

ROTUMA BILL 2015  
(BILL NO. 6 OF 2015)

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# BILL NO. 6 OF 2015

## A BILL

### FOR AN ACT TO PROVIDE FOR THE REGULATION OF ROTUMAN AFFAIRS AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

#### PART 1—PRELIMINARY

##### *Short title and commencement*

- 1.—(1) This Act may be cited as the Rotuma Act 2015.
- (2) This Act shall come into force on the date of its publication in the *Gazette*.

##### *Interpretation*

2. In this Act, unless the context otherwise requires—

“Commissioner” means the Commissioner responsible for the Central and Eastern Division of Fiji;

“Council” means the Council of Rotuma established under section 4;

“district” means one of the seven districts of Rotuma;

“District Chief” means the chief of a district elected in accordance with Rotuman customs;

- “District Officer” means the District Officer of Rotuma;
- “*Faufisi*” means a chief who is next in rank to a District Chief;
- “former Council” means the Council of Rotuma established under section 12 of the repealed Act;
- “Forum” means the Forum of the Rotuman People established under section 7;
- “Fund” means the Rotuman Development Fund continued under section 14;
- “Minister” means the Minister responsible for Rotuma;
- “*mosega*” means a group of chiefly families;
- “PEFR” has the meaning given to it under the Rotuma Lands Act 2015;
- “repealed Act” means the Rotuma Act (Cap. 122);
- “Rotuma” means the islands of Rotuma;
- “Rotuma Agricultural and Industrial Loan Fund” means the Rotuma Agricultural and Industrial Loan Fund established by the former Council under section 28 of the repealed Act and continued under section 19;
- “Rotuman” means any person of Rotuman or part-Rotuman descent who is registered or eligible to be registered in the PEFR;
- “Rotuman community” means Rotumans living in Rotuma or elsewhere in Fiji, including non-Rotumans who, at present, are living in Rotuma; and
- “seven districts” means *Noa’tau, Oinafa, Itu’i’u, Malha’a, Juju, Pepjei* and *Itu’muta*.

*District Officer*

3.—(1) The Minister may, from time to time, appoint a District Officer of Rotuma.

(2) Where a written law assigns a function to a public officer, the District Officer or other officer may, with the approval of the Minister after considering the purpose of the assigned function, perform such function.

PART 2—COUNCIL OF ROTUMA

*Establishment of the Council*

4.—(1) This section establishes the Council of Rotuma.

(2) The Council shall consist of—

- (a) the seven District Chiefs;
- (b) the seven *Faufisi*;
- (c) two Rotumans appointed by the Minister from the Rotuman community, who are reputable in society with distinguished careers in the public or private sector and are registered in the PEFR; and
- (d) the District Officer as an *ex-officio* member.

(3) The Chairperson of the Council shall be elected by secret ballot by members of the Council.

(4) All matters decided by the Council shall be decided by majority vote and if there is an equality of votes, the Chairperson of the Council shall have, in addition to his or her deliberative vote, a casting vote.

(5) At any meeting of the Council, nine members of the Council shall constitute a quorum, of whom at least four of the members shall be District Chiefs.

(6) Any member of the Council appointed by the Minister under subsection (2)(c) shall hold office for such term as shall be specified by the Minister and shall be eligible for re-appointment.

*Functions of the Council*

**5.—**(1) The functions of the Council shall be to—

- (a) consider matters that affect or are likely to affect Rotuman customs, including issues relating to traditional protocol, traditional processes of resolving disputes within the Rotuman community and general matters relating to the roles of traditional leaders;
- (b) consider any other matter which may bring about stability and harmony in Rotuma; and
- (c) perform other functions as imposed on it by the provisions of any written law.

(2) The Council shall make rules to regulate the conduct of its proceedings and the performance of its functions.

(3) The Council may, before making any decision on any matter, co-opt any person as it deems appropriate to assist or provide advice on the matter.

(4) The Council may refer a matter to the Forum for its consideration and recommendations before the Council makes a decision on the matter.

*Meetings of the Council*

**6.—**(1) The Council shall meet annually at such time and place as the Chairperson of the Council shall determine.

(2) Subject to the availability of space during a meeting of the Council, any person shall be admitted to a meeting of the Council.

