

CONSTITUTION (AMENDMENT) ACT 1998

ARRANGEMENT OF SECTIONS

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FIJI

ACT NO. 5 OF 1998



I assent.

[L.S.]

K. K. T. MARA  
President

[20 April 1998]

**AN ACT**

TO AMEND THE CONSTITUTION (AMENDMENT) ACT 1997

ENACTED by the Parliament of Fiji—

**Part 1—PRELIMINARY***Short title, etc*

1.—(1) This Act may be cited as the Constitution (Amendment) Act 1998.

(2) The Constitution Amendment Act 1997 is in this Act referred to as the Principal Act.

*Commencement*

2. This Act commences on the date of commencement of the Principal Act.

**Part 2—AMENDMENTS OF PRINCIPAL ACT***Schedule of amendments relating to name of State*

3. The Principal Act is amended as set out in the Schedule.

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*Constitution (Amendment) —5 of 1998*

*Protection against compulsory acquisition of property*

4. Section 40 of the Principal Act is amended by inserting after subsection (2) the following subsection—

“(2A) 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.”.

*Way in which legislative power exercised*

5. Section 46 of the Principal Act is amended by omitting subsection (3).

*Registration as voter*

6.—(1) Section 55(6) of the Principal Act is amended by deleting paragraph (b) and substituting—

“(b) who does not have a right to be registered on one of the rolls referred to in subparagraphs 51 (1) (a) (i), (ii) and (iii);”.

(2) Section 55 of the Principal Act is amended by adding after subsection (6) the following new subsection—

“(6A) A person who:

- (a) has a right to be registered as a voter;
- (b) has a right to be registered on one of the rolls referred to in subparagraphs 51 (1) (a) (i), (ii) and (iii); and
- (c) any of whose progenitors in the male or female line does not have (or, being deceased, would if living not have) a right to be registered on one of those rolls,

may choose either to be registered on one of those rolls or to be registered on the roll referred to in subparagraph 51 (1) (a) (iv).”.

(3) Section 55 of the Principal Act is amended by inserting in subsection (9) "paragraph" before "51(1)(a)".

*Term of House of Representatives*

7. Section 59 of the Principal Act is amended—

- (a) by renumbering the existing section as subsection (1);
- (b) by adding the following new subsection—

"(2) The President, acting on the advice of the Prime Minister may, by proclamation, dissolve the House of Representatives and may from time to time in like manner prorogue the Parliament."

*Functions of Ombudsman*

8. Section 158 of the Principal Act is amended by omitting paragraph (5)(a) and substituting the following paragraph—

"(a) action taken by a Minister, except if :

- (i) the action relates to a request for access to information held, or allegedly held, by the Minister; and
- (ii) a law made by the Parliament giving members of the public rights of access to official documents of the Government and its agencies confers a right to complain to the Ombudsman in respect of that action;"

*Interpretation*

9. Section 194 of the Principal Act is amended:

(a) by omitting from subsection (1) the definition of "Fiji" and substituting the following definition—

" "Fiji Islands" means the territories which immediately before 10 October 1970 constituted the Colony of Fiji and includes any other territories declared by the Parliament to form part of the Fiji Islands;" and

(b) by omitting from subsection (1) the definition of "session" and substituting the following definition:

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

*Constitution (Amendment) —5 of 1998**Repeals and transitional*

10. Section 195(2) of the Principal Act is amended by adding after paragraph (b) the following new paragraphs—

- (ba)* the Parliament constituted under the Constitution of 1990, if in existence at the date of commencement of this Act, continues in existence for as long as it would have done under section 80(2) of that Constitution unless the House of Representatives is earlier dissolved under this Constitution;
- (bb)* Senators appointed under the Constitution of 1990 continue in office as if they were public officers, but subject to section 65 of this Constitution;
- (bc)* the President continues in office in accordance with the terms of his appointment under the Constitution of 1990 unless he earlier dies or resigns or is removed from office under this Constitution;
- (bd)* Section 33 of the Constitution of 1990 (as to Acting Presidents) continues to apply until the President's term of office expires or he dies or resigns or is removed from office as described in paragraph *(bc)*, whereupon section 88 of this Constitution (as to a Vice President) applies;
- (be)* the Prime Minister and other Ministers appointed under the Constitution of 1990 and in office at the date of commencement of this Act continue in office until a new Prime Minister is appointed under this Constitution;".

## SCHEDULE

## AMENDMENTS OF PRINCIPAL ACT RELATING TO NAME OF STATE

1. The following provisions of the Principal Act are amended by omitting "Fiji" (wherever occurring) and substituting "the Fiji Islands":

Paragraph 6(1), sections 10 and 11, subsections 12(1) and (5), paragraph 12(7)(a), subsection 13(2), sections 16 and 18, paragraphs 20(a), (b) and (c), subsection 21(6), paragraphs 23(1)(a) and (i), paragraph 23(3)(e), subsections 34(1), (3), (4) and (5), paragraphs 34(6)(b), (c), (d) and (e), subsection 34(10), paragraphs 55 (1)(c) and (3)(b), subsection 55(7), paragraphs 55(8)(a) and (c); subsections 79(5), 80(4), 81(4), 88(2), 100(2) and 106 (1), paragraphs 130 (a) and (b) and 132(3)(a) and (b), subparagraph 138(3)(a)(i), subsections 144(1) and (2), subparagraph 149(5)(b)(ii), subsections 163(3) and 168(2), paragraph 172(4)(b) and subsection 187(1).

2. The following provisions of the Principal Act are amended by omitting "Fiji" (wherever occurring) and substituting "the State":

Paragraphs 10(a) and 55(1)(b), section 104, subsection 149(1), subparagraph 149(5)(b)(i), subsection 194(1) (definition of "subordinate court"), and Part C of the Schedule (Oaths and Affirmations).

Passed by the House of Representatives this Sixteenth day of March, in the year of our Lord One Thousand, Nine Hundred and Ninety-Eight

Passed by the Senate this First day of April, in the year of our Lord One Thousand, Nine Hundred and Ninety-Eight.