

BILL NO. 5 OF 2015

A BILL

FOR AN ACT TO DECLARE THE COAT OF ARMS OF THE REPUBLIC OF FIJI
AND TO MAKE PROVISION FOR ITS USE

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 Coat of Arms Act 2015.

(2) This Act shall come into force on a date appointed by the Minister by notice in the Gazette.

Interpretation

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

“Coat of Arms” or “Fijian Coat of Arms” means the Coat of Arms declared in accordance with section 4;

“Disciplined Forces” means the Republic of Fiji Military Forces, Fiji Police Force, **Fiji Navy** and the Fiji Corrections Service;

“former Coat of Arms” means the Coat of Arms granted by Royal Warrant under the Coat of Arms of Fiji (Restriction of Use) Act (Cap. 245);

“Minister” means the Prime Minister; and

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

Objective

3. The objective of this Act is to—

- (a) provide for changes to be made to certain parts of the former Coat of Arms;
- (b) provide for the declaration of a new Fijian Coat of Arms; and
- (c) regulate the use of the Coat of Arms.

PART 2—THE FIJIAN COAT OF ARMS

Declaration of the Fijian Coat of Arms

4.—(1) The Minister shall by notice in the Gazette declare the Fijian Coat of Arms ~~before 10th October, 2015.~~

(2) ~~Once a declaration has been made by the Minister under subsection (1) then no further declarations can be made under the same subsection.~~

~~(2)~~(3) The Coat of Arms declared in accordance with subsection (1) shall be the symbol of the State, the Government and the citizens of Fiji.

Prohibition on the use of the Coat of Arms

5.—(1) A person shall not use the Coat of Arms for any purpose whatsoever without obtaining the written approval of the Minister.

(2) Any person who contravenes subsection (1) commits an offence.

Misuse of the Coat of Arms

6.—(1) Any person who uses the Coat of Arms or associates the use of the Coat of Arms with any action, speech, writing or any other means, to demean, disrespect and insult the State ~~or the Government or the State or any member of the Government or the general public,~~ commits an offence.

(2) Any person who uses the former Coat of Arms for any purpose under subsection (1) commits an offence.

(3) Any person who uses any design which in any way resembles the Coat of Arms in any manner likely to deceive commits an offence.

Commercial use

7.—(1) The Coat of Arms or any part of the Coat of Arms, shall not be used—

- (a) in any trademark or logo;
- (b) for any advertising purpose;

- (c) in any form whatsoever that involves depiction, engraving or embossing on merchandise; or
- (d) for any commercial purpose,

except with the prior written approval of the Minister.

(2) Any person who—

- (a) produces, sells or displays the Coat of Arms; or
- (b) uses the Coat of Arms for any purpose set out under subsection (1),

without the prior written approval of the Minister, commits an offence.

Use of the Coat of Arms

8.—(1) It shall be an offence to use the Coat of Arms or any part of the Coat of Arms as part of a uniform, a costume, attire or any other wear for that matter, unless authorised by the Minister in writing.

(2) Notwithstanding subsection (1), a patch of the Coat of Arms or a badge depicting the Coat of Arms may be affixed or printed onto the uniforms of Disciplined Forces.

Desecrating, altering or dishonouring the Coat of Arms

9. Any person who—

- (a) for the purposes of dishonouring the Coat of Arms, modifies the Coat of Arms by placement of any emblem, letters, slogans, words or representation on it; or
- (c) in or within view of any public place, uses, displays, destroys, burns, mutilates, tears or damages any image bearing the Coat of Arms in any manner with the intention of dishonouring it,

commits an offence.

Changes to the Coat of Arms

10.—(1) Where the Coat of Arms has been declared in accordance with section 4, that Coat of Arms may only be amended or altered in accordance with the procedures prescribed in this section and may not be amended or altered in any other way.

(2) An amendment or alteration of the Coat of Arms must be expressed as a Bill for an Act to amend this Act.

(3) A Bill under subsection (2) must be passed by Parliament in accordance with the following procedure—

- (a) the Bill is read three times in Parliament;
- (b) at the second and third readings, it is supported by the votes of at least three quarters of the members of Parliament;
- (c) 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 Parliament does not take place until after the relevant committee of Parliament has reported on the Bill to Parliament.

(4) If a Bill is passed by Parliament in accordance with subsection (3), then the Speaker shall notify the President accordingly, who shall then refer the Bill to the Electoral Commission, for the Electoral Commission to conduct a referendum for all registered voters in Fiji to vote on the Bill.

(5) The referendum for the purposes of subsection (4) shall be conducted by the Electoral Commission in such manner as prescribed by written law.

(6) The Electoral Commission shall, immediately after the referendum, notify the President of the outcome and shall publish the outcome of the referendum in the media.

(7) If the outcome of the referendum is that three-quarters of the total number of the registered voters have voted in favour of the Bill, then the President must assent to the Bill, which shall come into force on the date of the Presidential assent or on such other date as prescribed in the Bill.

Changes to the Coat of Arms

~~—9. The Coat of Arms declared in accordance with section 4 shall only be amended or altered where a change to the Flag in accordance with section 15 of the National Flag Protection Act 2015 amends or alters the Coat of Arms.~~

PART 3—MISCELLANEOUS

General offences and penalties

11. 10: Any person or body corporate who acts in contravention or does not comply with any provision under this Act commits an offence and shall be liable upon conviction—

- (a) in the case of a natural person – to a fine not exceeding ~~\$20,000~~ \$7,000 or to a term of imprisonment not exceeding ~~10~~ 5 years, or to both; or
- (b) in the case of a company, association or body of persons, non-governmental organisation, Statutory Authority or entity – to a fine not exceeding ~~\$500,000~~ \$70,000 and in the case of a continuing offence to a fine not exceeding \$7,000 per day, and for the Director, Chief Executive Officer, Manager or officer in charge for the time being, to a fine not exceeding ~~\$100,000~~ \$15,000 or to a term of imprisonment not exceeding ~~20~~ 7 years, or to both.