**PART 3—FORUM OF THE ROTUMAN PEOPLE**

*Establishment of the Forum*

**7.—**(1) This section establishes the Forum of the Rotuman People.

(2) The Forum shall consist of—

- (a) the seven District Chiefs;

- (b) seven elected members, each representing a district;
- (c) one elected member representing women's rights and interests;
- (d) four members appointed by the Minister; and
- (e) the District Officer as an *ex-officio* member.

(3) The Chairperson of the Forum shall be elected by secret ballot by members of the Forum.

(4) Subject to subsection (8), all matters decided by the Forum shall be decided by majority vote and if there is an equality of votes, the Chairperson of the Forum shall have, in addition to his or her deliberative vote, a casting vote.

(5) At any meeting of the Forum, the Chairperson of the Forum and any ten members of the Forum shall constitute a quorum, of whom at least four of the members shall be District Chiefs.

(6) An elected member of the Forum shall hold office for a term of 3 years and shall be eligible for re-election.

(7) The Forum may establish committees to deal with specific matters that the Forum may direct.

(8) Any issue that deals with or affects Rotuman customs must have the approval of at least four District Chiefs before the issue is presented and decided upon by the Forum.

#### *Functions of the Forum*

**8.—**(1) The functions of the Forum shall be to—

- (a) assist the Council under section 5(4);
- (b) consider issues relating to the welfare of the Rotuman community as may be necessary or as directed by the Minister;
- (c) administer the Fund and carry out such functions as may be required under this Act and any other written law; and
- (d) consider other issues that may affect Rotumans.

(2) The Forum shall make rules to regulate the conduct of its proceedings and the performance of its functions.

(3) The Forum may, before making any decision on any matter, co-opt any person as it deems appropriate to assist or provide advice on the matter.

#### *Meetings of the Forum*

**9.—**(1) The Forum shall meet twice annually at such time and place as the Chairperson of the Forum shall determine, provided that the meetings are no later than—

- (a) the thirty-first day of March in each year; and
- (b) the twenty-first day of October in each year.

- (2) The Forum shall, for each year, prepare and submit to the Minister—
- (a) a report of its activities for the preceding year ending on the thirty-first day of December; and
  - (b) a detailed estimate of the revenue and expenditure of the Forum for the year commencing on the first day of January.
- (3) Subject to the availability of space, any person shall be admitted to a meeting of the Forum.

*Minutes to be kept*

**10.**—(1) The minutes of every meeting of the Forum, including those of the various committees to be established, shall be written in the Rotuman language and kept by the Chairperson of the Forum who shall forward a copy, translated into the English language, to the Minister.

(2) If there is an apparent difference between the English version and the Rotuman version of the minutes of a meeting, the Rotuman version shall prevail.

PART 4—ELECTIONS

*Election of District Chiefs*

**11.**—(1) Subject to other provisions of this section, a District Chief shall continue to be elected in accordance with Rotuman customs.

(2) All the *mosega* of a district shall elect the District Chief for that district. 

(3) If the *mosega* are unable to elect a District Chief, the *mosega* shall seek the assistance of the District Officer for an amicable solution.

(4) If a solution is not reached under subsection (3), the District Officer shall submit a report to the Commissioner who shall, after he or she is satisfied that Rotuman customs have been exhausted and a solution has not been reached, make a recommendation to the Minister to appoint a Tribunal.

(5) The Minister shall, upon the recommendation from the Commissioner, appoint a Tribunal to determine the rightful District Chief.

(6) The Tribunal shall consist of—

- (a) a Chairperson; and
- (b) two other members of the Rotuman Community who are well versed with Rotuman customs.

(7) The decision of the Tribunal shall be final.

(8) The District Officer shall submit a report to the Commissioner of an existing impasse within 90 days from the date the chiefly position becomes vacant.

*Disciplining of and removal of a District Chief*

**12.—(1)** The disciplining or the subsequent removal of a District Chief for any action that has brought disrepute to the position of District Chief or other acts of impropriety, shall be the collective responsibility of the *mosega* who shall decide on the appropriate action to take, and if the *mosega* are unable to determine a resolution, the Tribunal under section 11 shall consider and determine as such.

(2) The decision of the Tribunal shall be final.

(3) A District Chief removed by the Tribunal shall not be eligible for re-election as District Chief without the consent of the Tribunal.

