretary-General to the Senate and staff

- (1) This section establishes the office of the Secretary-General to the House of Representatives and the office of the Secretary-General to the Senate.
- (2) The Secretaries-General shall be appointed by the Constitutional Offices Commission following consultation with the Speaker.
- (3) The Secretaries-General have the same status as that of a Permanent Secretary and shall

be responsible to the Speaker for the efficient, effective and economical management of the House of Representatives and the Senate, as the case may be.

- (4) The Secretaries-General are the principal procedural advisors to the Speaker, and to all members and committees of the House of Representatives and the Senate, as the case may be.
- (5) The Secretaries-General are responsible for all the functions as may be conferred on him or her by the standing orders of Parliament.

Part E—ELECTORAL INSTITUTIONS AND OTHER ELECTORAL MATTERS

94 Electoral Commission

- (1) There is an Electoral Commission.
- (2) The Commission consists of 5 members, one of which shall be appointed as chairperson.
- (3) The chairperson and the members of the Commission shall be appointed by the President, on the advice of the Constitutional Offices Commission having regard to the appointees' knowledge, skills and experience relevant to the functions and powers of the Commission.
- (4) The Commission has the responsibility for the registration of voters and the conduct of free and fair elections in accordance with the written law governing elections and any other relevant law, and in particular for—
 - (a) the registration of citizens as voters, and the regular revision of the Register of Voters;
 - (b) voter education;
 - (c) the registration of candidates for election;
 - (d) the settlement of electoral disputes, including disputes relating to or arising from nominations, but excluding election petitions and disputes subsequent to the declaration of election results; and
 - (e) monitoring and enforcing compliance with any written law governing elections and political parties.
- (5) The Commission may at other times make such reports to the President and Parliament as it thinks fit.

95 Supervisor of Elections

- (1) This section establishes the office of the Supervisor of Elections.
- (2) The Supervisor of Elections, acting under the direction of the Electoral Commission,—
 - (a) administers the registration of voters for elections of members to the House of Representatives;
 - (b) administers political party registration and de-registration and adherence to registration requirements and oversees other matters provided in sections 98, 99, 100 and 101;
 - (c) conducts—
 - (i) elections of members of the House of Representatives; and

- (ii) such other elections as Parliament prescribes; and
 - (d) may perform such other functions as are conferred by written law.
- (3) The Supervisor of Elections is accountable to the Electoral Commission and must comply with any directions that the Electoral Commission gives him or her concerning the performance of his or her functions.
- (4) The Supervisor of Elections shall serve as an ex-officio member of the Electoral Commission and shall attend meetings of the Commission and may participate in its deliberations but shall not be entitled to vote on any matter before the Commission
- (5) The Supervisor of Elections is appointed by the President on the advice of the Constitutional Offices Commission following consultation by the Constitutional Offices Commission with the Electoral Commission.

96 Constituency Boundaries Commission

- (1) This section establishes the Constituency Boundaries Commission.
- (2) The Commission shall consist of 3 members appointed by the Electoral Commission, after consultation with the Constitutional Offices Commission, having regard to the appointees' knowledge, skills and experience relevant to the functions and powers of the Commission.
- (3) The chairperson must be a person who is a Judge.
- (4) A person is not qualified for appointment as a member unless he or she—
 - (a) has had a distinguished career in any aspect of national or international life, whether in the public or private sector;
 - (b) is a Fijian citizen;
 - (c) is not a member of, or holds any office in, any political party;
 - (d) has not held office in any political party or been an election candidate in the 8 years prior to being nominated;
 - (e) is not a candidate for election to Parliament; and
 - (f) has not, at any time been convicted of any offence with a term of imprisonment of 12 months or more under any law.
- (5) The Commission must determine the boundaries of the constituencies.
- (6) In determining the boundaries of the constituencies, except for the maritime constituencies, the Commission:
 - (a) must try to ensure that the number of voters in each constituency seat is, as far as reasonably practicable, the same;
 - (b) subject to paragraph (a), must give due consideration, in relation to each proposed constituency, to:
 - (i) the physical features of the proposed constituency;
 - (ii) the boundaries of the existing administrative and recognised traditional areas; and
 - (iii) means of communication and travel within the proposed constituency.
- (7) The Commission shall, in the year following each official census, and may, at other times,

review the boundaries of constituencies and determine whether or not the boundaries should be changed to give effect to subsection (6).

- (8) Parliament may make laws relating to reviews conducted by the Commission, including laws requiring the Commission to give notice of proposed redistributions and to hear objections before making a determination.
- (9) Upon the making of a determination on a redistribution, the Commission must report its findings to the House of Representatives, together with—
 - (a) a summary of any objections made to it; and
 - (b) the reasons for its determination.
- (10) A determination of the Commission is final.

97 Registration of voters

- (1) Every citizen who is or will be at least 18 years of age on or before the date of the issue of the writ for the next election of members to the House of Representatives has the right to be registered as a voter in the way prescribed by written law.
- (2) Every person who is registered as a voter has the right to vote in the election of members of the House of Representatives.
- (3) The Electoral Commission must maintain a single, national common Register of Voters.

98 Requirements for political parties

- (1) Every political party shall—
 - (a) uphold the supremacy of the Constitution and the rule of law;
 - (b) respect and promote human rights and freedoms, including gender equality;
 - (c) ensure equitable opportunities for the election of female candidates;
 - (d) respect the right of all persons to participate in the political process, including minorities and marginalized groups;
 - (e) abide by democratic principles of good governance, promote and practice democracy internally through regular, free and fair elections within the party and have a democratically elected governing body; and
 - (f) observe any code of conduct for political parties prescribed by written law.
- (2) A political party shall promote national unity and strive to be inclusive, and shall not—
 - (a) engage in advocacy of hatred;
 - (b) engage in or encourage violence or intimidation of its members, supporters, opponents or any other person;
 - (c) establish or maintain a paramilitary force, militia or similar organisation;
 - (d) engage in bribery, corruption or any other criminal conduct, or encourage or knowingly permit its members or candidates to do so;
 - (e) accept or use public resources to promote its interests or the interests of its officers or members or candidates, except—
 - (i) in accordance with a written law mentioned in section 101; or

- (ii) as made available to parties generally, or after paying a fee on a commercial basis.

99 Political party funding

- (1) Political parties may accept financial donations only from individual residents of Fiji or non-resident citizens of Fiji.
- (2) Written law shall place a limit on the amount any individual may donate to any one political party in a year.
- (3) Each political party shall file and publish an annual report setting out the source and amounts of all donations received by the party in the preceding year, in the manner required by written law.

100 Campaigning

A candidate, or a political party, contesting an election shall not be denied reasonable access to, and use of, State-owned communication in media, or other public resources that are made available to parties generally, or after paying a fee on a commercial basis.

101 Written law on political parties

Parliament shall enact written law—

- (a) providing for reasonable and fair allocation to political parties, both generally and during an election campaign, of—
 - (i) airtime by State-owned broadcasting media; and
 - (ii) resources of other State-owned media;
- (b) regulating the registration of political parties; and
- (c) regulating political parties' financial accounts, and the audit and publication of their financial reports.

102 Limits on enactment of major new election laws 9 months before election

Parliament shall not enact any major new election laws, including any amendments to existing election laws, in the 9 months before the end of the 4-year term of Parliament.

103 Court of Disputed Returns

- (1) The High Court is the Court of Disputed Returns and has original jurisdiction to hear and determine—
 - (a) by way of a petition, a question whether a person has been validly elected as a member of the House of Representatives; and
 - (b) by way of a proceeding, an application for a declaration on whether the seat of a member of the House of Representatives has become vacant.
- (2) The validity of an election of a person as a member of the House of Representatives may only be disputed by petition addressed to the Court of Disputed Returns and not otherwise.
- (3) The petition—

- (a) may only be brought by—
 - (i) a person who had the right to vote in the election concerned; or
 - (ii) a person who was a candidate in the election concerned; and
 - (b) except if corrupt practice is alleged, must be brought within 21 days of the declaration of the poll.
- (4) Proceedings pursuant to subsection (1)(b) may only be brought by—
- (a) a member of the House of Representatives; or
 - (b) a registered voter.
- (5) Notwithstanding anything contained in subsection (4), proceedings under subsection (1)(b) cannot be brought under this section by the member of the House of Representatives whose seat is the subject of the proceeding, and any proceeding by any such member which seeks to question or challenge the validity of his or her seat in the House of Representatives becoming vacant must only be brought under section 73.
- (6) The Court of Disputed Returns must make a determination on any petition or proceeding within 21 days of the date when the petition or proceeding is brought before it.
- (7) A petition—
- (a) may only be brought by—
 - (i) a person who had a right to vote in the election concerned;
 - (ii) a person who was a candidate in that election; or
 - (iii) the Attorney-General; and
 - (b) must be brought within 6 weeks of the declaration of the poll.
- (8) A determination by the Court of Disputed Returns under this section is final and not subject to any appeal.

CHAPTER 5—THE EXECUTIVE

Part A—THE PRESIDENT

104 The President of Fiji

The President is the Head of State, and the executive authority of the State is vested in the President.

105 The responsibilities of the President

- (1) This section establishes the office of the President.
- (2) As Head of State, the President—
 - (a) may represent Fiji to any other nation or in any international forum;
 - (b) signs instruments of consent by Fiji to be bound by international agreements;
 - (c) receives advice from the Prime Minister about the issues relating to the governance of Fiji;
 - (d) receives foreign diplomatic and consular representatives;
 - (e) appoints and removes Judges in accordance with the advice of the Judicial Services Commission under section 135;
 - (f) appoints and removes the members of Independent Commissions and holders of Independent Offices, in accordance with the advice of the Constitutional Offices Commission under 208;
 - (g) appoints and removes individuals in accordance with the advice of the Prime Minister under section 153, to represent Fiji as High Commissioners, Ambassadors or Consuls General;
 - (h) exercises the power of mercy in accordance with section 146; and
 - (i) may confer honours in the name of Fiji, in accordance with written law.
- (3) The President shall perform the ceremonial functions and responsibilities as the Commander-in-Chief of the Republic of Fiji Military Forces.
- (4) The President shall open each annual session of Parliament with an address outlining the policies and programmes of the Government.
- (5) The President shall address Parliament, at the request of the Speaker and the Prime Minister.
- (6) The President shall assent to and sign each Act of Parliament.

106 President acts on advice

- (1) In the exercise of his or her powers and executive authority, the President acts only on the advice, and shall act in accordance with that advice, of Cabinet or a Minister or of some other body or authority prescribed by this Constitution for a particular purpose as the body or authority on whose advice the President acts unless this Constitution provides otherwise.
- (2) Where any written law is silent as to the source of advice to the President, Cabinet shall

be the source of that advice.

107 Qualification for appointment

- (1) A person shall not be qualified to be nominated for the office of the President unless he or she—
 - (a) has had a distinguished career in any aspect of national or international life, whether in the public or private sector;
 - (b) is a citizen of Fiji;
 - (c) is not a member of, or holds any office in, any political party;
 - (d) has not held office in any political party or been an election candidate in the 8 years prior to being nominated;
 - (e) is not a candidate for election to any other office in the State; and
 - (f) has not, at any time been convicted of any offence with a term of imprisonment of 12 months or more under any law.
- (2) A person holding a public office is not required to resign from that office before accepting nomination for President, but the appointment of the person as the President has the effect of terminating his or her service in that office.
- (3) Nothing in this section prevents the President from holding a public office, by virtue of his or her appointment as the President, under any written law.

108 Nomination and appointment of President

- (1) The President shall be appointed by the Presidential Appointment Commission which is established under this section.
- (2) The Commission is a part-time body that acts only when there is a vacancy in the office of the President, the President resigns from office or where there is a question of whether to remove the President from office.
- (3) The Commission shall consist of—
 - (a) 3 members nominated by the BLV;
 - (b) the Prime Minister;
 - (c) the Leader of the Opposition; and
 - (d) a nominee of the Fiji Council of Churches; and
 - (e) a nominee of Interfaith Search Fiji.
- (4) The members of the Commission may nominate suitably qualified persons for appointment, either individually or jointly.
- (5) When the Commission has decided who is to be appointed President, it shall inform the Speaker, and the Speaker shall publicly announce the name of the President.
- (6) The Commission may regulate its own procedure and may make such rules and regulations it deems fit for regulating and facilitating the making of nominations for appointment and the making of appointments.

109 Term of office and remuneration

- (1) The President holds office for 3 years, and is eligible for re-appointment for one further term of 3 years, but is not eligible for re-appointment after that.
- (2) For the purposes of subsection (1), in determining whether a person is eligible for appointment or re-appointment, any period served before the commencement of this Constitution shall be taken into account.
- (3) The President shall receive such remuneration, allowances and other benefits, as determined by the Salaries and Benefits Commission.

110 Oath of office

Before taking office, the President must take before the Chief Justice the oath or affirmation of allegiance and office as set out in the Schedule in a public ceremony.

111 Resignation

- (1) The President may resign from office by delivering a written notice of resignation to the Presidential Appointment Commission.
- (2) The Commission shall advise the Speaker and the President of the Senate of the resignation and the Speaker shall table the notice in the House of Representatives.

112 Speaker to perform functions in absence of President

If the President is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of the President or if the office of the President becomes vacant for any reason, then the functions of the office of the President shall be performed by the Speaker.

Part B—PRIME MINISTER AND CABINET

113 Responsible Government

Governments must have the confidence of Parliament.

114 Cabinet

- (1) Cabinet consists of the Prime Minister as chairperson, and up to 14 Ministers as determined by the Prime Minister.
- (2) Cabinet members are accountable individually and collectively to Parliament, for the exercise of their powers and the performance of their functions.
- (3) A Minister must appear before Parliament, or a committee of Parliament, when required, and answer any question concerning a matter for which the Minister is responsible.
- (4) Cabinet members must provide Parliament with full and regular reports concerning matters for which they are responsible.
- (5) Cabinet may apply for a determination from the Supreme Court on any matter concerning the interpretation or application of this Constitution.

115 Office of the Prime Minister

- (1) The Prime Minister is the head of the Government.
- (2) The Prime Minister shall keep the President generally informed about the issues relating to the governance of Fiji.
- (3) The Prime Minister—
 - (a) appoints Ministers with such titles, portfolios and responsibilities as the Prime Minister determines from time to time;
 - (b) dismisses Ministers; and
 - (c) by notice published in the Gazette, assigns to any Minister or to himself or herself responsibility for the conduct of a specified part of the business of the Government, including responsibility for the general direction and control over a branch or branches of the public service or over a disciplined force and responsibility for the implementation and administration of each Act, provided however that the responsibility for any part of the business of Government that is not specifically assigned shall remain with the Prime Minister.
- (4) The Prime Minister shall appoint a Minister to act in the office of the Prime Minister during any period, or during all periods, when the Prime Minister is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of office, and a notification of the appointment of the Acting Prime Minister must be published in the Gazette.
- (5) No person shall be appointed or elected to the office of Prime Minister under section 116 more than twice irrespective of whether the terms of office are served consecutively or non-consecutively.

116 Appointment of Prime Minister

- (1) The Prime Minister must be a member of the House of Representatives.
- (2) After a general election, if one political party has won more than 50% of the total number of seats in the House of Representatives then that political party has the right to name the person who is to become the Prime Minister (but cannot select a person who has previously been appointed or elected on 2 previous occasions) and that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule.
- (3) After a general election, if no one political party has won more than 50% of the total number of seats in the House of Representatives, then, at the first sitting of the House of Representatives, the Speaker must call for nominations from members of the House of Representatives and, if only one person is nominated and seconded, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule; but if more than one person is nominated and seconded, the Speaker must conduct a vote, as follows—
 - (a) if after the first vote, a person who is nominated has the support of more than 50% of the House of Representatives, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule;

- (b) if after the first vote, no person who is nominated receives the support of more than 50% of the members of the House of Representatives, a second vote must be held within 24 hours of the first vote and, if after the second vote, a person who is nominated has the support of more than 50% of the members of the House of Representatives, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule;
 - (c) if after the second vote, no person who is nominated receives the support of more than 50% of the members of the House of Representatives, a third vote must be held within 24 hours of the second vote and, if after the third vote, a person who is nominated has the support of more than 50% of the members of the House of Representatives, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule; and
 - (d) if after the third vote, no person receives the support of more than 50% of the members of the House of Representatives, the Speaker shall notify the President in writing of the inability of the House of Representatives to appoint a Prime Minister, and the President shall, within 24 hours of the notification, dissolve Parliament and issue the writ for a general election to take place in accordance with this Constitution.
- (4) A vacancy arises if the Prime Minister—
- (a) resigns, by written notice to the President;
 - (b) ceases to be, or ceases to qualify to be, a member of the House of Representatives;
 - (c) is dismissed through a motion of no confidence;
 - (d) is removed from office in accordance with Chapter 12; or
 - (e) dies.
- (5) If a vacancy arises in the office of the Prime Minister under subsection (4), then the Speaker shall immediately convene the House of Representatives and call for nominations from members of the House of Representatives for the office of the Prime Minister and, if only one person is nominated and seconded, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer) as set out in the Schedule, but if more than one person is nominated and seconded, the Speaker must conduct a vote in the same manner set out in subsection (3) for election of the Speaker after a general election to which that subsection applies.

