

## Bill Summary

## Rotuma Bill 2015 – No. 6 of 2015

This Bill, and the Rotuma Lands Bill (Bill No. 7 of 2015), were first tabled in Parliament in May 2015. **The Bills were re-introduced to Parliament in the April 2016 sitting.**

This Bill repeals and replaces the Rotuma Act (Cap. 122)<sup>1</sup>, and provides for:

- the establishment of the **Council of Rotuma**;
- the establishment of the **Forum of the Rotuman People**;
- elections of **District Chiefs and members of the Forum**;
- the establishment of the **Rotuman Development Fund**; and
- the establishment of the **Rotuma Agricultural and Industrial Loan Fund**.

The Rotuma Act (Cap. 122) was 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.

The Explanatory Note to the Bill states that “a committee was appointed to **review the existing Act** along with the Rotuma Lands Act (Cap. 138)”, but the review does not appear to be published.

According to a press release from the Fiji Government 2011, “Rotuma islanders called for a review of the laws when the Prime Minister Commodore Voreqe Bainimarama visited the island in 2009.”<sup>2</sup> As noted by an Australian academic case study, the 2006 election manifestos also included various promises to review the Acts.<sup>3</sup>

When the Bills were tabled in 2015, a petition presented to Parliament asked MPs to defer progress of the Bills until they had been “fully discussed” by Rotumans.<sup>4</sup>

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<sup>1</sup> Cap 122 full text: [http://www.paclii.org/cgi-bin/sinodisp/fj/legis/consol\\_act\\_OK/ra103/ra103.html?stem=&synonyms=&query=cap%20122](http://www.paclii.org/cgi-bin/sinodisp/fj/legis/consol_act_OK/ra103/ra103.html?stem=&synonyms=&query=cap%20122)

<sup>2</sup> Press release, January 2011: <http://www.fiji.gov.fj/Media-Center/Press-Releases/Final-Draft-of-the-Rotuma-Acts-to-be-Before-Cabinet-Soon.aspx>

<sup>3</sup> From Election to Coup in Fiji: The 2006 Campaign and Its Aftermath, Case study 14 – ‘From marginalization to mainstream – Rotuma and the 2006 election’, Kylie Jayne Anderson p194: <http://press.anu.edu.au/wp-content/uploads/2011/05/ch143.pdf>

<sup>4</sup> Petition text: [http://www.rotuma.net/os/NewsArchive/Archive2015/Rotuma\\_Bills\\_Petition\\_by\\_Fuata\\_Jione%20.pdf](http://www.rotuma.net/os/NewsArchive/Archive2015/Rotuma_Bills_Petition_by_Fuata_Jione%20.pdf)

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### Rotuma

Administratively, Rotuma is fully incorporated into Fiji, but with local government tailored to give the island a measure of autonomy greater than that enjoyed by other subdivisions of Fiji. Rotuma has the status of a dependency, and its administrative capital is 'Ahaū in the district of Itu'ti'u, where the "tariagsau" (traditionally the name of the sau's palace) meeting house for the Council of Rotuma is based.

The island group is home to a small but unique indigenous ethnic group, which constitutes a recognisable minority within the population of Fiji, known as "Rotumans". Its population at the 2007 census was 2,002, although many more Rotumans live on mainland Fijian islands, totaling over 10,000.

### Differences between the Act and this Bill

The primary differences between the repealed Act and this Bill include (but are not limited to):

- the **definition** of 'Rotuma' in the previous Act is "the island of Rotuma and its dependencies, that is to say all islands, rocks, reefs and fisheries lying between the twelfth degree and the fifteenth degree of south latitude and between the one hundred and seventy-fifth degree and the one hundred and eightieth degree of east longitude from the meridian of Greenwich".  
In the new Bill the definition is "the islands of Rotuma";
- the removal of clause 3(3) of the Act, which states that "all Acts when applied to Rotuma shall be construed to apply only so far as the circumstances of the island and its inhabitants permit";
- the removal of part 2 of the Act, which provides for the **District Officer's Court**;
- the **constitution of the membership of the Council of Rotuma**, which in clause 12 of the Act was:
  - the chiefs of the seven Rotuma districts;
  - one representative from each of the Rotuma districts elected in accordance with the provisions of this Act;
  - as advisory members without any voting powers, the District Officer, the most senior Medical Officer, and the most senior Agricultural Officer resident on Rotuma;

In the Bill, the new Council membership constitutes:

- the seven District Chiefs;

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- the seven Fautisi;
- 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
- the District Officer as an *ex-officio* member.
- the establishment of a new **Forum of the Rotuman People**;
- the addition of **dismissal arrangements** for District Chiefs (clause 12 of the Bill);
- the transfer of **responsibility for the administration Rotuma Development Fund** and the Rotuman Agricultural and Industrial Loan Fund from the Council to the new Forum;
- the **removal of the power of the Council to make Rotuma Regulations** to be obeyed by all members of the Rotuman community in Rotuma relating to the peace, order and good government of the Rotuman community. This **regulation-making power is transferred to the Minister** by the Bill; and
- the **removal of the offence** of aiding or abetting any member of the Rotuman community in committing a breach of any regulation.