*Election of representatives as members of the Forum*

**13.—(1)** A representative in respect of each of the seven districts and the representative of women's rights and interests shall be elected by secret ballot.

(2) A person shall be eligible to be registered as a voter if, at the date of application for registration, he or she—

- (a) is a Rotuman of or over the age of 18 years;
- (b) has been resident in the district in which he or she applies to be registered as a voter for a period of at least 6 months during the 12 months immediately preceding the date of an election;
- (c) is of sound mind; and
- (d) is not serving a sentence of imprisonment.

(3) A registered voter shall only be entitled to vote—

- (a) in the election of a representative for the district in which the voter habitually resides; and
- (b) in the election of the representative of women's rights and interests.

(4) Subject to subsection (14), a person shall be eligible as a candidate for election to represent a district or women's rights and interests if, at the date of nomination as a candidate, he or she—

- (a) in the case of a representative of a district, is registered as a voter in the district which he or she seeks to represent;
- (b) in the case of a representative of women's rights and interests, is registered as a voter in any district;
- (c) has been a resident in such district for a period of at least 12 months during the 2 years immediately preceding the date of the election; and
- (d) is able to read and write in the Rotuman language.

(5) The election of representatives shall take place in each district during the month of October of every third year since the previous election.



(6) Any person eligible as a candidate under subsection (4) must be nominated by four persons similarly qualified in respect of such district to be a candidate at an election of a representative.

(7) Any nomination as a candidate under subsection (6) must be made not more than 14 days and not less than 4 days prior to the date fixed for the election.

(8) A representative elected under this section shall hold office for a term of 3 years and shall, subject to subsection (4), be eligible for re-election.

(9) If a representative elected under this section dies or resigns during his or her term of office, a by-election shall be held.

(10) A representative elected at a by-election shall hold office for the period remaining of the term of office of the representative whom he or she replaces, provided that where a representative dies or resigns within 3 months from the date on which he or she was due to retire, no by-election shall be held.

(11) Subject to subsection (5), the District Officer shall determine the date when an election or by-election shall take place and, subject to the provisions of this Act, the procedure at any election or by-election shall be in accordance with his or her directions, which may include any direction necessary to give effect to the provisions of this section.

(12) For the avoidance of doubt, subsections (1), (2), (3) and (4) shall also apply to by-elections.

(13) Any person who, at the date of an election, is—

- (a) serving a sentence of imprisonment; or
- (b) declared to be of unsound mind,

shall not be entitled to vote at any election.

(14) No person shall be eligible as a candidate for election if he or she—

- (a) is an undischarged bankrupt;
- (b) is serving a sentence of imprisonment or has within the period of 2 years immediately preceding the election, been released from prison after serving a term of imprisonment of more than 6 months;
- (c) is declared to be of unsound mind; and
- (d) is an officer or servant of the Forum paid out of the funds of the Forum.

## PART 5—ROTUMAN DEVELOPMENT FUND

### *Establishment of the Fund*

**14.—**(1) The Rotuman Development Fund established under section 21 of the repealed Act shall continue in existence under this Act.

(2) The Fund shall consist of—

- (a) all monies, investments, securities or other property comprising the Fund at the commencement of this Act;
- (b) all monies paid to the Forum in accordance with the provisions of this Act; and
- (c) any income accruing to the Fund from placing on deposit, investing or otherwise dealing with the monies in the Fund in any manner authorised under this Act.

*Objective of the Fund*

**15.**—(1) The objective of the Fund shall be the promotion of the development, welfare and advancement of Rotumans.

(2) Subject to the payment of expenses properly incurred by the Forum in the management and control of the Fund or in connection with the imposition and recovery of any levy, the whole of the Fund shall be expended for the purposes directed exclusively towards the aforesaid objective, and may be expended within and beyond Rotuma.