117 Motion of no confidence

- (1) The Prime Minister may only be dismissed by a motion of no confidence, which must also propose the name of another member of the House of Representatives to be the Prime Minister.
- (2) A motion of no confidence must be called for a vote within 24 hours of it being introduced.
- (3) A motion of no confidence passes if it is supported by a majority of the members of the

House of Representatives.

- (4) If a motion of no confidence passes—
 - (a) the incumbent Prime Minister immediately ceases to hold office;
 - (b) every other member of Cabinet is deemed to have resigned; and
 - (c) the person proposed to be the Prime Minister, in the motion, assumes that office immediately upon being sworn in by the President.
- (5) If a motion of no confidence fails against the incumbent Prime Minister, no further motion of no confidence may be introduced against him or her for at least 6 months.

118 Appointment of Ministers

- (1) Subject to section 120(3), a Minister must be a member of the House of Representatives.
- (2) Each member of Cabinet assumes office by taking the oath or affirmation of allegiance and office as set out in the Schedule, as administered by the President.
- (3) Each Minister continues in office unless he or she—
 - (a) is removed by the Prime Minister;
 - (b) ceases to be, or ceases to qualify to be, a member of the House of Representatives; or
 - (c) resigns by delivering a written notice of resignation to the Prime Minister.
- (4) The Prime Minister may appoint a Minister to act in the office of another Minister during any period, or during all periods, when the other Minister is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of office, and a notification of the appointment of an Acting Minister must be published in the Gazette.

119 Caretaker government

- (1) Upon the issue of the writ for the general election, the Government shall continue in office in a caretaker capacity, and every member of Cabinet shall retain his or her office as a Minister until the day immediately before the first sitting of the House of Representatives after that election.
- (2) During this caretaker period, the Government shall exercise executive authority only in accordance with established caretaker conventions and shall avoid making major policy decisions, entering significant commitments, or taking actions that would bind an incoming Government, except where required in the public interest.

120 Attorney-General

- (1) The Attorney-General may be a member of either the House of Representatives or the Senate and has ministerial responsibilities as determined by the Prime Minister.
- (2) A person is not qualified to be appointed as the Attorney-General unless he or she—
 - (a) is admitted as a legal practitioner in Fiji and has had not less than 15 years post-admission practice as a legal practitioner whether in Fiji or abroad; and
 - (b) has not been sanctioned for professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding

under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission.

- (3) If the Prime Minister considers that there are no members of Parliament who are qualified, suitable or available to be appointed as the Attorney-General, then the Prime Minister may appoint a person who is not a member of Parliament as the Attorney-General.
- (4) A person appointed as the Attorney-General under subsection (3) shall be entitled to take part in Cabinet as a Minister, and to sit in the House of Representatives, provided however that he or she shall not be eligible to vote in the House of Representatives.
- (5) Any person appointed as the Attorney-General must not, during the term of his or her appointment as the Attorney-General, practice as a legal practitioner in a law firm or have any interest in a law firm or have any law firm practice under his or her name.

CHAPTER 6—JUDICIARY

Part A—COURTS AND JUDICIAL OFFICERS

121 Judicial authority

The judicial power and authority of the State is vested in the Supreme Court, the Court of Appeal, the High Court, the Military Court, the Magistrates Court, and in such other courts or tribunals as are created by written law.

122 Proceedings concerning the Constitution

- (1) Everyone has the right to institute court proceedings alleging that any law, act or omission is contrary to this Constitution.
- (2) In addition to a person acting in their own interest, court proceedings under subsection (1) may be instituted by—
 - (a) a person acting on behalf of another person who cannot act in their own capacity;
 - (b) a person acting as a member of, or in the interests of, a group or class of persons;
 - (c) a person acting in the public interest; or
 - (d) an association acting in the interest of one or more of its members.
- (3) In addition to matters initiated under subsection (1), in any other matter before any court any party, or the court on its own initiative, may raise a constitutional issue respecting any written law, act or omission.
- (4) When deciding a matter contemplated in this section, whether instituted under subsection (1) or raised under subsection (3), a court—
 - (a) shall declare that any written law or conduct that is inconsistent with this Constitution is invalid to the extent of the inconsistency; and
 - (b) may make any order that is just and equitable.
- (5) A court that has declared any law invalid may make a further order—
 - (a) limiting the retrospective effect of the declaration of invalidity; or
 - (b) suspending the declaration of invalidity for any period and on any conditions necessary to allow the competent authority to correct the defect.

123 Constitutional determinations

- (1) The Supreme Court has the authority to hear and determine any question relating to the interpretation or application of any provision of this Constitution, including any question as to the validity of a law or proposed law.
- (2) A determination by the Supreme Court has the same binding effect as any other decision of the Supreme Court.
- (3) Only the following authorities may apply for a constitutional determination—
 - (a) Cabinet;
 - (b) Constitutional Offices Commission;

- (c) Ombudsman;
- (d) Human Rights and Anti-discrimination Commission; and
- (e) Fiji Law Reform Commission.

124 Judicial independence

- (1) The courts and all judicial officers are independent of the legislative and executive branches of Government, and are subject only to this Constitution and the law, which they must apply without fear, favour or prejudice.
- (2) No person may interfere with the judicial functioning of the courts, or unreasonably interfere with the administrative functioning of the courts.
- (3) Parliament and Cabinet, through legislative and other measures, must assist and protect the courts to ensure their independence, impartiality, accessibility and effectiveness.
- (4) A judicial officer is protected from civil or criminal action for anything said or done, or omitted to be done, in good faith in the performance of a judicial function.
- (5) A judicial officer may be removed from office for incapacity or wrongdoing only in accordance with the relevant procedures and standards as set out in Part B of Chapter 12.
- (6) In the performance of their functions or the exercise of their authorities and powers, a judicial officer shall be independent and shall not be subject to the direction or control of any person or authority, except by court of law or as otherwise prescribed by law.
- (7) A judicial officer is entitled to such remuneration, benefits and allowances as determined by the Salary and Benefits Commission, and the remuneration and allowances must not be varied to their disadvantage, except as part of an overall austerity reduction similarly applicable to all officers of the State.
- (8) The State shall ensure that adequate funding and resources are made available to the judiciary to enable it to independently and effectively exercise its powers and perform its functions and duties.
- (9) The judiciary shall have control of its own budget and finances, as approved by Parliament.
- (10) The judiciary has the authority to appoint, remove and discipline all staff (including administrative staff).
- (11) The judiciary has the authority to determine all matters pertaining to the employment of all staff, including—
 - (a) the terms and conditions of employment;
 - (b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
 - (c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and
 - (d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.
- (12) The salaries, benefits and allowances payable to any person employed by the judiciary are

a charge on the Consolidated Fund.

- (13) The judiciary may regulate its own procedure and may make such rules and regulations it deems fit for regulating and facilitating the performance of its functions.
- (14) This section is subject to section 136.

125 Jurisdiction of courts of State

Each of the Supreme Court, the Court of Appeal, the High Court and the Military Court has, in addition to its inherent jurisdiction, the jurisdiction conferred on it by this Constitution or by any written law.

126 Supreme Court

- (1) The Supreme Court consists of—
 - (a) the Chief Justice, who is the President of the Supreme Court; and
 - (b) such other Judges as are appointed as Judges of the Supreme Court, to serve as the occasion requires.
- (2) If deemed necessary by the Chief Justice, any of the Justices of Appeal may sit on a matter being heard by the Supreme Court.
- (3) The Supreme Court—
 - (a) is the final appellate court;
 - (b) has exclusive jurisdiction, subject to such requirements as prescribed by written law, to hear and determine appeals from all final judgments of the Court of Appeal; and
 - (c) has original jurisdiction to hear and determine constitutional questions referred under section 123.
- (4) An appeal may not be brought from a final judgment of the Court of Appeal unless—
 - (a) the Court of Appeal gives leave to appeal on a question certified by it to be of significant public importance; or
 - (b) the Supreme Court gives special leave to appeal.
- (5) In the exercise of its appellate jurisdiction, the Supreme Court may—
 - (a) review, vary, set aside or affirm decisions or orders of the Court of Appeal; or
 - (b) make any other order necessary for the administration of justice, including an order for a new trial or an order awarding costs.
- (6) Decisions of the Supreme Court are, subject to subsection (7), binding on all other courts of the State.
- (7) The Supreme Court may review any judgment, pronouncement or order made by it.
- (8) The Supreme Court may make a constitutional determination as provided for in section 123.

127 Court of Appeal

- (1) The Court of Appeal consists of—

- (a) a Judge, other than the Chief Justice, who is appointed as the President of the Court of Appeal; and
 - (b) such other Judges as are appointed as Justices of Appeal.
- (2) If deemed necessary by the President of the Court of Appeal, any of the Judges of the High Court, other than the Chief Justice, may sit on a matter being heard by the Court of Appeal.
 - (3) The Court of Appeal has jurisdiction, subject to this Constitution and to such requirements as prescribed by written law, to hear and determine appeals from all judgments of the High Court and Military Court and has such other jurisdiction as is conferred by written law.
 - (4) Appeals lie to the Court of Appeal as of right from a final judgment of the High Court in any matter arising under this Constitution or involving its interpretation.
 - (5) The Court of Appeal also has original jurisdiction in any matter arising under this Constitution or involving its interpretation.
 - (6) A written law may provide that appeals lie to the Court of Appeal, as of right or with leave, from other judgments of the High Court in accordance with such requirements as prescribed in that written law or under the rules pertaining to the Court of Appeal.

128 High Court

- (1) The High Court consists of—
 - (a) the Chief Justice;
 - (b) such other Judges as are appointed as Judges of the High Court;
 - (c) Masters of the High Court; and
 - (d) Chief Registrar of the High Court.
- (2) The jurisdiction and powers of the Masters of the High Court and the Chief Registrar of the High Court shall be prescribed by written law.
- (3) The High Court has unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such other original jurisdiction as is conferred on it under this Constitution or any written law.
- (4) The High Court also has original jurisdiction on any matter arising under this Constitution or involving its interpretation.
- (5) The High Court has jurisdiction, subject to conferral by written law of rights of appeal and to such requirements as may be prescribed by written law, to hear and determine appeals from all judgments of the Magistrates Court and other subordinate courts.
- (6) The High Court has jurisdiction to supervise any civil or criminal proceedings before a Magistrates Court or other subordinate courts and may, on an application duly made to it, make such orders, issue such writs and give such directions as it considers appropriate to ensure that justice is duly administered by the Magistrates Court and other subordinate courts.
- (7) If in any proceedings in a subordinate court any question arises as to the interpretation of this Constitution and the member presiding in the proceedings considers that a substantial question of law is involved, the member presiding must refer the question to the High

Court.

- (8) When the High Court gives its decision on a question referred to it under subsection (7), the court in which the question arose must dispose of the case in accordance with—
 - (a) the decision; or
 - (b) if the decision is the subject of an appeal to the Court of Appeal or to the Supreme Court, the decision of the Court of Appeal or Supreme Court, as the case may be.

129 Military Court

- (1) The Military Court consists of the Military Judge, who shall be a Judge of the High Court.
- (2) The Military Court has unlimited original jurisdiction inclusive of inherent jurisdiction to hear and determine any criminal proceeding triable under military law and any written law.
- (3) The authority, functions and responsibilities of the Military Court shall be prescribed by written law, and a written law may make further provisions for the Military Court.
- (4) The Military Court may regulate its own procedure and make such rules and regulations as it deems fit for regulating and facilitating the performance of its functions.

130 Magistrates Court

- (1) The Magistrates Court consists of—
 - (a) the Chief Magistrate; and
 - (b) such other Magistrates as are appointed by the Judicial Services Commission.
- (2) The Magistrates Court has such jurisdiction as conferred by a written law.

131 Other courts

A written law may establish and determine the authority of other courts, tribunals or commissions, which may have a status similar to the High Court, the Magistrates Court, or other subordinate courts.

132 Court rules and procedures

- (1) The President of the Supreme Court may make rules of court and issue directions, consistent with this Constitution or a written law, for regulating and prescribing the practice and procedure to be followed in the Supreme Court.
- (2) The President of the Court of Appeal may make rules of court and issue directions, consistent with this Constitution or a written law, for regulating and prescribing the practice and procedure to be followed in the Court of Appeal.
- (3) The Chief Justice may make rules of court and issue directions, consistent with this Constitution or a written law, for regulating and prescribing the practice and procedure to be followed in the High Court, the Military Court, and the Magistrates Court.

133 Judicial Services Commission

- (1) There is a Judicial Services Commission.
- (2) The Commission shall consist of—

- (a) the Chief Justice or his or her nominee, who is to be the chairperson;
 - (b) the President of the Court of Appeal or his or her nominee;
 - (c) the Permanent Secretary responsible for justice;
 - (d) the chairperson of the Public Service Commission;
 - (e) the President of the Fiji Law Society or his or her nominee who must be a legal practitioner who—
 - (i) has not less than 15 years post-admission practice; and
 - (ii) has not been sanctioned for professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission; and
 - (f) a person, not being a legal practitioner, nominated by the Constitutional Offices Commission.
- (3) The Commission is responsible for—
- (a) overseeing the adequacy and efficiency of the funding for the judiciary;
 - (b) promoting programmes for the continuing education and training of judges and judicial officers;
 - (c) overseeing and providing advice and guidance to the judiciary on the implementation and operation of its independence and accountability measures applicable including setting timetables and procedures for managing discipline and removal from office proceedings;
 - (d) appointing women and men to serve as Judges and judicial officers, taking into account the need to represent the diversity of Fiji;
 - (e) reviewing the conduct of Judges and judicial officers and convening a tribunal, when required, and in accordance with the processes set out in Chapter 12; and
 - (f) initiation of discipline or removal in relation to Judges and judicial officers.
- (7) The secretary of the Commission shall be the Chief Registrar, or any other person performing the functions of that office.
- (8) The quorum for the meetings of the Commission shall consist of the chairperson and 2 other members.

134 Qualifications for appointment to judicial offices

- (1) The making of appointments to a judicial office is governed by the principle that judicial officers should be of the highest competence and integrity.
- (2) A person is not qualified for appointment as a Judge unless he or she—
 - (a) holds, or has held a high judicial office in Fiji or in another country prescribed by law; or
 - (b) has had not less than 15 years post-admission practice as a legal practitioner in Fiji or in another country prescribed by law and has not been sanctioned for

professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission.

- (3) A person is not qualified for appointment as a Magistrate unless he or she—
 - (a) holds, or has held a judicial office in Fiji or in another country prescribed by law; or
 - (b) has had not less than 10 years post-admission practice as a legal practitioner in Fiji or in another country prescribed by law and has not been sanctioned for professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission.