A number of regulations<sup>5</sup> were made under the original Act (such as Burial Regulations, Emigration Regulations, Gambling Regulations, and Control of Stock Regulations).

## Objectives, scope and intent of the Bill

The Bill provides for the regulation of Rotuman affairs and related matters, by repealing and replacing the previous Act.

## Summary of provisions

### *Part 1 - Preliminary*

**Clause 1** provides for the short title and states that the new Act will come into force on the date of its publication in the Gazette.

**Clause 2** provides for the definitions of terms used throughout the Bill. The Bill's definitions are outlined in annex A of this paper.

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<sup>5</sup> Regulations can be read on this page, after the text of the Act: [http://www.pacii.org/cgi-bin/sinodisp/fj/legis/consol\\_act\\_OK/ra103/ra103.html?stem=&synonyms=&query=cap%20122](http://www.pacii.org/cgi-bin/sinodisp/fj/legis/consol_act_OK/ra103/ra103.html?stem=&synonyms=&query=cap%20122)

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**Clause 3** provides for a District Officer in Rotuma. It also 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.

### *Part 2 - Council of Rotuma*

**Clauses 4, 5 and 6** provide for the establishment of the Council of Rotuma, its membership, functions, operation procedure and decorum.

The Council consists of:

- the seven District Chiefs;
- the seven Faufisi (those who are next in rank to the District Chiefs);
- two Rotumans appointed by the Minister from the Rotuman community; and
- the District Officer as an ex-officio member.

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

**Clause 6** provides that the Council shall meet annually.

The functions of the Council shall be to:

- 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;
- consider any other matter which may bring about stability and harmony in Rotuma; and
- perform other functions as imposed on it by the provisions of any written law.

### *Part 3 - Forum of the Rotuman People*

**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.

**Clause 7** establishes the Forum of the Rotuman People, which consists of:

- the seven District Chiefs;
- seven elected members, each representing a district;
- one elected member representing women's rights and interests;
- four members appointed by the Minister; and

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- the District Officer as an ex-officio member.

The Forum may also co-opt an advisory member who shall not have any voting power.

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

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.

The functions of the Forum shall be to:

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

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

### ***Part 4 - Elections***

**Clauses 11, 12 and 13** provide for the election of District Chiefs and certain members of the Forum.

**Clause 11** outlines the process for **election of the District Chief** in accordance with Rotuman customs. It provides that all the *mosega* of a district shall elect the District Chief for that district, and if the *mosega* are unable to elect a District Chief, the *mosega* shall seek the assistance of the District Officer for an amicable solution.

If a solution still is not reached, the District Officer can 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.

Clause 11(5) provides that the Minister can appoint a Tribunal to determine the rightful District Chief. The Tribunal shall consist of a Chairperson and two other members of the Rotuman Community who are well versed with Rotuman customs. The decision of the Tribunal shall be final.



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**Clause 12** concerns the **disciplining of a District Chief**. The disciplining or 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. If the *mosega* are unable to determine a resolution, the Tribunal shall consider and decide on the issue.

**Clause 13** provides that a representative in respect of each of the seven districts and the representative of women's rights and interests will be elected by secret ballot. person shall be **eligible to be registered as a voter** if, at the date of application for registration, he or she:

- is a Rotuman of or over the age of 18 years;
- 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;
- is of sound mind; and
- is not serving a sentence of imprisonment.

A registered voter will only be entitled to vote in the election of a representative for the district in which the voter habitually resides; and in the election of the representative of women's rights and interests.

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—

- in the case of a representative of a district, is registered as a voter in the district which he or she seeks to represent;
- in the case of a representative of women's rights and interests, is registered as a voter in any district;
- 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
- is able to read and write in the Rotuman language.

Any person eligible as a candidate must be nominated by four persons, similarly qualified, to be a candidate at an election of a representative.

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

Any person who, at the date of an election, is serving a sentence of imprisonment or declared to be of unsound mind, will not be entitled to vote at any election.