*Administration of the Fund*

**16.** Subject to such other directions as may be made by the Minister, the Forum shall manage and control the Fund and the following provisions shall have effect with respect to such management and control—

- (a) estimates of the revenue and expenditure of the Fund for the following year shall be submitted annually before the first day of October in the preceding year or such other date as may be prescribed by the Minister responsible for Finance for approval, and no expenditure out of monies in the Fund shall take place except in accordance with such approved estimates unless the special authority of such Minister shall first have been obtained;
- (b) the Forum shall cause to be kept proper books of account relating to its management and control of the Fund and shall cause details of all monies received and expended including administration expenses to be entered correctly in such books which shall be kept separately from any other books of account kept by the Forum;
- (c) any monies in the Fund may be invested in such manner as the Forum may, with the prior approval of the Minister responsible for Finance, from time to time, either generally or in any particular case, determine;
- (d) such part of the monies of the Fund as is not for the time being invested in pursuance of paragraph (c) shall be paid into a bank or banks to be selected by the Forum and every cheque or order for payment on such bank or banks shall be signed by such person or persons as shall be prescribed by the Minister by rules under the provisions of this Act, provided that

the secretary of the Forum shall be entitled to retain in cash a sum not exceeding such sum as may from time to time be prescribed, for the purpose of making payments from the Fund; and

- (e) the Forum shall not later than the thirtieth day of June in each year submit to the Minister a report on the operations of the Fund during the year ending on the thirty-first day of December immediately preceding.

*Imposition of levy*

**17.—**(1) The Forum shall have the power to impose a levy on all Rotuman producers for primary produce produced by them in Rotuma, except for primary produce being the property of or produced by a duly registered religious organisation.

(2) Subject to subsection (3), the rate of the levy under subsection (1) shall not exceed 10% of the purchase price payable to the producer for the sale of such produce.

(3) The Forum shall have the power to vary the rate of the levy under subsection (2) from time to time, and any levy imposed under the provisions of this section shall remain in force until so varied.

(4) Any levy imposed under this section shall be paid to the Forum by the producer of the produce to which it relates within 14 days of the sale of such produce, and if not so paid the levy shall be recoverable in any manner provided by law for the recovery of civil debts.

(5) For the purposes of this section, “primary produce” means—

- (a) copra;
- (b) taro; and
- (c) such other agricultural produce or marine catch as may be specified by the Minister by notice in the *Gazette*.

*Fund to be exempt from Income Tax*

**18.** The Fund and the Rotuma Agricultural and Industrial Loan Fund shall be exempt from Income Tax under the Income Tax Act (Cap. 201).

**PART 6—ROTUMA AGRICULTURAL AND INDUSTRIAL LOAN FUND**

*Rotuma Agricultural and Industrial Loan Fund*

**19.—**(1) The Rotuma Agricultural and Industrial Loan Fund shall—

- (a) continue in existence under this Act; and
- (b) be operated, controlled, invested and expended in accordance with the provisions of this Act.

(2) The total amount of monies paid by the Forum into the Rotuma Agricultural and Industrial Loan Fund from the Fund shall not exceed \$20,000 or such sum determined by the Forum.

(3) The Forum may lend monies from the Rotuma Agricultural and Industrial Loan Fund to any Rotuman for agricultural or industrial purposes, and subject to such conditions as the Forum, with the prior approval of the Minister responsible for Finance, may from time to time determine.

(4) The manner of applying for such loans and all questions of procedure shall be determined by the Forum.

(5) All loans from the Rotuma Agricultural and Industrial Loan Fund shall be recoverable by the Forum.

(6) All recipients of a loan shall, after receiving the loan money, be subject to an assessment by the Forum as the Forum may determine.

*Rights and obligations of former Council to vest in the Forum*

**20.** All rights, liabilities and obligations in respect of the Rotuma Agricultural and Industrial Loan Fund which immediately prior to the commencement of this Act were rights, liabilities and obligations of the former Council shall upon the commencement of this Act vest in the Forum.

*Indemnification of former Council*

**21.** All monies heretofore received by the former Council in respect of any cess imposed on Rotuman producers under the repealed Act were properly and validly so received, and the former Council and every person from time to time being a member thereof are acquitted, discharged and indemnified against every person from all legal proceedings of any kind whatsoever in connection with the imposition or collection of such cess.

**PART 7—MISCELLANEOUS**

*Audit of accounts*

**22.** The accounts of the Forum, including those of the Fund and of the Rotuma Agricultural and Industrial Loan Fund shall be audited annually by an auditor to be appointed or approved by the Minister responsible for Finance and the auditor's report thereon shall be submitted to the Minister responsible for Finance within 3 months of any such audit.