135 Appointment of Judges

- (1) The Chief Justice and the President of the Court of Appeal are appointed by the President on the advice of the Constitutional Offices Commission.
- (2) The Judges of the Supreme Court, the Justices of Appeal, the Judges of the High Court and the Judge of the Military Court are appointed by the President on the advice of the Judicial Services Commission.
- (3) The President, on the advice of the Constitutional Offices Commission, may appoint a Judge to act as the Chief Justice or the President of the Court of Appeal during any period, or during all periods, when the office of the Chief Justice or the President of the Court of Appeal is vacant or when the Chief Justice or the President of the Court of Appeal is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.
- (4) The President may, on the advice of the Judicial Services Commission, appoint a person to act as a Judge of the High Court during any period or during all periods, when an office of a Judge of the High Court is vacant or when a Judge is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.
- (5) A person is not eligible to be appointed under subsection (4) unless he or she is qualified for appointment as a Judge.

136 Other appointments

- (1) The Judicial Services Commission has the authority to appoint Magistrates, Masters of the High Court, the Chief Registrar, and other judicial officers as may be prescribed by any written law.
- (2) The Judicial Services Commission has the authority to appoint members of the following tribunals—
 - (a) the Employment Relations Tribunal established under the Employment Relations Act;
 - (b) the Agricultural Tribunal established under the Agricultural Landlord and Tenant

Act;

- (c) the Environment Tribunal established under the Environmental Management Act; and
- (d) members of any other tribunals as may be prescribed by written law.

137 Oath of office

Before taking office, a judicial officer must take before the President, the oath or affirmation of allegiance and office set out in the Schedule.

138 Term of office of Judges

- (1) A person who is not a citizen of Fiji and who is appointed to be a Judge in Fiji serves for a period not exceeding 3 years determined in each case by the Judicial Services Commission at the time of appointment and may be eligible for re-appointment.
- (2) An appointment as a Judge continues until the Judge reaches retirement age of 75.
- (3) Despite subsection (2), any Judge who has attained the age of 75 years may be reappointed, provided that, in the opinion of the Judicial Services Commission, the Judge demonstrates the continued possession of full mental and physical faculties necessary for the performance of judicial duties.
- (4) The reappointment of a Judge under subsection (3) is for a period determined by the Judicial Services Commission as being appropriate in all circumstances.

Part B—INDEPENDENT JUDICIAL AND LEGAL INSTITUTIONS

139 Independent Legal Services Commission

- (1) There is an Independent Legal Services Commission.
- (2) The Commission shall consist of a Commissioner, who is or is qualified to be a Judge, appointed by the President on the advice of the Judicial Services Commission.
- (3) In advising the President as to the person to be appointed as Commissioner, the Judicial Services Commission must be satisfied that the person—
 - (a) is familiar with the nature of the legal system and legal practice in Fiji; and
 - (b) possesses appropriate qualities of independence integrity and fairness.
- (4) The President may appoint a person who is not a citizen of Fiji as the Commissioner.
- (5) The Commissioner may be appointed either on a part-time or full-time basis.
- (6) The Commission shall—
 - (a) hear disciplinary proceedings in relation to allegations of professional misconduct or unsatisfactory professional conduct against a legal practitioner or a law firm or any employee or agent of a legal practitioner or law firm; and
 - (b) with ministerial approval, make rules of professional conduct and practice for practitioners.

140 Fiji Independent Commission Against Corruption

- (1) There is a Fiji Independent Commission Against Corruption.
- (2) The Commission shall consist of a Commissioner and a Deputy Commissioner.
- (3) The Commissioner and Deputy Commissioner shall be appointed by the President on the advice of the Judicial Services Commission.
- (4) The Commissioner must be a legal practitioner qualified to be appointed as a Judge.
- (5) The Deputy Commissioner must be a legal practitioner who has had not less than 10 years post-admission practice as a legal practitioner in Fiji or in another country prescribed by law and has not been sanctioned for professional misconduct in any disciplinary proceeding involving legal practitioners whether in Fiji or abroad, including any proceeding by the Independent Legal Services Commission or any proceeding under the law governing legal practitioners prior to the establishment of the Independent Legal Services Commission.
- (6) The authority, functions and responsibility of the Commission shall be prescribed by written law.
- (7) Without prejudice to subsection (6), the Commission may—
 - (a) investigate allegations of corruption, either on its own initiative or on complaint; and
 - (b) recommend to the Director of Public Prosecutions to initiate or conduct criminal proceedings.
- (8) The powers of the Commissioner and the Deputy Commissioner may be exercised by him or her personally, his or her delegate, or through other persons acting on his or her instructions.
- (9) In exercising its powers and performing its functions and duties, the Commission shall be guided by the standards established under the United Nations Convention Against Corruption.

141 Solicitor-General

- (1) There is an office of the Solicitor-General.
- (2) The Solicitor-General is the chief legal advisor to the Government and is responsible for—
 - (a) providing independent legal advice to the Government and to the holder of a public office, on request;
 - (b) preparing draft laws on the request of Cabinet;
 - (c) maintaining a publicly accessible register of all written law;
 - (d) representing the State in court in any legal proceedings to which the State is a party, other than criminal proceedings; and
 - (e) performing any other functions assigned by this Constitution or any written law.
- (3) The Solicitor-General shall be appointed by the President on the advice of the Judicial Services Commission and shall have the same term of office as a Judge of the High Court.

- (4) The Solicitor-General must be a person who is qualified to be appointed as a Judge.
- (5) The Solicitor-General, with the permission of the court, may appear as a friend of the court in any civil proceedings to which the State is not a party.
- (6) Any functions assigned to the Solicitor-General may be exercised in person or by subordinate officers acting in accordance with general or special instructions.
- (7) The President may, on the advice of the Judicial Services Commission, appoint a person to act as the Solicitor-General during any period or during all periods, when the office of the Solicitor-General is vacant or when the Solicitor-General is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.
- (8) The Solicitor-General has the same status as that of a permanent secretary and shall be responsible for the Office of the Solicitor-General and may be assigned additional responsibilities by the Cabinet.

142 Director of Public Prosecutions

- (1) There is an office of the Director of Public Prosecutions.
- (2) The Director of Public Prosecutions must be a person who is qualified to be appointed as a Judge.
- (3) The Director of Public Prosecutions shall be appointed by the President on the recommendation of the Judicial Services Commission for a term of 7 years and is eligible for reappointment.
- (4) The President may, on the recommendation of the Judicial Services Commission, appoint a person to act as the Director of Public Prosecutions during any period or during all periods, when the office of the Director of Public Prosecutions is vacant or when the Director of Public Prosecutions is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.
- (5) The Director of Public Prosecutions may—
 - (a) institute and conduct criminal proceedings;
 - (b) take over criminal proceedings that have been instituted by another person or authority;
 - (c) discontinue, at any stage before judgment is delivered, criminal proceedings instituted or conducted by the Director of Public Prosecutions or another person or authority; and
 - (d) intervene in proceedings that raise a question of public interest that may affect the conduct of criminal proceedings or criminal investigations.
- (6) The powers of the Director of Public Prosecutions may be exercised by the Director personally, or through other persons acting on the Director's instructions.
- (7) The Director of Public Prosecutions may appoint any legal practitioner whether from Fiji or from another country, in accordance with section 149, to be a public prosecutor for the purposes of any criminal proceeding.

143 Director of Military Prosecutions

- (1) This section establishes the office of the Director of Military Prosecutions.

- (2) The Director of Military Prosecutions must be a person who is qualified to be appointed as a Judge.
- (3) The Director of Military Prosecutions shall be appointed by the President on the advice of the Judicial Services Commission in consultation with the Commander of the Republic of Fiji Military Forces.

144 Legal Aid Commission

- (1) There is a Legal Aid Commission.
- (2) The Commission consists of—
 - (a) the Solicitor-General or his or her nominee;
 - (b) 2 nominees of the Fiji Law Society; and
 - (c) 2 persons appointed by the President on the advice of the Judicial Services Commission—
 - (i) one of whom shall not be a legal practitioner and who has wide social services or civil society experience; and
 - (ii) one of whom may be either a legal practitioner or a person who has wide social services or civil society experience.
- (3) There shall be a director of the Commission appointed by the Judicial Services Commission after consultation with the Legal Aid Commission.
- (4) The Commission shall provide free legal aid services to those members of the public who cannot afford the services of a legal practitioner, in accordance with such rules and guidelines as may be prescribed by or under a written law.
- (5) The Commission shall provide regular updates and advice to the Attorney-General on any matter relating to its functions and responsibilities.

145 Fiji Law Reform Commission

- (1) There is a Fiji Law Reform Commission and its membership and functions shall be prescribed by written law.
- (2) The Commission may apply for a determination from the Supreme Court on any matter concerning the interpretation or application of this Constitution.

146 Mercy Commission

- (1) There is a Commission on the Prerogative of Mercy.
- (2) The Commission consists of—
 - (a) a Judge appointed by the President on the advice of the Judicial Services Commission, who is to be its chairperson;
 - (b) the Attorney-General or an appropriate nominee;
 - (c) a person nominated by the Fiji Council of Churches;
 - (d) a person nominated by Fiji Council of Social Services; and
 - (e) a psychiatrist appointed by the Constitutional Offices Commission after consultation with the Fiji Medical Council.

- (3) On the petition of any convicted person, the Commission may recommend that the President exercise a power of mercy by—
 - (a) granting a free or conditional pardon to a person convicted of an offence;
 - (b) postponing the carrying out of a punishment, either for a specific or indeterminate period; or
 - (c) remitting all or a part of a punishment.
- (4) The Commission may dismiss a petition that it reasonably considers to be frivolous, vexatious or entirely without merit, but otherwise—
 - (a) must consider a report on the case prepared by—
 - (i) the Judge who presided at the trial; or
 - (ii) the Chief Justice, if a report cannot be obtained from the presiding Judge;
 - (b) must consider any other information derived from the record of the case or elsewhere that is available to the Commission; and
 - (c) may consider the views of the victims of the offence.
- (5) The President may, on the recommendation of the Judicial Services Commission, appoint a person to act as a member of the Commission during any period or during all periods, when there is a vacancy in the membership of the Commission or when a member is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.
- (6) The quorum for the meetings of the Commission shall consist of the chairperson and 2 other members.

147 Existing appointments

Nothing in this Chapter affects the continuance of a person in an office for which this Chapter makes provision for, under an appointment made before the commencement of this Constitution.

CHAPTER 7—STATE SERVICES

Part A—PUBLIC SERVICE

148 Values and principles

- (1) The values and principles of public service include—
 - (a) high standards of professionalism, including professional ethics and integrity;
 - (b) prompt and faithful implementation of Government policies and administration of laws;
 - (c) being free from corruption;
 - (d) efficient, effective and economic use of public resources;
 - (e) prompt response to requests and questions from the public, and delivery of service to the public, in a manner that is respectful, effective, impartial, fair, and equitable;
 - (f) accountability for administrative conduct;
 - (g) transparency, including—
 - (i) timely, accurate disclosure of information to the public; and
 - (ii) prompt, complete and candid reporting to Parliament, as required by law;
 - (h) cultivation of good human resource management and career development practices, to maximise human potential; and
 - (i) recruitment and promotion based on—
 - (i) objectivity, impartiality and fair competition; and
 - (ii) ability, education, experience and other characteristics of merit; and
 - (iii) the need to broadly represent the diversity of Fiji.
- (2) The values and principles of public service apply in all State bodies and State corporations.
- (3) The duties of a public officer include bringing contraventions of this Constitution or the law to the attention of the appropriate authorities.
- (4) A public officer must not be removed from office or demoted in rank or otherwise punished without due process of law, except to the extent provided in this Constitution.
- (5) A public officer must not be victimized or discriminated against for having performed the officer's duties in accordance with this Constitution or the law.
- (6) Parliament must enact a law to give full effect to this section.

149 Public officers must be citizens

A person or authority exercising power to appoint a person to a public office (other than an office for which Chapter 6 makes provision) must not appoint a person who is not a citizen except with the approval of the Prime Minister.

150 Public Service Commission

- (1) There is an independent Public Service Commission.
- (2) The Public Service Commission consists of the following who shall be appointed by the President on the advice of the Constitutional Offices Commission—
 - (a) a chairperson; and
 - (b) not less than 3 and not more than 5 other members.
- (3) The President may, on the advice of the Constitutional Offices Commission, appoint a person to act as chairperson or as a member of the Public Service Commission during any period, or during all periods, when the chairperson or a member is absent from duty or from Fiji or is, for any other reason, unable to perform the functions of office.

151 Functions of the Public Service Commission

- (1) Subject to this section and other sections of this Constitution, the Public Service Commission has the following functions—
 - (a) to appoint permanent secretaries;
 - (b) to remove permanent secretaries;
 - (c) to institute disciplinary action against permanent secretaries; and
 - (d) to make such other appointments and perform such other duties, functions and responsibilities as may be prescribed by written law.
- (2) The functions of the Public Service Commission do not extend to—
 - (a) an office of a Judge or an office that is the responsibility of the Judicial Services Commission;
 - (b) an office that is the responsibility of another body prescribed by written law;
 - (c) an office in the Republic of Fiji Military Forces, Fiji Police Force or the Fiji Corrections Service; or
 - (d) an office in respect of which this Constitution makes provision.

152 Permanent secretaries

- (1) There is established within each ministry the office of a permanent secretary, which is an office in the public service.
- (2) Each ministry is to be under the administration of a permanent secretary.
- (3) The permanent secretary of a ministry is responsible for the efficient, effective and economical management of the ministry and is accountable to the minister responsible for the ministry for the performance of those functions.
- (4) If the Minister has given general policy directions to the permanent secretary, he or she must act in accordance with those directions.
- (5) The Public Service Commission may at any time re-assign one or more permanent secretaries amongst the various ministries of the State.
- (6) The permanent secretary of each ministry shall have the authority to appoint, remove and institute disciplinary action against all staff of the ministry.
- (7) The permanent secretary of each ministry has the authority to determine all matters

pertaining to the employment of all staff in the ministry.

153 Appointment of ambassadors

- (1) The President may, on the advice of the Prime Minister after consultation with the Minister responsible for foreign affairs, make appointments to offices of ambassador, or of other principal representative, of the State to another country or an international organisation.
- (2) The President may, on the advice of the Prime Minister after consultation with the Minister responsible for foreign affairs, remove a person from an office referred to in subsection (1).

Part B—DISCIPLINED FORCES

154 Fiji Police Force

- (1) There is a Fiji Police Force.
- (2) There is an office of the Commissioner of Police, and the Fiji Police Force is under the command of the Commissioner of Police.
- (3) The Commissioner of Police is appointed by the President, on the advice of the Constitutional Offices Commission following consultation with the Minister responsible for the Fiji Police Force.
- (4) The Commissioner of Police is responsible for—
 - (a) the organisation and administration of the Fiji Police Force; and
 - (b) the deployment and control of its operations,
 and, subject to subsection (6), is not subject to the direction or control by any other person or authority in relation to those matters.
- (5) The Minister responsible for the Fiji Police Force may from time to time issue general policy directions to the Commissioner of Police and, if such a direction has been issued, the Commissioner of Police must act in accordance with it.
- (6) The Commissioner of Police has the following powers in relation to the Fiji Police Force for all ranks, members and other employees, of the Fiji Police Force—
 - (a) to appoint persons to the Fiji Police Force;
 - (b) to remove persons from the Fiji Police Force; and
 - (c) to take disciplinary action against persons in the Fiji Police Force,
 and all written laws governing the Fiji Police Force shall be construed accordingly.
- (7) The Commissioner of Police, with the agreement of the Minister responsible for the Fiji Police Force, has the authority to determine all matters pertaining to the employment of all staff in the Fiji Police Force, including—
 - (a) the terms and conditions of employment;
 - (b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
 - (c) the salaries, benefits and allowances payable, in accordance with its budget as

approved by Parliament; and

- (d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.