Burden of proof

12. 11: In the prosecution for an offence under this Act, the onus of proof shall be on the Defendant to prove his or her innocence.

Rules and Regulations

13. 12.—(1) The Minister may, from time to time, make Rules or Regulations prescribing the—

- (a) forms, procedures and fees to be used or levied under this Act;
- (b) manner in which the Coat of Arms is to be depicted; and
- (c) standard sizes, proportions and dimensions of the Coat of Arms for any or all purposes.

(2) The Minister may by way of notice in the Gazette set out guidelines to be followed in using the Coat of Arms.

Transitional

14. 13.—(1) Any person using the former Coat of Arms at the commencement of this Act—

- (a) in any trademark or logo;
- (b) for any advertising purpose;
- (c) for any commercial purpose; or
- (d) for any manufacturing or production purposes,

shall have 31 days from that date to cease such use.

(2) Any person who contravenes subsection (1) commits an offence.

(3) Notwithstanding subsection (1), any person in possession of—

- (a) any item or attire which depicts the former Coat of Arms may continue to use such item or attire; or
- (b) any stock existing immediately prior to the commencement of this Act, which contains merchandise depicting the former Coat of Arms may sell such stock until it is exhausted.

Consequential amendments

15. 14.—All references to “Coat of Arms” or “Fiji Coat of Arms” in all written laws shall be construed as references to the Coat of Arms declared in accordance with section 4 of this Act.

Repeal

16. 15. The Coat of Arms of Fiji (Restriction of Use) Act (Cap. 245) is hereby repealed.

COAT OF ARMS BILL 2015

EXPLANATORY NOTE

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

1.0 BACKGROUND

- 1.1 This Bill is intended to provide for the alteration of the former Coat of Arms and the adoption of a new Fijian Coat of Arms (**‘Coat of Arms’**), and to regulate the use of the Coat of Arms.
- 1.2 Depicted prominently on the Coat of Arms is the Cross of Saint George and a golden lion which represents the United Kingdom, our former colonial ruler.
- 1.3 These symbols on the Coat of Arms allude to Fiji being a colony or dependency and do not represent Fiji’s status as a truly independent and sovereign nation.
- 1.4 Therefore, the Coat of Arms is a symbol that is tied to our colonial past, it is time to move on from these symbols of our past to new symbols that are truly Fijian, represent our nation and will resonate with Fijians in our present and future.

2.0 PROVISIONS OF THE BILL

PART 1 Provides for the short title and the commencement provision.

PART 2 Part 2 provides for the declaration of the Coat of Arms by the Prime Minister by notice in the Gazette.

Part 2 also prohibits the use of the Coat of Arms in any manner or with any action, speech, writing or any other means, to demean, disrespect **and or** insult the State **or** the Government. ~~or any member of the Government or the general public.~~

Additionally, Part 2 also provides prohibitions on the commercial use of the Coat of Arms on trademarks and logos, merchandise or for any commercial or advertising purposes unless authorised by the Prime Minister.

~~Under this Part provisions on how the Coat of Arms may be altered or amended have been set out which state that the Coat of Arms may only be altered where a change to the Flag in accordance with section 15 of the National Flag Protection Act 2015 amends or alters the Coat of Arms:~~

~~Furthermore, Part 2 provides for the procedures through which changes may be made to the Coat of Arms. Under this Part the ways in which the Coat of Arms may be altered or amended have been set out.~~

PART 3 Part 3 provides for the miscellaneous provisions which, amongst other things, sets out the transitional provisions and the repeal of the Coat of Arms of Fiji (Restriction of Use) Act (Cap. 245).

Furthermore, Part 3 provides for general offences and penalties. Under this Part, the penalties for the offences committed under this Act range from ~~\$20,000~~ \$7,000 to ~~\$500,000~~ \$70,000 and include a term of imprisonment of up to ~~10~~ 7 years.

Where companies are involved, these penalties ~~including an additional penalty for any continuing offence~~ will also apply. Additionally, the Director, Chief Executive Officer, Manager or officer in charge of these companies at the time the offence was committed ~~will also be liable to a penalty.~~

Part 3 also contains provisions which gives the Prime Minister the power to make rules and regulations relating to the Coat of Arms and caters for the transitioning of the use of the old to the new Coat of Arms.

Furthermore, Part 3 sets out consequential amendments which make necessary amendments to other laws to ensure their consistency with the adoption of the new Coat of Arms.

Under Part 3, as mentioned above, consequential amendments are also proposed to all written laws which provide for State assets, seals or Government forms upon which the Coat of Arms must be affixed or depicted.

Conclusively, to further elaborate under the transitional provisions in Part 3, any person in possession of any stock existing immediately prior to the commencement of this Act, which contains merchandise depicting the former Coat of Arms may sell such stock until it is exhausted.

Additionally, any person in possession of any item or attire which depicts the former Coat of Arms may continue to use such item or attire.

3.0 MINISTERIAL RESPONSIBILITY

3.1 The Act comes under the responsibility of the Prime Minister.

A. SAYED-KHAIYUM
Attorney-General