*Regulations*

**23.** The Minister may, following consultation with the Forum, make Regulations to give effect to the provisions of this Act, including but not limited to the following—

- (a) the cleanliness of Rotuma and the promotion of public health;
- (b) the social and economic improvement of the Rotuman community;
- (c) the performance of communal work or activities by members of the Rotuman community;
- (d) the control of livestock in Rotuma;

- (e) the prevention or removal of public nuisance in Rotuma;
- (f) the care of children, senior citizens and persons with disabilities; and
- (g) the conservation of food supplies in Rotuma.

*Repeal*

**24.** The Rotuma Act (Cap. 122) is repealed.

## ROTUMA BILL 2015

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### EXPLANATORY NOTE

*(This note is not part of the Bill and is only intended to indicate its general effect)*

#### **1.0 BACKGROUND**

- 1.1 The Rotuma Act (Cap. 122) (**‘existing Act’**) is a culmination of a series of amendments made to the Rotuma Ordinance 1958 in 1962, 1964, 1966, 1968 and 1970. Since its promulgation, the existing Act has not been amended.
- 1.2 A review committee was appointed to review the existing Act in conjunction with the Rotuma Lands Act (Cap. 138).

#### **2.0 CLAUSES**

- 2.1 Clause 1 of the Rotuma Bill 2015 (**‘Bill’**) provides for the short title and states that the new Act will come into force on the date of its publication in the *Gazette*.
- 2.2 Clause 2 provides for the definitions of terms used throughout the Bill.
- 2.3 Clause 3 provides for a District Officer in Rotuma. Also, clause 3 allows the District Officer to perform the functions of a public officer. This, however, is subject to the approval of the Minister and is primarily based on the geographical location of Rotuma from other administrative centres.
- 2.4 Clauses 4, 5 and 6 provide for the establishment of the Council of Rotuma (**‘Council’**), its membership, functions, operation procedure and decorum.
- 2.5 The Council consists of—
- (a) the seven District Chiefs;
  - (b) the seven *Faufisi* (those who are next in rank to the District Chiefs);
  - (c) two Rotumans appointed by the Minister from the Rotuman community; and
  - (d) the District Officer as an *ex-officio* member.

- 2.6 The functions of the Council shall be to—
- (a) consider matters that affect or are likely to affect Rotuman customs, including issues relating to traditional protocol, traditional processes of resolving disputes within the Rotuman community and general matters relating to the roles of traditional leaders;
  - (b) consider any other matter which may bring about stability and harmony in Rotuma; and
  - (c) perform other functions as imposed on it by the provisions of any written law.
- 2.7 Clauses 7, 8, 9 and 10 create an arrangement that is inclusive, enabling for the first time ever for Rotumans living off-shore to be actively involved in the decision-making process of issues that will impact the lives of those living on the island and elsewhere.
- 2.8 The Bill establishes the Forum of the Rotuman People (**‘Forum’**) which consists of—
- (a) the seven District Chiefs;
  - (b) seven elected members, each representing a district;
  - (c) one elected member representing women’s rights and interests;
  - (d) four members appointed by the Minister; and
  - (e) the District Officer as an *ex-officio* member.
- 2.9 The Forum may also co-opt an advisory member who shall not have any voting power.
- 2.10 The functions of the Forum shall be to—
- (a) assist the Council;
  - (b) consider issues relating to the welfare of the Rotuman community as may be necessary or as directed by the Minister;
  - (c) administer the Rotuman Development Fund (**‘Fund’**) and carry out such functions as may be required under this Act and any other written law; and
  - (d) consider other issues that may affect Rotumans.
- 2.11 Clauses 11, 12 and 13 provide for the election of District Chiefs and certain members of the Forum.

- 2.12 The Fund established under the existing Act is continued under the Bill. The objective of the Fund shall be the promotion of the development, welfare and advancement of Rotumans.
- 2.13 The Rotuma Agricultural and Industrial Loan Fund established by the Council of Rotuma under the existing Act is continued by the Forum under the Bill.
- 2.14 The Forum may loan moneys from the Rotuma Agricultural and Industrial Loan Fund to any Rotuman for agricultural and industrial purposes, and subject to such conditions, as the Forum, with the prior approval of the Minister responsible for Finance, may from time to time determine.

A. SAYED-KHAIYUM  
Attorney-General