155 Fiji Corrections Service

- (1) There is a Fiji Corrections Service.
- (2) There is an office of the Commissioner of the Fiji Corrections Service and the Fiji Corrections Service is under the command of the Commissioner of the Fiji Corrections Service.
- (3) The Commissioner of the Fiji Corrections Service is appointed by the President, on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for the Fiji Corrections Service.
- (4) The Commissioner of the Fiji Corrections Service is responsible for—
 - (a) the organisation and administration of the Fiji Corrections Service; and
 - (b) the deployment and control of its operations,
 and, subject to subsection (6), is not subject to the direction or control by any other person or authority in relation to those matters.
- (5) The Minister responsible for the Fiji Corrections Service may from time to time issue general policy directions with respect to the Fiji Corrections Service and, if such a direction has been issued, the Commissioner of the Fiji Corrections Service must act in accordance with it.
- (6) The Commissioner of the Fiji Corrections Service has the following powers in relation to the Fiji Corrections Service for all ranks, members and other employees of the Fiji Corrections Service—
 - (a) to appoint persons to the Fiji Corrections Service;
 - (b) to remove persons from the Fiji Corrections Service; and
 - (c) to take disciplinary action against persons in the Fiji Corrections Service,
 and all written laws governing the Fiji Corrections Service shall be construed accordingly.
- (7) The Commissioner of the Fiji Corrections Service has the authority to determine all matters pertaining to the employment of all staff in the Fiji Corrections Service, including—
 - (a) the terms and conditions of employment;
 - (b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
 - (c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and
 - (d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.

156 Republic of Fiji Military Forces

- (1) There is a military force called the Republic of Fiji Military Forces.

- (2) The Republic of Fiji Military Forces—
 - (a) are responsible for the defence and protection of the sovereignty and territorial integrity of the Republic from external threat;
 - (b) may provide support to a civilian authority for limited periods and for specified purposes as prescribed by written law
 - (c) may assist and cooperate with other authorities in the event of a natural disaster or a state of emergency when authorised by Cabinet but shall act only on, and to the extent specified in, a request by the appropriate civilian authority in accordance with an Act of Parliament; and
- (3) The Commander of the Republic of Fiji Military Forces shall be responsible for exercising military executive command of the Republic of Fiji Military Forces, however in the exercise of military executive command the Commander is subject to the direction of Cabinet, through the Minister responsible for the Republic of Fiji Military Forces.
- (4) The Commander of the Republic of Fiji Military Forces is appointed by the President, on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for the Republic of Fiji Military Forces.
- (5) The Commander of the Republic of Fiji Military Forces has the following powers in relation to the Republic of Fiji Military Forces for all ranks, members and other employees of the Republic of Fiji Military Forces—
 - (a) to appoint persons to the Republic of Fiji Military Forces;
 - (b) to remove persons from the Republic of Fiji Military Forces; and
 - (c) to take disciplinary action against persons in the Republic of Fiji Military Forces,

and all written laws governing the Republic of Fiji Military Forces shall be construed accordingly.
- (6) The Commander of the Republic of Fiji Military Forces, with the agreement of the Minister responsible for the Republic of Fiji Military Forces, has the authority to determine all matters pertaining to the employment of all staff in the Republic of Fiji Military Forces, including—
 - (a) the terms and conditions of employment;
 - (b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
 - (c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and
 - (d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.

CHAPTER 8—BOSE LEVU VAKATURAGA (BLV)

157 Establishment and composition of the BLV

- (1) This section establishes the Bose Levu Vakaturaga (the BLV).
- (2) The BLV shall consist of the following, one of whom shall be elected as chairperson—
 - (a) the President;
 - (b) the Prime Minister;
 - (c) the Minister responsible for iTaukei affairs;
 - (d) 6 members nominated by the Minister;
 - (e) 42 chiefs representing the 14 provinces with each province represented by 3 members nominated in accordance with subsections (3), (4) and (5); and
 - (f) 3 members nominated by the Rotuma Island Council.
- (3) The nomination of the members representing the provinces is to be carried out by the Bose Vanua.
- (4) The nomination of the 3 members from each of the 14 provinces shall be chiefs who have been traditionally installed as—
 - (a) Turaga iTaukei;
 - (b) Marama iTaukei;
 - (c) Liuliu ni Yavusa; or
 - (d) Liuliu ni Mataqali;
 and one of the 3 must be a woman, if possible.
- (5) A member representing a province must possess exemplary leadership qualities and have served in his or her province.
- (6) The BLV shall be supported by a management board and a secretariat.

158 Independence of the BLV

With the aim of becoming financially independent, the BLV shall be funded by—

- (a) the Trust Fund established under the iTaukei Trust Fund Act; and
- (b) other additional sources of funding as provided by written law.

159 Responsibilities, authorities and functions of the BLV

- (1) The BLV is responsible for—
 - (a) maintaining and enhancing the indigenous sovereignty of the iTaukei communities, including through—
 - (i) monitoring and providing oversight of the well-being of the iTaukei communities;
 - (ii) nurturing iTaukei culture, traditions, values and heritage;
 - (iii) oversight of the operation and development of the customs and the customary law of the iTaukei communities; and

- (iv) oversight of, and responsibility for, the separate governance system of the iTaukei communities;
 - (b) monitoring sources of division and conflict that, in the opinion of the BLV, may threaten or undermine the unity of Fiji;
 - (c) encouraging and fostering resolution of disputes and reconciliation; and
 - (d) fostering dialogue, social cohesion and unity amongst all the diverse communities of Fiji.
- (2) The BLV has the following authorities and functions—
- (a) membership in, and nomination of its representatives on:
 - (i) the iTaukei Affairs Trust Board established under the iTaukei Affairs Act;
 - (ii) the iTaukei Lands Trust Board established under the iTaukei Lands Trust Act;
 - (iii) the iTaukei Lands and Fisheries Commission established under the iTaukei Lands Act and the Fisheries Act;
 - (iv) the iTaukei Trust Fund Board established under the iTaukei Trust Fund Act;
 - (b) membership in, and nomination of, its representatives on any other institutions prescribed by written law;
 - (c) oversight and accountability for other councils;
 - (d) proposing village by-laws for the registered iTaukei villages;
 - (e) considering and making recommendations to government on any government policies or legislative proposals relating to, or likely to have an impact on the rights, interests, health, welfare, peace, order and good government of the iTaukei;
 - (f) on an ongoing basis, assessing the needs of the iTaukei and advocating and making recommendations to government on the policies and law best suited to meeting those needs;
 - (g) directing the iTaukei Affairs Board in relation to research, analysis and advice when making recommendations under paragraphs (e) and (f); and
 - (h) nominating 3 members to the Presidential Appointments Commission.

CHAPTER 9—ROTUMA

160 Recognition of Rotuma and the Rotuman people

This Constitution recognises Rotuma as a sovereign indigenous entity within the Republic of Fiji and the Rotuman people as a sovereign indigenous people of Fiji, with unique language, culture, traditions and rights of land tenure.

161 Autonomy and self-government

- (1) The existing Rotuma Island Council (the “RIC”) shall be vested with the powers and functions necessary to provide for the internal government and administration for Rotuma and the welfare of its inhabitants.
- (2) The RIC shall have the power to make laws and regulations in relation to subjects provided for by written law in relation to—
 - (a) the peace, order and good governance of Rotuma;
 - (b) internal revenue raising;
 - (c) control and management of Rotuman land and the area of territorial sea and archipelagic waters (if any) associated with the island of Rotuma, and all resources on, in or under that land, territorial sea, and archipelagic waters;
 - (d) nurturing the practice and transmission of Rotuman language, culture, customs and traditions and heritage.
- (3) The RIC may propose amendments to the Rotuma Act and the Rotuma Lands Act, including amendments relating to transferring to the RIC authority to determine its own structures, procedures and functions consistent with Rotuman culture and tradition.
- (4) Any proposed amendments must be agreed to by the Government.
- (5) Any decision of the Government relating to the enactment of laws, the formulation or implementation of policy or the approval of any form of development insofar as the decision has application to Rotuma, shall be subject to the free prior and informed consent of the Rotuman people.
- (6) The RIC shall be the competent authority to determine whether free, prior and informed consent has been obtained from the Rotuman people.
- (7) The State shall ensure that adequate funding is made available to the RIC to enable it to—
 - (a) effectively exercise its powers and functions; and
 - (b) fund development of infrastructure and other forms of development agreed to by the RIC.
- (8) The RIC may initiate development proposals for funding by the Government.

162 Right to initiate an external self-determination process

- (1) The RIC, after consulting with the Rotuman people, may by unanimous vote of all its members resolve to initiate consultation with the Government concerning the possibility of Rotuma becoming an independent state.
- (2) A resolution under subsection (1) shall authorise the RIC to—
 - (a) formally notify the Government of its intent to consult;

- (b) engage, in good faith, with representatives of the Government for the purposes of consultation.
- (3) Rotuma may only become an independent state if—
 - (a) a cooperative consultation process has been undertaken;
 - (b) the Government formally agrees to independence;
 - (c) a referendum has been conducted to determine the majority view of the Rotuman people;
 - (d) two-thirds of the members of the RIC have voted for Rotuma to become an independent state; and
 - (e) an amendment to this Constitution has been made.

163 Entrenchment of constitutional arrangements

- (1) Any amendment to this Chapter or any of the provisions in this Constitution relating to Rotuma set out in subsection (2) shall be subject to prior approval of a two-thirds majority vote of the members of the RIC.
- (2) The provisions are:
 - (a) section 69(1)(a) and (9) (which provides for the Rotuma constituency representation in the House of Representatives);
 - (b) section 79 (which provides for the appointment of a member of the Senate by the RIC);
 - (c) provisions in Chapter 3 that relate to Rotuma and the Rotuman people.

CHAPTER 10—LOCAL GOVERNMENT

164 System of local government

- (1) A strong system of local government, with structures tailored to distinctive needs of each locality, strengthens national unity by—
 - (a) recognising the right of the people in their communities to manage their own affairs and further their development in a manner that is responsive to local interests and needs;
 - (b) integrating all the residents within a locality under the same local government bodies, so that issues are resolved, and services are provided without discrimination;
 - (c) engaging the people in the decisions that most affect their daily lives;
 - (d) promoting social and economic development, and the provision of easily accessible public services throughout Fiji;
 - (e) promoting democratic and accountable exercise of authority; and
 - (f) giving each local community a voice in national discussion through the participation of their local government representatives.
- (2) Each local government body must be chosen by the citizens resident within its area in regular elections administered by the Electoral Commission.
- (3) Each local government body shall have responsibility for any public services that are most

effectively delivered locally and shall have authority—

- (a) to decide issues of public concern that arise locally or primarily affect the local residents in their daily lives; and
- (b) for the public services that are most effectively delivered locally.

165 Local government responsibility and accountability

Each local government body must have sufficient autonomy, powers and resources to carry out its responsibilities and respond to the needs of its residents.

166 Government co-operation

- (1) Local government must be provided with adequate and reasonably predictable sources of revenue to carry out the roles, functions and powers assigned to them.
- (2) The Government may supervise or intervene in the management of a local government body only in accordance with the principles of this Chapter and on the grounds set out in subsection (3).
- (3) Intervention may only be undertaken on the following specific grounds—
 - (a) suspected or proven corruption within a local government body; and
 - (b) in a case of serious mismanagement by the local government body.
- (4) Intervention shall only be initiated in accordance with clearly defined procedures set out in written law.
- (5) Any intervention shall be subject to a clearly defined time limit.
- (6) At the expiry of the intervention period, management powers shall revert to the local government body unless Parliament expressly authorises an extension.

CHAPTER 11—REVENUE AND EXPENDITURE AND ACCOUNTABILITY

Part A—REVENUE AND EXPENDITURE

167 Principles of public finance

The following principles apply to public finance in Fiji—

- (a) State bodies must promote public participation, transparency and accountability in public financial decision making and reporting;
- (b) the public finance system must promote a just society, and in particular—
 - (i) the burden of taxation must be shared fairly; and
 - (ii) expenditures must promote the fair and balanced development of the country, including by making special provision for local government and remote areas;
- (c) the burdens and benefits of the use of resources and public borrowing must be shared equitably between present and future generations;
- (d) public money must be used in a prudent and responsible way and accounted for in accordance with law and accounting principles that are generally accepted in the public sector; and
- (e) financial management must be responsible, and fiscal reporting must be clear.

168 Raising of revenue

- (1) The raising by the Government of revenue or moneys, whether through the imposition of taxation or otherwise, must be authorised by or under a written law.
- (2) No taxation or fee may be imposed, waived or varied by the State, except as provided by written law.
- (3) If a written law permits the waiver or variation of any tax or fee—
 - (a) a record of each waiver or variation must be maintained together with the reason for it; and
 - (b) each waiver or variation, and the reason for it, must be reported to the Auditor-General.
- (4) No law may exempt, or authorize the exemption of, a public officer from payment of any tax or fee by reason of—
 - (a) the office held by that public officer; or
 - (b) the nature of the work of the public officer.

169 Consolidated Fund

- (1) All revenue or moneys raised or received for the purposes of the State or Government must be paid into one Consolidated Fund.
- (2) Subsection (1) does not apply to revenue or moneys that are payable by or under a written law into some other fund established for a specific purpose or that may, by or under a written law, be retained by the authority receiving them for the purposes of defraying the expenses of that authority.

170 Appropriations to be authorised by law

Moneys must not be withdrawn from the Consolidated Fund or from a fund referred to in section 169(2) except under an appropriation made by law.

171 Authorisation of expenditure in advance of appropriation

- (1) Subject to any written law, if the Appropriation Act for a year has not come into operation by the beginning of the year, the Minister responsible for finance may, to the extent and subject to the conditions prescribed by any written law, authorise the withdrawal of moneys from the Consolidated Fund for the ordinary services of Government.
- (2) The total amount authorised for withdrawal under subsection (1) must not exceed one-third of the appropriations made for the ordinary services of Government in respect of the immediately preceding year.

172 Appropriation and taxing measures require ministerial consent

Any written law, that—

- (a) appropriates revenue or moneys or increases such an appropriation;
- (b) imposes taxation or an increase in taxation; or
- (c) reduces the amount of any debt due to the State,

may only be passed by Parliament with the consent of Cabinet, as signified by the Minister responsible for finance.

173 Annual budget

- (1) In respect of each year ending on 31 December or on such other day as Parliament prescribes, the Minister responsible for finance must cause to be laid before the House of Representatives an annual budget, reflecting estimates of revenue and of capital and current expenditure for the year, in respect of the ordinary services of the Government and services of Parliament.
- (2) A written law may prescribe the manner in which annual estimates are to be prepared.

174 Guarantees by Government

- (1) The Government must not guarantee the financial ability of any person or body in respect of a loan or otherwise unless the giving of the guarantee is authorised by Parliament in accordance with conditions prescribed by law.
- (2) The House of Representatives, by resolution, may require the Minister responsible for finance to present to the House of Representatives, within 7 days after the resolution, information concerning any particular loan or guarantee, including all information necessary to show—
 - (a) the extent of the total indebtedness by way of principal and accumulated interest;
 - (b) the use made or to be made of the proceeds of the loan or the purpose of the guarantee;
 - (c) the provisions made for servicing or repayment of the loan; and
 - (d) the progress made in the repayment of the loan.

175 Public moneys to be accounted for

All public moneys must be dealt with and accounted for in accordance with law and

otherwise in accordance with accounting principles generally accepted in the public sector.

176 Control of public money and tendering

- (1) Parliament must enact law to ensure expenditure control, transparency and independent internal audit mechanisms in government.
- (2) When a State body or any other public entity contracts for goods and services, it must do so in accordance with a system that is fair, transparent, competitive and cost effective.
- (3) Parliament must enact a law prescribing a framework within which policies relating to procurement and asset disposal are to be implemented.

177 Standing appropriation of Consolidated Fund for payment of certain salaries and allowances

- (1) This section applies to—
 - (a) the President;
 - (b) a judicial officer;
 - (c) the Supervisor of Elections;
 - (d) the Secretaries-General to the House of Representatives and the Senate;
 - (e) the Solicitor-General;
 - (f) the Director of Public Prosecutions;
 - (g) the Commissioner and the Deputy Commissioner of the Fiji Independent Commission Against Corruption;
 - (h) the Commissioner of Police;
 - (i) the Commissioner of the Fiji Corrections Service;
 - (j) the Commander of the Republic of Fiji Military Forces;
 - (k) the Auditor-General;
 - (l) the Ombudsman;
 - (m) the chairperson and members of the Human Rights and Anti-Discrimination Commission;
 - (n) the chairperson and members of the Electoral Commission;
 - (o) the members of the Judicial Services Commission referred to in section 133(2)(e) and (f);
 - (p) the members of the Mercy Commission referred to in section 146(2)(c), (d) and (e);
 - (r) the chairperson and members of the Public Service Commission;
 - (q) the members of the Constitutional Offices Commission; and
 - (r) the chairperson and members of any tribunal or medical board established or appointed under this Constitution to consider the question of removal from office of any person.
- (2) The salaries or allowances payable to a person to whom this section applies are payable out of the Consolidated Fund, which is appropriated accordingly.