No person shall be eligible as a candidate for election if he or she:

- is an undischarged bankrupt;

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- 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;
- is declared to be of unsound mind; and
- is an officer or servant of the Forum paid out of the funds of the Forum.

### ***Part 5 – Rotuma Development Fund***

**Clause 14** provides for the **continuation of the Rotuman Development Fund**. It was established under the previous Act, which is repealed by this Bill.

The objective in of the Fund in **clause 15** is the ‘promotion of the development, welfare and advancement of Rotumans’. The Fund consists of:

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

**Clause 16** provides that the Forum shall manage and control the Fund.

**Clause 17** gives the Forum 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. The rate of the levy shall not exceed 10% of the purchase price payable to the producer for the sale of such produce, and the Forum has the power to vary the rate.

Any levy imposed under this clause 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 shall be recoverable in any manner provided by law for the recovery of civil debts.

“Primary produce” means copra, taro, and any other agricultural produce or marine catch as may be specified by the Minister by notice in the Gazette.

**Clause 18** provides that 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***

**Clause 19** provides for the continuation of the Rotuma Development Fund and the Rotuma Agricultural and Industrial Loan Fund.

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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.

The Forum may provide loans 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. The Agricultural and Industrial Loan Fund will be administered by the Forum.

**Clause 20** provides for all rights, liabilities and obligations in respect of the Rotuma Agricultural and Industrial Loan Fund, which were rights, liabilities and obligations of the former Council shall be vested in the Forum.

**Clause 21** provides for indemnification of the former Council.

### ***Part 7 – Miscellaneous***

**Clause 22** provides that the accounts of the Forum, Fund and Agricultural and Industrial Loan Fund shall be audited.

**Clause 23** gives the Minister the power to make regulations (in consultation with the Forum) on issues including:

- the cleanliness of Rotuma and the promotion of public health;
- the social and economic improvement of the Rotuman community;
- the performance of communal work or activities by members of the Rotuman community;
- the control of livestock in Rotuma;
- the prevention or removal of public nuisance in Rotuma;
- the care of children, senior citizens and persons with disabilities; and
- the conservation of food supplies in Rotuma.

**Clause 24** repeals the Rotuma Act (Cap. 122).

## Gender analysis

According to the most recent Census, there were 10,335 Rotuman people in 2007, of which around 2,000 lived in Rotuma. 51% are male and 49% female, which is in line with the rest of the population of Fiji.



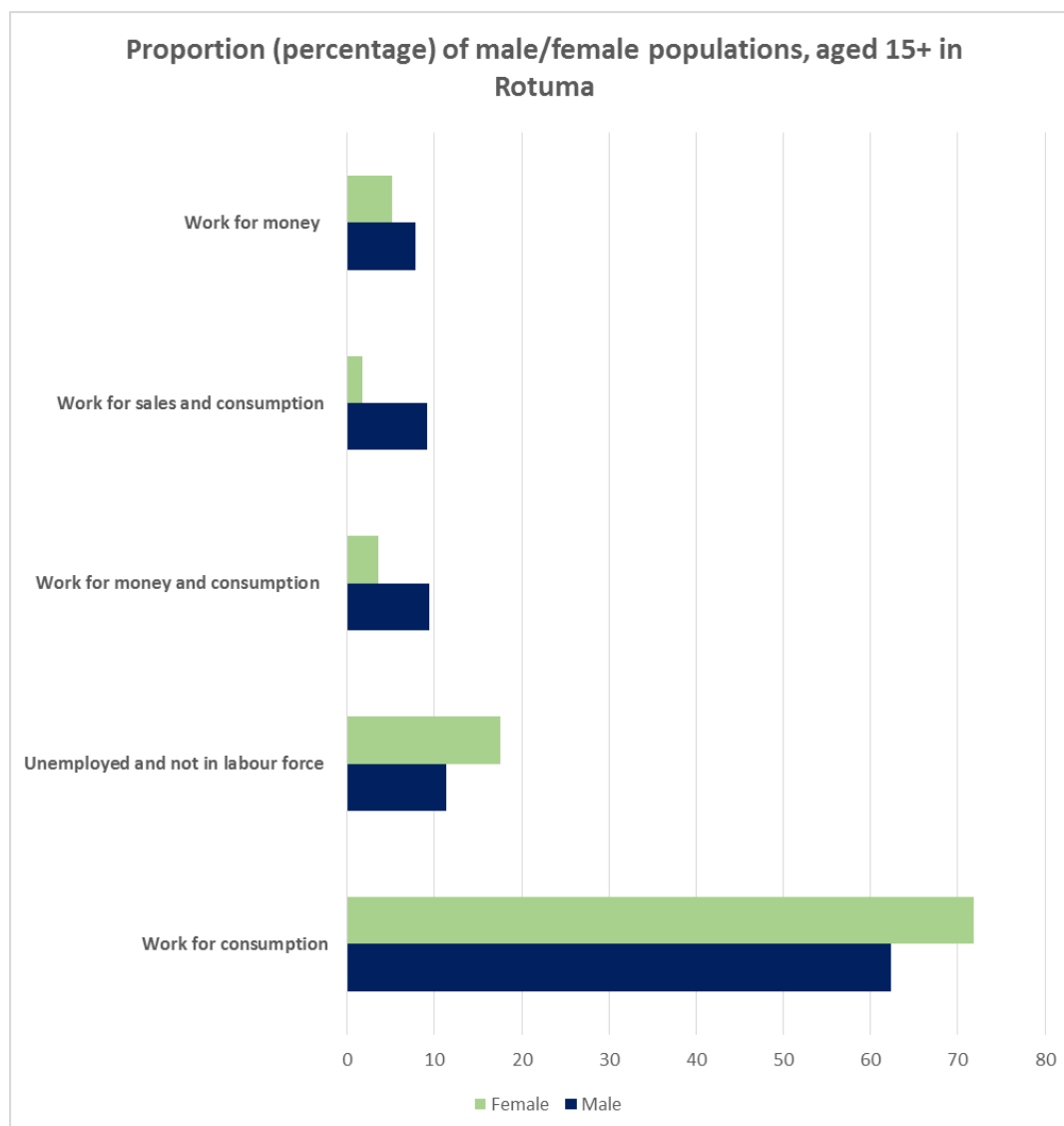
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The total working age population (15 years+) living in Rotuma was 1,341 in 2007, and the statistics demonstrate that the labour market is very different for men and women in Rotuma.