Standing appropriation of Consolidated Fund for other purposes

- (1) All debt charges for which the State is liable and all pension benefits (except to the extent that they are a charge on another fund and have been paid out of that fund to the person or authority to whom payment is due) are payable out of the Consolidated Fund, which is appropriated accordingly.
- (2) In this section—

“debt charges” means interest, sinking fund charges, amounts due in respect of repayment or amortisation of debt, and other expenditure incurred in connection with the raising of loans on the security of the revenue of the State or the Consolidated Fund;

“eligible service” means service in a public office but does not include service in a naval, military or air force; and

“pension benefits” means pensions, compensation, gratuities or other like payments payable to persons in respect of their eligible service or to their spouses, dependents, or personal representatives in respect of that service.

Part B—FINANCIAL ACCOUNTABILITY

179 Auditor-General

- (1) There is an office of the Auditor-General.
- (2) The Auditor-General is appointed by the President on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for finance.
- (3) The President may, on the advice of the Constitutional Offices Commission, appoint a person to act as the Auditor-General during any period, or during all periods, when the office of the Auditor-General is vacant or when the Auditor-General is absent from duty or from Fiji or is, for any reason, unable to perform the functions of office.

180 Functions of Auditor-General

- (1) At least once in every year, the Auditor-General shall inspect, audit and report to Parliament on—
 - (a) the public accounts of the State;
 - (b) the control of public money and public property of the State; and
 - (c) all transactions with or concerning the public money or public property of the State.
- (2) In the report, the Auditor-General must state whether, in his or her opinion—
 - (a) transactions with or concerning the public money or public property of the State have been authorised by or pursuant to this Constitution or any written law; and
 - (b) expenditure has been applied to the purpose for which it was authorised.
- (3) In the performance of his or her duties, the Auditor-General or a person authorised by him or her has access to all records, books, vouchers, stores or other Government property in the possession, custody or control of any person or authority.
- (4) A written law may provide that the accounts of a specified body corporate are not subject to audit by the Auditor-General but are to be audited as prescribed in that written law.
- (5) If the written law under subsection (4) so provides, it must also empower the Auditor-

General to review those audits and report the results of a review.

- (6) The Auditor-General must submit a report made by him or her to the Speaker of Parliament and must submit a copy to the Minister responsible for finance.
- (7) Within 30 days of receipt, or if Parliament is not sitting, on the first day after the end of that period, the Minister responsible for finance must lay the report before Parliament.

181 Reserve Bank of Fiji

- (1) The Reserve Bank of Fiji is the central bank of the State, whose primary objects are—
 - (a) to protect the value of the currency in the interest of balanced and sustainable economic growth;
 - (b) to formulate monetary policy;
 - (c) to promote price stability;
 - (d) to issue currency; and
 - (e) to perform other functions conferred on it by a written law.
- (2) In pursuing its primary objects, the Reserve Bank of Fiji must perform its functions independently and without fear, favour or prejudice, but there must be regular consultation between the Reserve Bank of Fiji and the Minister responsible for finance.
- (3) The powers and functions of the Reserve Bank of Fiji are those customarily exercised and performed by central banks.
- (4) The Governor of the Reserve Bank of Fiji shall be appointed by the President on the advice of the Constitutional Offices Commission, following consultation with the Minister responsible for finance.
- (5) A written law must provide for the composition, powers, functions and operations of the Reserve Bank of Fiji.
- (6) The Reserve Bank of Fiji must deliver quarterly and annual reports to Parliament, and any other reports when required by law, or requested by resolution.

182 Salaries and Benefits Commission

- (1) This section establishes the Salaries and Benefits Commission as an Independent Commission.
- (2) The Salaries and Benefits Commission consists of—
 - (a) the chairperson of the Public Services Commission;
 - (b) 2 persons, each of whom must—
 - (i) be qualified as an actuary or accountant; or
 - (ii) have extensive experience in public administration, trade, commerce, finance or labour relations; and
 - (c) one woman and one man to represent the public.
- (3) The members of the Commission are appointed by the Constitutional Offices Commission Appointments Committee, one of whom shall be appointed as chairperson.
- (4) The Salaries and Benefits Commission must convene once every 4 years to review and determine the framework and upper limits of the salaries, allowances and benefits applicable to officers of the State.

- (5) When determining the framework of salaries and benefits, the Salaries and Benefits Commission must not reduce the overall value of the salaries and benefits of Judges, other judicial officers, members of Independent Commissions, Independent Officers, or members of the BLV, except—
 - (a) for reasons of national economic austerity; and
 - (b) as part of a general reduction in the framework applicable to all officers of the State, and under which all officers of the State are similarly affected.
- (6) For the purposes of conducting a review, the Commission may consider submissions made to it and other relevant material.

183 National Planning Commission

- (1) This section establishes the National Planning Commission.
- (2) The Commission is responsible for advising the Government on the National Development Plan and national policies relating to—
 - (a) formulating the National Development Plan;
 - (b) preparing and implementing a whole of government monitoring and evaluation strategy; and
 - (c) delivering annual whole of government monitoring and evaluation reports to the Prime Minister.
- (3) A written law may make further provisions in relation to the Commission.

184 National Infrastructure Council

- (1) This section establishes the National Infrastructure Council.
- (2) The composition of the Council shall be prescribed by law.
- (3) The Council is responsible for developing and keeping under review a rolling national plan for major and multi-year infrastructure development projects of significance for national development, including public, private and joint public and private projects, whether funded by the private sector or by donors.
- (4) In the performance of its functions or the exercise of its authorities and powers the Council shall not be subject to the direction or control of any person or authority, except by court of law or as otherwise prescribed by law.

185 Public Accounts Committee

- (1) This section establishes a Public Accounts Committee.
- (2) The Public Accounts Committee shall consist of 5 members of the House of Representatives, 3 being government members and 2 being opposition members.
- (3) The chairperson of the Public Accounts Committee shall be a member of the Opposition in the House of Representatives.
- (4) The Public Accounts Committee shall consider and report to the House of Representatives on—
 - (a) appropriation accounts of moneys expended out of sums granted by Parliament to meet the public expenditure of the Government;

- (b) other accounts that may be referred to the Committee by the House of Representatives or as are authorised or required to be considered by the Committee under any written law; and
- (c) the report of the Auditor-General on any of those accounts.

CHAPTER 12—CODE OF CONDUCT AND REMOVAL OF OFFICERS OF THE STATE

Part A – CODE OF CONDUCT

186 Application

This Code of Conduct applies to officers of the State.

187 Interpretation

In this Code:

“asset” includes real and personal property, and an interest in real or personal property;

“decision” includes—

- (a) the determination of the use, disposition or acquisition of an asset;
- (b) the making of a contract or agreement;
- (c) the development or enactment of a law;
- (d) the development of a policy;

“employment” does not include the performance of the functions of the office to which an officer of State was elected or appointed.

188 General duties of officers of the State

- (1) Each officer of the State must uphold, respect and obey Fiji’s laws.
- (2) Officers of the State must treat citizens of Fiji fairly, honestly and impartially.
- (3) An officer of the State—
 - (a) must treat each employee or contractor of the State in a respectful manner; and
 - (b) must respect the responsibility of the permanent secretaries to direct and instruct other public officers and contractors.
- (4) Members of the House of Representatives and the Senate and elected members of local government bodies must—
 - (a) make themselves readily available and accessible to hear the opinions of the people they represent and their questions on matters of public interest;
 - (b) be prompt and responsive to requests and contacts from the people they represent; and
 - (c) represent the people in a manner that recognises the diverse needs of the residents.
- (5) If a constituent consults a member of Parliament or of a local government body in the member’s official capacity, the member must—
 - (a) endeavour to direct the constituent to the State body or the representative of a State body best able to respond to the constituent, if it is appropriate to do so given the nature of the constituent’s concern;
 - (b) endeavour to avoid giving advice beyond the member’s knowledge, or making a commitment that the member may be unable to fulfil; and

- (c) avoid making any commitment that exceeds the member's authority.

189 Attendance at meetings

Members of Parliament or of a local government body must be diligent in representing their constituencies and, in particular, must make all reasonable efforts to attend every meeting of Parliament, the local government body, or of any committee to which the member is assigned.

190 Confidentiality and discretion

- (1) If, in the course of official duties, an officer of State acquires information about a person that is of a type that would ordinarily be regarded as private and confidential, the officer must not use or disclose that information except in accordance with law; and—
 - (a) with the consent of that person; or
 - (b) in so far as is necessary to carry out the officer's official duties.
- (2) If, during a meeting, a body holds a closed discussion of a matter, an officer of the State present at that discussion must not reveal the details of that discussion, except—
 - (a) in so far as is reasonably necessary to carry out a course of action arising from that discussion, in accordance with a resolution of that body; or
 - (b) as specifically authorised by a resolution adopted by that body.
- (3) An officer of the State who receives a document that is confidential must comply with any prescribed requirements for handling or destruction of that document.

191 Finances, property and employment

- (1) An officer of the State must not knowingly claim any payment or financial benefit to which the officer is not entitled.
- (2) An officer of the State must promptly pay any money that the Officer owes to the State.
- (3) An officer of the State who has in their possession or custody any property of the State must—
 - (a) handle and safeguard that property with the same degree of care as would a prudent owner;
 - (b) use that property only for purposes associated with the officer's official duties, or for any personal purpose;
 - (c) not allow any other person to use that property, except for purposes associated with the officer's duties, or for any personal purpose; and
 - (d) return that property to the relevant authority, on demand.
- (4) A full time officer of the State must not engage in any other employment, professional practice or active management of a business.

192 Gifts

- (1) An officer of the State who receives a gift as a representative of, or on behalf of, the State or any State body, must deliver the gift to the relevant authority.
- (2) An officer of the State who receives a personal gift when acting in an official capacity, having an apparent value above a prescribed minimum, must disclose the gift in accordance with section 196 or, if this is required by a written law, deliver the gift to the

relevant authority.

193 Corrupt practices

- (1) An officer of the State must not, directly or indirectly, engage in any corrupt practice.
- (2) Without limiting the scope of subsection (1), an officer of the State must not accept, demand, or request from another person any private monetary or other economic favour, advantage or benefit for the officer or any other person, in exchange for—
 - (a) using their office to make, participate in the making of, influence, or attempt to influence a decision on a matter;
 - (b) influencing or attempting to influence a vote or decision of another officer of the State; or
 - (c) influencing any public officer administering a service or programme provided by the State or any State body.

194 Use of inside information for private purposes

- (1) An officer of the State must not, directly or indirectly—
 - (a) make use of inside information for personal economic advantage or benefit; or
 - (b) reveal inside information to any person if that information could be used for private monetary or other economic advantage or benefit.
- (2) For the purpose of subsection (1), inside information is information that—
 - (a) the officer receives or discovers in the course of their work; and
 - (b) is not generally available to the public at the time the officer makes use of or reveals the information to another person.

195 Conflicts of interest

- (1) An officer of the State must not use their office to make, participate in the making of, influence or attempt to influence a decision on a matter in respect of which the officer has a conflict of interest.
- (2) If an officer of the State considers that they have a conflict of interest in respect of a matter to be discussed or voted on at a meeting, the officer must—
 - (a) declare the conflict of interest and its general nature at the meeting;
 - (b) immediately leave the meeting or that part of the meeting during which the matter is to be discussed or voted on;
 - (c) must not take part in the discussion or vote on the matter or attempt to influence the discussion or vote on the matter before, during or after the meeting; and
 - (d) must not execute any document in relation to the matter unless specifically directed to do so by the State body concerned.
- (3) A person responsible for recording the proceedings of a meeting referred to in subsection (2) must record any officer's declaration of a conflict of interest and the time when the officer was absent from the meeting.
- (4) On request of a person at a meeting, the person presiding over the meeting may invite any officer of the State to consider whether they have a conflict of interest in respect of a matter to be discussed or voted on at the meeting.

- (5) For the purposes of this section, an officer of the State—
 - (a) has a conflict of interest in respect of a matter if their direct or indirect private interest would be, or could reasonably be expected to be, affected by a decision on that matter, and if the officer has the opportunity to use their office to make, participate in the making of, influence or attempt to influence that decision; and
 - (b) does not have a conflict of interest in respect of a matter if the officer's direct or indirect private interest in the matter—
 - (i) is the same interest as that of a broad class of citizens;
 - (ii) relates to the officer's compensation or payment of expenses while acting in the officer's official capacity; or
 - (iii) is so remote or insignificant that it cannot reasonably be regarded as likely to influence the officer in relation to the matter.
- (6) In this section—
 - (a) "private interest" means a monetary or economic interest or an interest to which a monetary value may be attributed; and
 - (b) an officer's indirect private interest includes any private interest of—
 - (i) the officer's spouse;
 - (ii) a minor in respect of whom the officer is a parent, acts in a parental capacity or is a guardian;
 - (iii) an individual, other than an employee of the officer, who is financially dependent on the officer or on whom the officer is financially dependent; and
 - (iv) an entity in which the Officer, or the Officer in combination with a person described in paragraph (i), (ii) or (iii), has a direct or indirect controlling interest, or other significant interest.

196 Declaration of financial interests

- (1) Each officer of the State must complete and file the prescribed disclosure form—
 - (a) on election or appointment to office;
 - (b) at prescribed intervals of not less than 2 years or more than 4 years, after election or appointment to office; and
 - (c) whenever a change occurs in the information most recently reported by the officer under this section.
- (2) The prescribed disclosure form must require disclosure of at least the following information and may require disclosure of any other information relevant to the issues addressed in this Code—
 - (a) employment held by the officer and the officer's spouse at the time of disclosure, and income from that employment;
 - (b) interests in land or businesses owned by the officer or the officer's spouse at the time of disclosure;
 - (c) significant investments, contracts or other financial interests of the officer or officer's spouse at the time of disclosure;
 - (d) any gift described in section 192(2) received by the officer during the officer's

term of office; and

- (e) any loan owed by the officer or officer's spouse, or loan guarantee protecting the officer or officer's spouse, above the prescribed minimum, including the identity of the person to whom the money is owed, or by whom the guarantee was given.

197 Complaints

- (1) The Ombudsman has authority to receive and investigate complaints alleging that an officer of the State has failed to comply with this Code of Conduct, or any Code of Conduct contemplated in section 224(1)(b).
- (2) The Ombudsman may dismiss a complaint that it reasonably considers to be frivolous, vexatious or entirely without merit.

Part B – REMOVAL OF OFFICERS OF THE STATE

198 Application and general principle

- (1) This Part applies to officers of the State except an officer described in paragraph (n) of the definition of officer of the State.
- (2) The provisions of this Part are in addition to—
 - (a) any other provisions of this Constitution governing vacancies that occur automatically on the happening of specific events; and
 - (b) any authority set out in this Constitution of a person to dismiss an office holder.
- (3) A person who is the subject of proceedings under this Part—
 - (a) has the right—
 - (i) to appear and be represented before any investigating or adjudicating body considering removal; and
 - (ii) to adduce evidence, cross-examine witnesses, and make submissions; but
 - (b) must not participate in any vote on a motion or other decision.

199 Removal of the President on grounds of incapacity

- (1) Parliament may initiate the procedure to remove the President on the grounds of incapacity by passing a resolution introduced at a joint sitting of both Houses and supported by at least 2 thirds of the members of both the House of Representatives and the Senate.
- (2) If Parliament adopts a resolution contemplated in subsection (1)—
 - (a) the Speaker must appoint a tribunal to investigate the matter consisting of appropriately qualified medical practitioners—
 - (i) one selected by the President, or a personal representative of family member of the President;
 - (ii) one selected by the body regulating the medical profession in Fiji; and
 - (iii) one selected jointly by the other two members of the tribunal;
 - (b) the President may not perform any of the functions or exercise any of the powers of that office, until the final resolution of the matter in accordance with this section; and

- (c) the Speaker has the authority to perform any function of the President, in the manner contemplated in section 112.
- (3) A tribunal appointed under this section must inquire into the matter and—
 - (a) decide (by agreement of at least 2 of the members of the tribunal) that the President is—
 - (i) able to perform the functions of President; or
 - (ii) unable to perform the functions of President, but more likely than not to recover that capability within 4 months; or
 - (iii) unable to perform the functions of President, and unlikely to recover that capability within 4 months; and
 - (b) give a report on its decision to the Speaker.
- (4) The consequences of a decision mentioned in column 2 of the following table—
 - (a) are the consequences stated, opposite the decision, in column 3; and
 - (b) take effect when the report on the decision is given to the Speaker.

Row	Decision	Consequence
1	President is able to perform the functions of President	President's suspension ends and President resumes functions of office
2	President is unable to perform the functions of President, but more likely than not to recover that capability within 4 months	President's suspension continues
3	President is unable to perform the functions of President, and unlikely to recover that capability within 4 months	President is removed from office for incapacity

- (5) In the case of a decision mentioned in row 2 of the table in subsection (4), the President's suspension ends in one of the following ways—
 - (a) earlier than 4 months after the decision, if at least 2 of the 3 members of the tribunal jointly certify that the President has sufficiently recovered the capacity to perform the functions (in which case the President's suspension ends and the President resumes the functions of office); or
 - (b) 4 months after the decision, the Speaker must request a fresh report from the tribunal, and the provisions of this section apply to that report, but in the case of continued incapacity, the President is removed from office for incapacity, regardless of any prospect for recovery at that time.

200 Removal of other officers of the State on grounds of incapacity

- (1) The process for removing an officer of the State other than the President on the grounds of incapacity may be initiated—
 - (a) in the case of the Chief Justice and President of the Court of Appeal, by the Constitutional Offices Commission;
 - (b) in the case of a judicial officer, by the Judicial Services Commission; or

- (c) in any other case, by the Constitutional Offices Commission.
- (2) The initiating body may act on its own initiative or on a report or submission from any person or state body.
- (3) The provisions of section 199, read with the changes required by the context, apply to proceedings initiated under this section, except that—
 - (a) a reference to the President is taken to be a reference to the officer of State concerned; and
 - (b) a reference to the Speaker is taken to be a reference to the chairperson or head of the initiating body; and
 - (c) if the officer of State concerned is a member of the House of Representatives or an elected member of a local government body, the person may continue to exercise the functions of the office during the proceedings; and
 - (d) during the time that an officer of the State's powers are suspended an acting appointment to that office may be made by the body responsible for such appointments.

201 Performance of functions of tribunals

- (1) A tribunal may by regulation make provision for regulating and facilitating the performance of its functions.
- (2) A decision of a tribunal requires the concurrence of a majority of its members and the tribunal may act despite the absence of a member but, if, in a particular case, a vote is taken to decide a question and the votes cast are equally divided, the person presiding must exercise a casting vote.
- (3) Subject to this Part, a tribunal may regulate its own procedure.
- (4) In the performance of its functions or the exercise of its powers, a tribunal is not subject to the direction or control of any other person or authority, except as otherwise provided by this Constitution.
- (5) In addition to the functions conferred on it by or under this Constitution, a tribunal has the powers and other functions (if any) as are prescribed by written law.
- (6) The validity of the transaction of business of a tribunal is not affected if a person who was not entitled to do so took part in the proceedings.
- (7) A tribunal has the same powers as the High Court in respect of attendance and examination of witnesses (including the administration of oaths and the examination of witnesses abroad) and in respect of production of documents.

PART C—REMOVAL OR OTHER SANCTION FOR MISCONDUCT OR WRONGDOING

202 Automatic removal for commission of serious criminal offence

- (1) This section applies to an officer of the State, other than a member of Parliament.
- (2) If an officer to whom this section applies is convicted of an offence punishable by a term of imprisonment of 12 months or longer, the officer automatically loses office.
- (3) If the convicted officer of the State is a judicial officer, the Judicial Services Commission must declare the officer removed from office.

- (4) If the convicted officer of the State is an officer other than a judicial officer, the Constitutional Offices Commission must declare the officer removed from office.

Note—

If a member of the House of Representatives is convicted of an offence punishable by imprisonment for 12 months or longer, section 73 applies. If a member of the Senate is convicted of an offence punishable by imprisonment for 12 months or longer, sections 80 applies.

203 Investigation and sanction for breach of Code of Conduct

- (1) In conducting an investigation under section 230 about the conduct of an officer of the State, the Ombudsman must—
 - (a) make a preliminary finding about whether the officer appears to have breached the Code of Conduct or any other provision of the Constitution; and
 - (b) if the preliminary finding is that the officer appears to have breached the Code of Conduct or another provision of this Constitution, initiate proceedings against the officer.
- (2) After considering any evidence adduced and submissions made, the Ombudsman must make a conclusive finding about the conduct of the officer of the State.
- (3) If the conclusive finding is that the officer of the State has breached the Code of Conduct or another provision of this Constitution, the Ombudsman must impose on the officer one of the following sanctions—
 - (a) an official reprimand;
 - (b) suspension from office for a stated period of not more than 6 months or until the public officer takes a stated remedial action or the Ombudsman decides whether or not to refer any alleged misconduct to the Director of Public Prosecutions.
- (4) Also, if the conclusive finding is that the officer has breached the Code of Conduct or another provision of this Constitution, the Ombudsman must—
 - (a) consider whether the breach also constitutes criminal misconduct; and
 - (b) decide whether to refer the breach to the Director of Public Prosecutions under section 230(9).
- (5) The Ombudsman must give a complainant and the officer of the State concerned written notice of—
 - (a) the conclusive finding made under subsection (2) and any sanction imposed under subsection (3); and
 - (b) if the Ombudsman decides to refer the breach to the Director of Public Prosecutions under section 230(9), the referral of the alleged criminal misconduct to the Director of Public Prosecutions.
- (6) A sanction imposed under subsection (3)(b) takes effect when the notice mentioned in subsection (4) is given to the officer of the State.
- (7) However, on application by an officer of State sanctioned under subsection (3)(b) made within 7 days of the notice given under subsection (5), the High Court may stay the effect of the sanction pending full determination of the matter in exercise of its jurisdiction under section 128.
- (8) Despite subsection (3), the Ombudsman does not have the power to impose a sanction on a judge or a member of Parliament.

Investigation and sanction of former officer of the State

- (1) An investigation under section 203 about the conduct of an officer of State may be conducted or continued even if the officer no longer holds the office.
- (2) If the Ombudsman makes a conclusive finding mentioned in section 203 in relation to a person who is no longer an officer of the State, the Ombudsman—
 - (a) must decide the sanction it would have imposed if the person were still an officer of the State; and
 - (b) may issue a direction that the person take a stated remedial action.
- (3) However, subsection (2) does not apply in relation to a conclusive finding about the conduct of a judge or a member of Parliament.

CHAPTER 13—INDEPENDENT INSTITUTIONS AND GOVERNANCE

Part A – PRINCIPLES AND APPLICATION

205 General guiding principles

The guiding principles relating to this Chapter are to ensure the primacy of the rule of law, the promotion of transparency and the safeguarding of accountability of the State and those who hold public office.

206 Leadership principles

- (1) The guiding principles of democratic leadership for those in public office are—
 - (a) service based solely on the public interest;
 - (b) honesty, diligence, commitment and discipline in service to the people;
 - (c) integrity, objectivity and impartiality in decision making without favouritism, nepotism or other improper motives or corrupt practices;
 - (d) avoidance and declaration of any interest that may conflict with public duties; and
 - (e) accountability to the public for decisions and actions.
- (2) Every person appointed to a public office under this Constitution must be a person of integrity and good character, in addition to any other qualifications set out elsewhere in any written law.

Part B – INDEPENDENT COMMISSIONS, OFFICES AND BODIES

207 Independent Commissions, Offices and Bodies

- (1) In order to give effect to the principles in section 205, this Constitution recognises or establishes the State bodies listed in this section as Independent Commissions, Independent Offices or Independent Bodies.
- (2) The Independent Commissions are—
 - (a) Constitutional Offices Commission;
 - (b) Constituency Boundaries Commission;
 - (c) Electoral Commission;
 - (d) Fiji Independent Commission Against Corruption;
 - (e) Human Rights and Anti-Discrimination Commission;
 - (f) Independent Legal Services Commission;
 - (g) Judicial Services Commission;
 - (h) Legal Aid Commission;
 - (i) Mercy Commission;
 - (j) Public Services Commission; and
 - (k) Salaries and Benefits Commission.
- (3) The Independent Offices are—
 - (a) Office of the Auditor-General;

- (b) Office of the Director of Public Prosecutions;
 - (c) Office of the Ombudsman;
 - (d) Office of the Secretary-General to the House of Representatives;
 - (e) Office of the Secretary-General to the Senate; and
 - (f) Office of the Solicitor-General.
- (4) The Independent Body is the Bose Levu Vakaturaga (BLV).

208 Constitutional Offices Commission

- (1) This section establishes the Constitutional Offices Commission.
- (2) The Commission consists of 5 members, one of whom shall be appointed as the chairperson.
- (3) The members of the Commission are appointed by the President on the advice of the Constitutional Offices Commission Appointments Committee.
- (4) A person shall not be qualified for appointment as a member of the Commission unless he or she—
 - (a) has had a distinguishing career in any aspect of national or international life whether in the public or private sector;
 - (b) has a record of service to the public;
 - (c) is a citizen of Fiji;
 - (d) is not a member of, or holds any office in, any political party;
 - (e) has not held office in any political party or been an election candidate in the 8 years prior to being nominated for appointment; and
 - (f) has not, at any time, been convicted of an offence with a term of imprisonment of 12 months or more under any law.
- (5) A member of the Commission holds office for 5 years and is eligible for reappointment.
- (6) The Commission is responsible for—
 - (a) overseeing and providing advice and guidance to the other Independent Commissions, Offices and Body on the implementation and operation of the independence and accountability measures applicable including setting timetables and procedures for managing discipline and removal from office proceedings and provision of regular reports to Parliament on those matters;
 - (b) encouraging citizens to make themselves available to serve Fiji in the Independent Commissions, Offices and Body;
 - (c) compiling and maintaining a register of those citizens who have expressed a willingness or desire to serve in that capacity;
 - (d) appointing women and men to serve in Independent Commissions and Offices, taking into account the need to represent the diversity of Fiji;
 - (e) reviewing the conduct of officers of the State and convening a tribunal, when required; and
 - (f) initiation of discipline or removal in relation to Independent Commissions, Offices and Bodies.

- (7) The Constitutional Offices Commission may apply for a determination from the Supreme Court on any matter concerning the interpretation or application of this Constitution.

209 Constitutional Offices Commission Appointments Committee

- (1) Constitutional Offices Commission has a Constitutional Offices Commission Appointment Committee (the "appointments committee").
- (2) The appointments committee consists of—
 - (a) the Director of Fiji Council of Social Services;
 - (b) the Vice Chancellor University of South Pacific; and
 - (c) the President of the Fiji Medical Association.
- (3) The appointments committee is responsible for appointing the members of the Commission.

210 Qualifications

A person shall not be qualified for appointment as a member of an Independent Commission or to hold an Independent Office unless he or she—

- (a) has had a distinguishing career in any aspect of national or international life whether in the public or private sector;
- (b) has a record of service to the public;
- (c) is a citizen of Fiji;
- (d) is not a member of, or holds any office in, any political party;
- (e) has not held office in any political party or been an election candidate in the 8 years prior to being nominated for appointment; and
- (f) has not, at any time, been convicted of an offence with a term of imprisonment of 12 months or more under any law.

211 Term of office

- (1) A member of the following Independent Commissions holds office for 5 years and is eligible for reappointment—
 - (a) Constitutional Offices Commission;
 - (b) Electoral Commission;
 - (c) Constituency Boundaries Commission.
- (2) A member of any other Independent Commission holds office for 3 years and is eligible for reappointment.
- (2) A person holding an Independent Office, other than the Solicitor-General and the Director of Public Prosecutions, holds office for 5 years and is eligible for reappointment.

Note—

For the terms of office of the Solicitor-General and the Director of Public Prosecutions see sections 141 and 142.

- (3) The appointment of a member of an Independent Commission and a person holding an Independent Office is subject to the terms and conditions, if any, set out in the appointment.

212 Procedures and standards for removal from office

A member of an Independent Commission, a holder of an Independent Office or a member of an Independent Body may be removed from office for incapacity or wrongdoing only in accordance with the relevant procedures and standards as set out in Chapter 12.

213 Freedom from direction and control

In the performance of its functions or the exercise of its authorities and powers, an Independent Commission, Office or Body shall be independent and shall not be subject to the direction or control of any person or authority, except by court of law or as otherwise prescribed by law.

214 Remuneration and allowances

A member of an Independent Commission, an Independent Officer and a member of an Independent Body is entitled to such remuneration and allowances as determined by the Salary and Benefits Commission, and the remuneration and allowances must not be varied to their disadvantage, except as part of an overall austerity reduction similarly applicable to all officers of the State.

215 State to provide adequate funding and resources

The State shall ensure that adequate funding and resources are made available to an Independent Commission, Office or Body, to enable it to independently and effectively exercise its powers and perform its functions and duties.

216 Control of own budget

An Independent Commission, Office or Body shall have the control of its own budget and finances, as approved by Parliament.

217 Employment of staff

- (1) An Independent Commission, Office or Body has the authority to appoint, remove and discipline all staff (including administrative staff).
- (2) An Independent Commission, Office or Body has the authority to determine all matters pertaining to the employment of all staff, including—
 - (a) the terms and conditions of employment;
 - (b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit;
 - (c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament;
 - (d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.
- (3) The salaries, benefits and allowances payable to any person employed in an Independent Commission, Office or Body are a charge on the Consolidated Fund.

218 Decisions of Independent Commission

Decisions of an Independent Commission requires the concurrence of a majority of its members and it may act despite the absence of a member but, if, in a particular case, a

vote is taken to decide a question and the votes cast are equally divided, the person presiding must exercise a casting vote.

219 Validity of transaction of business in an Independent Commission

The validity of the transaction of business of an Independent Commission is not affected if a person who is not entitled to do so took part in the proceedings.

220 Regulation of procedures

An Independent Commission, Office or Body may regulate its own procedure and may make such rules and regulations it deems fit for regulating and facilitating the performance of its functions.

221 Further provision for authority, functions and responsibilities

In addition to any authority, functions and responsibilities conferred under this Constitution, a written law may make further provisions for an Independent Commission, Office or Body.

222 Annual report

Each Independent Commission, Office or Body must make provide an annual report to Parliament concerning—

- (a) the exercise of its authority, functions and responsibilities; and
- (b) its revenue and expenditure.

223 Investigative and enforcement functions and associated powers

(1) This section applies to—

- (a) Fiji Independent Commission Against Corruption;
- (b) Human Rights and Anti-Discrimination Commission;
- (c) Independent Legal Services Commission;
- (d) Mercy Commission; and
- (d) Ombudsman.

(2) An Independent Commission and Office to which this section applies—

- (a) is responsible for receiving and investigating complaints and taking steps to secure appropriate redress including making applications to court for redress or for other forms of relief or remedies; and
- (b) has the same powers as the High Court in respect of attendance and examination of witnesses (including the administration of oaths and the examination of witnesses abroad) and in respect of production of documents.

Part C – GOVERNANCE

224 Conduct of officers of the State: Code of Conduct

(1) An officer of the State must—

- (a) behave in public life, in private life, and in association with other persons, in a manner that avoids—

- (i) any conflict between personal interest and public or official duties;
 - (ii) compromising any public or official interest in favour of a personal interest; or
 - (iii) demeaning the office the officer holds; and
- (b) must comply with the Code of Conduct in Chapter 12, and with any other applicable Code of Conduct established under this section.
- (2) Parliament may enact a written law establishing, or providing for the establishment of, Codes of Conduct governing particular offices, or categories of office, for officers of the State.

225 Discipline and removal from office

- (1) An officer of State may be removed from office for incapacity or wrongdoing only in accordance with the relevant procedures set out in Chapter 12.
- (2) This section does not apply to an officer described in paragraph (n) of the definition of officer of State.