53% of the male population and 47% of the female population were 'economically active' (which means the proportionate of people that are 'able to work', and includes unemployment). 'Economic inactivity' refers to people who are retired, studying, and 'engaged in family duties'

More females work for 'consumption', and more males are employed to work for money.



Data source: Fiji PopGIS: <http://fiji.poggis.spc.int/>

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The Bill provides for the establishment of the Forum of Rotuman People, and requires that **one elected member represents women's rights and interests**. This was not provided in the previous Act. The eligibility criteria for membership are that the person:

- is registered as a voter in any district;
- 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
- is able to read and write in the Rotuman language.

## Further information

- <http://www.rotuma.net/index.html> - key resource of information, research and sources on Rotuma;
- Petition on Rotuma Bills from Captain Fuata Pene Jione, July 2015:  
[http://www.rotuma.net/os/NewsArchive/Archive2015/Rotuma\\_Bills\\_Petition\\_by\\_Fuata\\_Jione%20.pdf](http://www.rotuma.net/os/NewsArchive/Archive2015/Rotuma_Bills_Petition_by_Fuata_Jione%20.pdf)
- Where Has Rotuman Culture Gone? And What is it Doing There?, Pacific Studies 24 (1/2): 63-88, 2001: <http://www.hawaii.edu/oceanic/rotuma/os/howse/33where.htm>
- Office of the Prime Minister, Rotuma Development update:  
<http://www.pmooffice.gov.fj/index.php/projects/rotuma-development>
- From Election to Coup in Fiji: The 2006 Campaign and Its Aftermath, Case study 14 – 'From marginalization to mainstream – Rotuma and the 2006 election', Kylie Jayne Anderson p185:  
[https://books.google.com.fj/books?id=sUplPokMR4C&pg=PA195&lpg=PA195&dq=rotuma+women&source=bl&ots=NLotv7kkhN&sig=ekBy37dFl1d9jya2Uem6v7tqlxl&hl=en&a=X&redir\\_esc=y#v=onepage&q=rotuma%20women&f=false](https://books.google.com.fj/books?id=sUplPokMR4C&pg=PA195&lpg=PA195&dq=rotuma+women&source=bl&ots=NLotv7kkhN&sig=ekBy37dFl1d9jya2Uem6v7tqlxl&hl=en&a=X&redir_esc=y#v=onepage&q=rotuma%20women&f=false)

## Disclaimer

This briefing was prepared to assist consideration of the Bill by Members of Parliament. It has no official status. Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

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### Annex A - definitions used in the Bill

**“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’ti’u, Malha’a, Juju, Pepjei and Itu’muta.