226 Process for access to information

- (1) Every State body must develop a process to enable members of the public to exercise their right to access to information under section 30 of this Constitution.
- (2) The Ombudsman is responsible for overseeing the implementation of the process in accordance with its responsibilities under section 228(4)(c).

227 Protection of whistle blowers

- (1) This section applies to any disclosure of information by any person if—
 - (a) the disclosure is made in good faith to an officer of State or to any State body; and
 - (b) at the time of the disclosure, the person making the disclosure reasonably believes that the information shows or tends to show that a State body or public officer in the performance of official functions—
 - (i) has contravened this Constitution or the law; or
 - (ii) has engaged or is engaging in conduct that has endangered or is likely to endanger the health or safety of any individual, or has damaged or is likely to damage the environment.
- (2) A person who makes a disclosure contemplated in this section is immune from any civil, criminal or administrative liability for that disclosure.
- (3) Every State body must directly or indirectly—
 - (a) establish and maintain a system to receive confidential disclosures contemplated in this section, and to act on them; and
 - (b) regularly publicise the availability of that system to the public.

228 Ombudsman

- (1) This section establishes the office of the Ombudsman.
- (2) The Ombudsman is appointed by the President on the advice of the Constitutional Offices Commission after consultation with the Public Service Commission.

- (3) A person appointed as Ombudsman must have a record of high integrity and extensive experience in either public sector administration or the law and justice sector, or both.
- (4) The Ombudsman provides an accessible forum for resolving complaint about failings in matters of administration, and is responsible for—
 - (a) promoting the protection and observance of, and respect for—
 - (i) the principle of respectful, effective, impartial, fair and equitable service;
 - (ii) the right to executive and administrative justice recognised in section 21;
 - (iii) the Constitution and the law in the context of public service;
 - (b) consulting with and educating the public, including civil society, about the nature and content of the principles of public service and the right to executive and administrative justice;
 - (c) overseeing the implementation of a process to enable the public to access official information and documents held by the Government and its agencies;
 - (d) managing the process for the appointment of members to the Constitutional Offices Commission Appointment Committee.
 - (e) making recommendations to any State body concerning the matters within its scope, including recommendations concerning existing or proposed law;
 - (f) receiving and investigating complaints, as set out in section 197, and taking steps to secure appropriate resources from the relevant State body; and
 - (g) investigating or researching on its own initiative or on the basis of a complaint, any matter within its scope, and making recommendations to improve the functioning of public entities.
- (5) The Ombudsman may apply for a determination from the Supreme Court on any matter concerning the interpretation or application of this Constitution.

229 Authority of the Ombudsman

- (1) The Ombudsman may investigate any complaint—
 - (a) about any act or omission in public administration that is alleged to be prejudicial or improper; or
 - (b) of abuse of power, unfair treatment, manifest injustice, or unlawful, oppressive, unfair or unresponsive official conduct.
- (2) The authority of the Ombudsman includes—
 - (a) investigating complaints arising from circumstances that occurred either before or after the commencement of this Constitution;
 - (b) investigating complaints arising from the conduct of an Independent Commission or Office; or
 - (c) receiving and investigating complaints alleging that an officer of the State has failed to comply with the Code of Conduct;
 - (d) investigating complaints relating to access to, and service delivery by, the courts and the public service.
- (3) The Ombudsman must not investigate complaints relating to—
 - (a) the judicial process or substance of decisions made by the courts, or any other

- matter that is before the court;
- (b) the substance of decisions made by an independent Commission or Office, or any matter that is being considered by a Commission or Office; or
- (c) operational decisions of the security services.

230 Complaints and investigation by Ombudsman

- (1) The Ombudsman may conduct an investigation—
 - (a) in response to a complaint that has been made to it;
 - (b) in response to a request by a member or committee of Parliament; or
 - (c) on its own initiative.
- (2) Complaints to the Ombudsman may be made in any form, by any person.
- (3) If a court, tribunal or other body could hear a particular complaint, the Ombudsman may advise the complainant to proceed with the matter in that forum, unless the complainant could not reasonably exercise, or could not have reasonably exercised, that right.
- (4) The Ombudsman has discretion to—
 - (a) decide whether or not to investigate any action in response to a complaint;
 - (b) attempt to resolve a complaint through informal procedures; or
 - (c) to discontinue an investigation after starting it.
- (5) After completing an investigation, the Ombudsman shall report to—
 - (a) the complainant;
 - (b) the State body concerned; and
 - (c) any responsible Minister.
- (6) After concluding an investigation, the Ombudsman may ask the State body concerned to give it, within a specified time, particulars of the action proposed to be taken with respect to the conclusions and recommendations of the report.
- (7) The Ombudsman may give a further report on the matter to Parliament if the office of the Ombudsman believes that the State body concerned has not taken adequate and appropriate action within a reasonable time.
- (8) The Ombudsman—
 - (a) must keep complainants informed about the progress of their complaints and any investigations including respecting the right to reasons for decision;
 - (b) must report fully to the body complained against, including providing recommendations for action in regard to the particular complaint and to changes in procedure in the future; and
 - (c) may prepare reports and recommendations for the public service generally for the improvement of procedures to enhance compliance with this Constitution and the law.
- (9) If after concluding an investigation the Ombudsman considers that an officer of the State has engaged in conduct that may constitute criminal misconduct, the Ombudsman may refer the matter to the Director of Public Prosecutions.
- (10) Parliament may enact a written law relating to the conduct of investigations by the

Part D—PROVISIONS RELATING TO CERTAIN PUBLIC OFFICES**231 Application**

This Part applies to—

- (a) Supervisor of Elections;
- (b) Commissioner of Police;
- (c) Commissioner of the Fiji Corrections Service;
- (d) Commander of the Republic of Fiji Military Forces; and
- (e) Governor of the Reserve Bank of Fiji.

232 Terms and conditions of office

- (1) A person to whom this Part applies holds office for 5 years and is eligible for re-appointment.
- (2) The appointment of a person to whom this Part applies is subject to the terms and conditions (if any) set out in it.

233 Remuneration and allowances

A person to whom this Part applies is entitled to such remuneration and allowances as determined by the Salaries and Benefits Commission, and the remuneration and allowances must not be varied to their disadvantage during his or her term in office, except as part of an overall austerity reduction similarly applicable to all officers of the State.

234 Procedures and standards for removal from office

A person to whom this Part applies may be removed from office for incapacity or wrongdoing only in accordance with the relevant procedures and standards as set out in Chapter 12.

CHAPTER 14—EMERGENCY POWERS

235 State of emergency

- (1) The Cabinet may, on the recommendation of the National Security Council, declare a state of emergency in Fiji, or in a part of Fiji, and may make regulations relating to a state of emergency, if there are reasonable grounds to believe that—
 - (a) the security and safety of all or part of Fiji is threatened; and
 - (b) it is necessary to declare a state of emergency to deal effectively with the threatening circumstances.
- (2) If the declaration of a state of emergency is made when the House of Representatives is sitting, the Prime Minister must, within 24 hours upon making the declaration, refer the declaration to the House of Representatives for confirmation of the declaration.
- (3) If the declaration of a state of emergency is made when the House of Representatives is not sitting, the Speaker must, within 48 hours upon the making of the declaration, seek confirmation of the declaration from the members of the House of Representatives through such measures of communication as necessary.
- (4) If a majority of the members of the House of Representatives confirm the declaration made by the Prime Minister, then the declaration shall continue for a period of one month from the date of confirmation and may be renewed by a further vote in the House of Representatives.
- (5) If the declaration made by the Prime Minister is not confirmed by a majority of the members of the House of Representatives, then the declaration and any actions taken under the declaration shall be deemed to be of no effect.
- (6) At any time—
 - (a) the House of Representatives may—
 - (i) disallow or terminate the declaration of the state of emergency; or
 - (ii) amend or disallow regulations relating to the state of emergency; and
 - (b) the High Court, on application by any person, may—
 - (i) disallow or terminate the declaration of the state of emergency, if the circumstances did not, or no longer, justify the declaration in the terms of subsection (1); or
 - (ii) make any other order required in the circumstances to restore government under the Constitution.

236 Summoning the House of Representatives

- (1) If the declaration is made during the period after a dissolution of the House of Representatives and before the holding of the next following general election of members of the House of Representatives, the President must summon the members of the dissolved House, and those members may exercise all the powers conferred on the House of Representatives under this Chapter.
- (2) Despite the summoning under subsection (1) of members of the dissolved House of Representatives, the general election must proceed, and the recalled House again stands dissolved on the day immediately before the day fixed for the polling at the general election.

- (3) If, during a period while a state of emergency is in force, the term of the House of Representatives is due to expire section 59, the President may, on the advice of Cabinet, declare an extension for a period specified in the declaration.
- (4) The term of the House of Representatives must not be extended under subsection (3) for a total of more than 12 months.

237 Limitation of rights under states of emergency

- (1) Any law enacted or promulgated in consequence of a declaration of a state of emergency under this Constitution—
 - (a) may limit a right or freedom set out in Chapter 2 (with the exception of the rights and freedoms set out in sections 12, 14, 15, 17, 18, 19, 16, 20 and 26) only to the extent that—
 - (i) the limitation is strictly required by the emergency, and is justifiable under section 9; and
 - (ii) the law is consistent with Fiji's obligations under international law applicable to a state of emergency; and
 - (b) takes effect only when it has been published in the Gazette.
- (2) A person detained under a law contemplated in subsection (1) retains all the rights recognised in Chapter 2, subject only to the limitations referred to in subsection (1).

238 National Security Council

- (1) This section establishes a National Security Council.
- (2) The Council consists of—
 - (a) the Prime Minister, who shall be the chairperson;
 - (b) the Ministers responsible for the following—
 - (i) Defence;
 - (ii) Foreign Affairs;
 - (iii) Police;
 - (iv) Public Safety;
 - (v) Home Affairs;
 - (vi) Health;
 - (vii) Communications;
 - (viii) Disaster Management; and
 - (ix) Social Protection.
 - (c) the Leader of the Opposition or his or her nominee;
 - (d) a chairperson of a Parliamentary committee responsible for any of the following—
 - (i) defence;
 - (ii) national security;
 - (iii) public safety; or
 - (iv) matters related to the above;

- (e) the Commissioner of Police and the Commander of the Republic of Fiji Military Forces as non-voting members with an advisory role; and
- (f) other members as may be appointed by law.

CHAPTER 15—IMMUNITY

[NOTE THE RECOMMENDATION OF THE CONSTITUTIONAL REVIEW COMMITTEE IS THAT THIS CHAPTER BE REPEALED.]

CHAPTER 16—AMENDMENT OF CONSTITUTION

239 Amendment of Constitution

This Constitution, or any provision of this Constitution, may be amended in accordance with the procedure prescribed in this Chapter, and may not be amended in any other way.

240 Procedure for amendment

- (1) A Bill for the amendment of this Constitution must be expressed as a Bill for an Act to amend this Constitution.
- (2) Subject to subsection (3) the Bill, with or without amendments, must be passed by both Houses in accordance with the following procedure—
 - (a) the Bill is read 3 times in each House and motions for the second and third readings are carried in each House;
 - (b) at the second and third readings, it is supported by the votes of at least 2 thirds of the members of each House;
 - (c) in each House an interval of at least 30 days elapses between the second and third readings and each of those readings is preceded by full opportunity for debate; and
 - (d) the third reading of the Bill in each House does not take place until after the relevant committee has reported on the Bill to House of Representatives.
- (3) If a Bill for the amendment of this Constitution is passed by Parliament in accordance with subsection (2), then the Speaker shall notify the President accordingly, who shall assent to the Bill.
- (5) In this section, the use of the word “amend” or “amendment” is intended to be understood broadly, so that the section applies to any proposal to repeal, replace, revise, or alter any provision of this Constitution.

CHAPTER 17—COMMENCEMENT, INTERPRETATION, REPEALS AND TRANSITIONAL PROVISIONS

Part A—SHORT TITLE AND COMMENCEMENT

241 Short title and commencement

- (1) This Constitution may be cited as the Constitution of the Republic of Fiji 2026.
- (2) This Constitution shall come into force on (a date to be determined).

Part B—INTERPRETATION

242 Interpretation

- (1) In this Constitution, unless the contrary intention appears—

“Act” means an Act of Parliament, a Decree or a Promulgation; “adult” means an individual who is 18 years of age or over;

“BLV” means the Bose Levu Vakaturaga;

“Bill of Rights” means the rights and freedoms set out in Chapter 2;

“child” means an individual who has not reached the age of 18 years;

“commission” means a commission established by, or continued in existence under, this Constitution;

“Constitution of 1990” means the Constitution set out in the Constitution of the Sovereign Democratic Republic of Fiji (Promulgation) Decree 1990;

“corrupt practices” includes—

- (a) any attempt to improperly influence a public officer;
- (b) to influence peddling, bribery, or extortion;
- (c) misuse of inside information for personal gain;
- (d) requesting or accepting any benefit to which a person is not lawfully entitled;
- (e) withholding any service, benefit, decision or judgment, or threatening a person with the exercise of a lawful power against that person, or implying any such practice, in order to extort a personal benefit or to improperly obtain the person’s consent to any action or omission;
- (f) unlawfully taking or demanding any private property;
- (g) misuse or misapplication of public property for personal purposes, or theft of public property; and
- (h) converting or selling public assets for personal gain;

“criminal proceedings” means proceedings before any court, other than a military court, in which a person is prosecuted for allegedly committing an offence, including an appeal, a case presented on the basis of agreed facts, or a question of law reserved;

“department” means a department of the public service, under a ministry;

“disability” includes any physical, sensory, mental, psychological or other condition, or illness that—

- (a) has, or is perceived by significant sectors of the community to have, a significant adverse effect on an individual’s ability to participate fully and effectively in society on an equal basis with others; or
- (b) forms the basis of unfair discrimination;

“disciplinary law” means a written law regulating the discipline of any disciplined force;

“disciplined force” means—

- (a) the Republic of Fiji Military Forces;
- (b) the Fiji Police Force; or
- (c) the Fiji Corrections Service;

“electoral offences” includes an offence under a law governing elections and includes any offence under any law governing registration of voters and registration of political parties.

“Fiji” or “Republic of Fiji” means the territories which immediately before 10 October 1970 constituted the Colony of Fiji and includes any other territory declared by Parliament to form part of Fiji;

“Gazette” means the Government of the Republic of Fiji Gazette published by order or under the authority of the Government, or a supplement to the Gazette;

“Government” means the Government of the State;

“human trafficking” includes trafficking of persons as defined or prescribed by a written law;

“Judge” means a Judge of the High Court (including the Chief Justice), a Justice of Appeal (including the President of the Court of Appeal) or a Judge of the Supreme Court;

“judicial officer” includes a Judge of the High Court (including the Chief Justice), a Justice of Appeal (including the President of the Court of Appeal), a Judge of the Supreme Court, the Judge of the Military Court, Magistrate, Masters of the High Court, the Chief Registrar and other judicial officers appointed by the Judicial Services Commission;

“law” includes all written law;

“member of Parliament” means a member of the House of Representatives or a member of the Senate, but does not include the President;

“minerals” includes all minerals extracted from land or seabed and includes natural gases;

“oath” includes affirmation;

“oath or affirmation of allegiance and office” means the oath or affirmation of allegiance and office as set out in the Schedule;

“officer of the State” means the holder of any of the following offices

- (a) the President;
- (b) the Speaker and Deputy Speaker of Parliament;
- (c) members of the Cabinet and Leader of the Opposition;
- (d) members of Parliament and persons elected to local government bodies;
- (e) Judges and other judicial officers;
- (f) members of the Independent Commissions and holders of Independent Offices
- (g) members of Independent Bodies;
- (h) Supervisor of Elections;
- (i) Director of the Legal Aid Commission;
- (h) Ambassadors, High Commissioners and Consuls General;
- (i) Governor of the Reserve Bank of Fiji;
- (j) permanent secretaries and any holder of an equivalently ranked officer;
- (k) Commissioner of Police;
- (l) Commissioner of the Fiji Corrections Service;
- (m) the Commander of the Republic of Fiji Military Forces; and
- (n) any other office holder prescribed by written law.

“person” means a natural or legal person, including a company or association or body of persons whether corporate or unincorporated;

“political party” means an organised group or association of persons striving for participation in the political life or Government of the Republic of Fiji that has been registered under a written law regulating the organisation of political parties;

“prescribed” means prescribed in, by or under a written law;

“President” means the President of the Republic of Fiji appointed under Chapter 5 and includes any person appointed or holding office under Part D of this Chapter;

“property” includes any vested or contingent right to, or interest in or arising from—

- (a) land, or permanent fixtures on, or improvements to, land;
- (b) goods or personal property;
- (c) intellectual property; or
- (d) money or negotiable instruments;

“public office” means—

- (a) an office created by, or continued in existence under, this Constitution;
- (b) an office in respect of which this Constitution makes provision;

- (c) an office of a member of a commission;
- (d) an office in a State service;
- (e) an office of Judge;
- (f) an office of Magistrate or an office in a court created by written law;
- (g) an office in, or as a member of, a statutory authority; or
- (h) an office established by written law;

“public officer” means the holder of a public office;

“public service” means the service of the State in a civil capacity but does not include—

- (a) service in the judicial branch;
- (b) service in the office of a member of a commission; or
- (c) service in an office created by, or continued in existence under, this Constitution;

“session”, in relation to Parliament, means a sitting of Parliament starting when it first meets after a prorogation of Parliament or a dissolution of Parliament and ending when Parliament is next prorogued or Parliament is next dissolved;

“sentence of imprisonment” does not include a suspended sentence or a sentence of imprisonment with the option of a fine;

“sitting”, in relation to Parliament, means a period during which Parliament is sitting continuously without adjournment, and includes any period during which Parliament is in committee;

“Speaker” means the Speaker of Parliament;

“State” means the Republic of Fiji;

“State body” means a ministry, department, commission, office, agency or other body established or continued under this Constitution

“state of emergency” means a state of emergency declared under Chapter 14;

“State service” means the public service and the disciplined force;

“subordinate court” means any court of law established for the State other than the High Court, Court of Appeal, Supreme Court or a court established by a disciplinary law;

“subordinate law” means any instrument made in exercise of a power to make the instrument conferred by an Act, and includes regulations, rules, orders, by-laws or declarations;

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

“written law” means an Act, Decree, Promulgation and subordinate law made under those Acts, Decrees or Promulgations.

- (2) When interpreting any written law, or when developing the common law or customary law, every court, tribunal or other authority must promote the spirit, purport and objects of this Constitution.

- (3) A reference in this Constitution to a power to make appointments to a public office includes a reference to—
 - (a) a power to make appointments on the promotion or transfer to the office; and
 - (b) a power to appoint a person to act in the office while it is vacant or its holder is unable to perform the functions of the office.
- (3) In this Constitution, unless the contrary intention appears, a reference to the holder of an office by the term designating his or her office includes a reference to any person for the time being acting in the office.
- (4) A person who has been appointed to an office established by this Constitution may resign from the office by notice in writing signed by him or her addressed to the person or authority by whom he or she was appointed, and the resignation takes effect—
 - (a) at the time or on the date specified in the notice; or
 - (b) when the notice is received by the person or authority to whom it is addressed, whichever is the later.
- (5) A reference in this Constitution to a power to remove a person from a public office includes a reference to—
 - (a) a power to require the person to retire from office;
 - (b) a power to terminate the contract on which the person is employed; or
 - (c) a power not to renew the contract on which the person is employed.
- (6) A reference in this Constitution to amending any law (including this Constitution) is a reference to—
 - (a) repealing it with or without replacing it by another law;
 - (b) modifying, varying, revising or altering it by amendment or otherwise;
 - (c) suspending its operation; or
 - (d) making other provision that is inconsistent with it.
- (7) A person, authority or body upon whom the functions are conferred by this Constitution has power to do everything necessary or convenient to be done for, or in connection with, the performance of those functions.
- (8) A reference in this Constitution to the Minister in relation to the doing of anything, the participation in any consultation or the receipt of any report is a reference to the Minister who, for the time being, has been assigned responsibility for the part of the business of the Government relating to the subject matter of the activity concerned.
- (9) Unless the contrary intention appears, a reference in this Constitution to a Minister includes a reference to the Minister for the time being acting for and on behalf of the first mentioned Minister.
- (10) A provision of this Constitution to the effect that a person or authority is not subject to the direction or control of any other person or authority in the performance of functions or the exercise of powers is not to be construed as precluding a court of law from exercising jurisdiction in relation to a question whether the first mentioned person or authority has performed the functions or exercised the powers in accordance with this Constitution or whether that person or authority should or should not perform the functions or exercise the powers.

- (11) A power conferred by this Constitution to make, grant or issue any instrument (including a proclamation, order, regulation or rule), or to give any direction, includes the power, exercisable in the like manner, to repeal, rescind, revoke, amend or vary the instrument or direction.
- (12) For the avoidance of doubt, use of the word "must" in this Constitution imports obligation to the same extent as if the word "shall" were used.
- (13) A reference in this Constitution to an office named in this Constitution is to be read with any formal alteration necessary to make it applicable in the circumstances.
- (14) In this Constitution, unless the context otherwise requires—
 - (a) if a word or expression is defined in this Constitution, any grammatical variation or cognate expression of the word or expression has a corresponding meaning, read with the changes required by the context; and
 - (b) the word "includes" means "includes, but is not limited to".
- (15) In calculating time between 2 events for any purpose under this Constitution, if the time is expressed—
 - (a) as days, the day on which the first event occurs is to be excluded, and the day by which the last event may occur is to be included;
 - (b) as months, the time period ends at the beginning of the day in the relevant month—
 - (i) that has the same number as the date on which the period began, if that month has a corresponding date; or
 - (ii) that is the last day of that month, in any other case; or
 - (c) as years, the period of time ends at the beginning of the date of the relevant year that corresponds to the date on which the period began.
- (16) If a period of time prescribed by this Constitution for any purpose is 6 days or less, Sundays and public holidays are not to be counted when calculating the time.
- (17) If, in any particular circumstance, the period of time prescribed by this Constitution ends on a Sunday or a public holiday, the period extends to the first subsequent day that is not a Sunday or public holiday.
- (18) If a particular time is not prescribed by this Constitution for performing a required act, the act must be done without unreasonable delay, and as often as the occasion requires.
- (19) If any person has authority under this Constitution to extend a period of time prescribed by this Constitution, the authority may be exercised either before or after the end of the period, unless a contrary intention is expressly mentioned in the provision conferring the authority.
- (20) Except to the extent that this Constitution provides otherwise, if a person has vacated an office established under this Constitution, the person may, if qualified, again be appointed, elected or otherwise selected to hold the office in accordance with this Constitution.
- (21) The Schedule is a part of this Constitution, and every use of the expression "this Constitution" includes the Schedule.
- (22) Any person required under any law to take an oath or affirmation of allegiance and office

must take the appropriate oath or affirmation set out in the Schedule.

243 Aid to interpretation

- (1) When considering a question of the interpretation of this Constitution, a court may use the materials described in subsection (2) as aids to interpretation of this Constitution as amended by the Constitution Amendment Act 2026.
- (2) The materials are—
 - (a) the official record of the proceedings and debates and the report of the Fiji Constitution Review Commission established on 27 March 2026;
 - (b) the official record of proceedings and debates of Parliament on amendments arising from the report of that Commission;
 - (c) any other papers used or tabled for the purpose of, or in connection with, the debates and proceedings referred to in paragraphs (a) and (b).
- (3) Parliament must enact a law identifying the records, reports and papers referred to in subsection (2).

Part C—TRANSITIONAL RELATING TO CONSTITUTION AMENDMENT ACT 2026

244 Interpretation

In this Part—

‘Commencement day’ means the day on which the Constitution Amendment Act 2026 comes into force;

‘This constitution’ means the Constitution of the Republic of Fiji as amended by the Constitution Amendment Act 2026.

245 Constitution Implementation Commission

- (1) The Constitution Implementation Commission is established.
- (2) The Constitution Implementation Commission consists of a chairperson and any other members provided by law, appointed by the Constitutional Offices Commission.
- (3) To be eligible for appointment to the Constitution Implementation Commission a person must have significant experience in at least one of the following areas—
 - (a) public administration;
 - (b) constitutional law;
 - (c) human rights;
 - (d) legislation;
 - (e) project management.
- (4) The functions of the Constitution Implementation Commission are—
 - (a) to facilitate, monitor and oversee the development of legislation and administrative procedures and related measures required to implement this Constitution; and
 - (b) to work constructively with the Government and the public service in performing the function in paragraph (a); and

- (c) to report regularly to the Constitutional Implementation Oversight Committee on—
 - (i) progress in the implementation of this Constitution; and
 - (ii) any impediments to the implementation of this Constitution and proposals for overcoming the impediments.
- (5) The Constitution Implementation Commission expires—
 - (a) on the 5th anniversary of the commencement day; or
 - (b) if the House of Representatives resolves, before the 5th anniversary of the commencement day, that the Constitution Implementation Commission should continue beyond that day, on the later day that the House of Representatives resolves.

246 Constitutional Implementation Oversight Committee

- (1) The Constitutional Implementation Oversight Committee is established as a committee of the House of Representatives.
- (2) The Committee is responsible for overseeing the implementation of this Constitution, including by—
 - (a) receiving regular reports from the Constitution Implementation Commission about the matters mentioned in section 246(4)(c); and
 - (b) coordinating with Constitution Implementation Commission, the Government and the public service to ensure the timely introduction and passage of the laws required by this Constitution; and
 - (c) taking appropriate action on the reports, including addressing any impediments to the implementation of this Constitution.
- (3) The Constitutional Implementation Oversight Committee expires—
 - (a) on the 5th anniversary of the commencement day; or
 - (b) if the House of Representatives resolves, before the 5th anniversary of the commencement day, that the Committee should continue beyond that day, on the later day that the House of Representatives resolves.
- (4) Nothing in this section limits or otherwise affects the power of the House of Representatives to establish, after the expiry of the Constitutional Implementation Oversight Committee, another committee with functions relating to implementation of the Constitutional laws.

247 Electoral Commission

- (1) Notwithstanding any prior appointment, the terms of members serving on the Electoral Commission at the commencement of this provision shall be adjusted to establish staggered expiration dates.
- (2) Within 30 days of the commencement of this provision, the President, on the advice of the Constitutional Offices Commission, by a fair and transparent method, designate—
 - (a) one member to serve for a term of 2 years from the commencement date;
 - (b) two members to serve for a term of 3 years from the commencement date;

- (c) one member to serve for a term of 4 years from the commencement date; and
- (d) one member to serve for a term of 5 years, who shall be the chairperson.
- (3) On the expiration of each adjusted term, the vacancy shall be filled by the appointment of a new member for a full term of 5 years.
- (4) Members shall continue to hold office until their successors are appointed and assume office, unless otherwise removed in accordance with this Constitution.

248 Constituency Boundaries Commission

- (1) The first appointment to the Commission of the 3 members shall hold office for staggered terms to ensure continuity of membership.
- (2) The Constitutional Offices Commission shall designate—
 - (a) one member to serve for 1 year;
 - (b) one member to serve for 2 years;
 - (c) one member to serve for 3 years, who shall be the chairperson.
- (3) On the expiration of each initial term, the vacancy shall be filled by the appointment of a new member for a full term of 3 years.
- (4) Each member shall continue to hold office until their successors are appointed and assume office, unless otherwise removed in accordance with this Constitution.

249 Mercy Commission

- (1) On the commencement of this provision the terms of all members serving on the Mercy Commission expire.
- (2) The first appointment to the Commission of the following 3 members shall hold office for staggered terms to ensure continuity of membership—
 - (a) the member appointed under section 146(2)(c) serves until the expiration of 1 year from the commencement date;
 - (b) the member appointed under section 146(2)(d) serves until the expiration of 2 years from the commencement date; and
 - (b) the member appointed under section 146(2)(e) serves until the expiration of 3 years from the commencement date.
- (3) On the expiration of each adjusted term, the vacancy shall be filled by the appointment of a new member for a full term of 3 years.
- (4) Each member shall continue to hold office until their successors are appointed and assume office, unless otherwise removed in accordance with this Constitution.

250 Constitutional Offices Commission

- (1) On the commencement of this provision the terms of all members serving on the Constitutional Offices Commission expire.
- (2) The first appointment to the Commission of the 5 members shall hold office for staggered terms to ensure continuity of membership.
- (3) The Constitutional Offices Appointment Committee shall designate—
 - (a) one member to serve for a term of 2 years;

- (b) two members to serve for a term of 3 years;
 - (c) one member to serve for a term of 4 years; and
 - (d) one member to serve for a term of 5 years, who shall be the chairperson of the Commission.
- (4) On the expiration of each initial term, the vacancy shall be filled by the appointment of a new member for a full term of 5 years.
- (5) Each member shall continue to hold office until their successors are appointed and assume office, unless otherwise removed in accordance with this Constitution.

SCHEDULE—OATHS AND AFFIRMATIONS

OATH OF ALLEGIANCE

Part A—Allegiance

I,, swear that I will be faithful and bear true allegiance to the Republic of Fiji according to law, and I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji. So help me, God!

AFFIRMATION OF ALLEGIANCE

I,, do solemnly, sincerely and truly declare that I will be faithful and bear true allegiance to the Republic of Fiji according to law, and I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji.

Part B—For Taking Office

OATH FOR PRESIDENT

I,, swear that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I will devote myself to the well-being of the Republic of Fiji and all Fijians, protect and promote their rights and well and truly serve the Republic of Fiji in the office of the President. So help me, God!

AFFIRMATION FOR PRESIDENT

I,, do solemnly and sincerely and truly declare and affirm that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I will devote myself to the well-being of the Republic of Fiji and all Fijians, protect and promote their rights and well and truly serve the Republic of Fiji in the office of the President.

OATH FOR MINISTERS

I,, being appointed as Prime Minister/Minister, swear that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise to hold my office with honour, dignity and integrity, to be a true and faithful counsellor, not to divulge any secret matter entrusted to me, and to perform the functions of my office conscientiously and to the best of my ability. So help me, God!

AFFIRMATION FOR MINISTERS

I,, being appointed as Prime Minister/Minister, do solemnly and sincerely and truly declare and affirm that I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise to hold my office with honour, dignity and integrity, to be a true and faithful counsellor, not to divulge any secret matter entrusted to me, and to perform the functions of my office conscientiously and to the best of my ability.

OATH FOR JUDICIAL OFFICERS

I,, swear that, as a judicial officer within the courts of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will do justice to all persons without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji and the law. So help me, God!

AFFIRMATION FOR JUDICIAL OFFICERS

I,, do solemnly and sincerely and truly declare and affirm that, as a judicial officer within the courts of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will do justice to all persons without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji and the law.

OATH FOR MEMBERS OF PARLIAMENT

I,, swear that, as a member of Parliament of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will act with integrity and diligently carry out my responsibilities, in accordance with the Constitution of the Republic of Fiji and the law. So help me, God!

AFFIRMATION FOR MEMBERS OF PARLIAMENT

I,, do solemnly and sincerely and truly declare and affirm that, as a member of Parliament of Fiji, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, and will act with integrity and diligently carry out my responsibilities, in accordance with the Constitution of the Republic of Fiji and the law.

OATH FOR SPEAKER/DEPUTY SPEAKER OF PARLIAMENT

I,, swear that, as the Speaker/Deputy Speaker of Parliament, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, maintain the dignity and honour of Parliament to the best of my ability, and act without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji and the law. So help me, God!

AFFIRMATION FOR SPEAKER/DEPUTY SPEAKER OF PARLIAMENT

I,, do solemnly and sincerely and truly declare and affirm that, as the Speaker/ Deputy Speaker of Parliament, I will be faithful and bear true allegiance to the Republic of Fiji, and that I will obey, observe, uphold and maintain the Constitution of the Republic of Fiji and all other laws of Fiji; and I solemnly and sincerely promise that I will defend the rule of law and the rights of the people, maintain the dignity and honour of Parliament to the best of my ability, and act without fear, favour or prejudice, in accordance with the Constitution of the Republic of Fiji and the law.
