

ACT NO. 1 OF 2021

I assent.

J. K. KONROTE

President

[12 February 2021]

AN ACT

TO AMEND THE HIGH COURT ACT 1875

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the High Court (Amendment) Act 2021.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Part 6B inserted

2. The High Court Act 1875 is amended after section 21K by inserting the following new Part—

“PART 6B—THE ANTI-CORRUPTION DIVISION OF THE HIGH COURT

Interpretation

21L. In this Part, unless the context otherwise requires—

“Commission” means the Fiji Independent Commission Against Corruption established under section 3 of the Fiji Independent Commission Against Corruption Act 2007;

“Commissioner” means the Commissioner of the Fiji Independent Commission Against Corruption appointed under section 5 of the Fiji Independent Commission Against Corruption Act 2007 and includes the Deputy Commissioner and the acting Commissioner respectively appointed under sections 6 and 7 of the Fiji Independent Commission Against Corruption Act 2007; and

“Division” means the Anti-Corruption Division of the High Court.

Anti-Corruption Division of the High Court

21M.—(1) This section establishes the Anti-Corruption Division of the High Court.

(2) The Division consists of such Judges as the Chief Justice determines.

Judges of the Division

21N.—(1) The Chief Justice may, in writing, designate a Judge or Judges to preside as a Judge in the Division.

(2) The designation of a Judge under this section does not preclude the Judge exercising other powers and jurisdiction of the High Court.

(3) The Chief Justice shall have the power to revoke the designation of any Judge from presiding in the Division.

(4) The appointment of a Judge under section 106(2) of the Constitution of the Republic of Fiji is not affected if the designation of the Judge to preside over the Division is revoked pursuant to subsection (3).

Jurisdiction and powers of the Division

21O.—(1) The Division has jurisdiction in—

- (a) proceedings instituted pursuant to section 12B of the Fiji Independent Commission Against Corruption Act 2007 in respect of the offences listed in section 2A of the Fiji Independent Commission Against Corruption Act 2007; and
- (b) any other matter in respect of which jurisdiction is conferred on it by a written law.

(2) Subject to this Act, Judges of the Division have all such powers as are by law or custom granted to the High Court including the hearing of appeals from the Anti-Corruption Division of the Magistrates Court.

Exercise of jurisdiction

21P.—(1) The original and appellate jurisdiction of the Division is exercisable by one or more Judges as the Chief Justice may direct or as prescribed by the rules of court.

(2) Sittings of Judges of the Division are to be held from time to time as required at such places in Fiji as the Chief Justice directs.

Appeals from the Anti-Corruption Division of the Magistrates Court

21Q.—(1) An appeal from the Anti-Corruption Division of the Magistrates Court lies as of right to the Division subject to Division 1 of Part 15 of the Criminal Procedure Act 2009.

(2) Appeals from Judges of the Division exercising original or appellate jurisdiction lie to the Court of Appeal subject to Part 4 of the Court of Appeal Act 1949.

Transfer of pending proceedings

21R. Upon commencement of the High Court (Amendment) Act 2021, all pending proceedings instituted by the Commissioner in the High Court shall be transferred to the Division.

Practice and procedure

21S.—(1) The practice and procedure of the Division are governed by the provisions of the Fiji Independent Commission Against Corruption Act 2007 and the Criminal Procedure Act 2009 (in so far as they are capable of such application and subject to any directions of the Chief Justice).

(2) If there is inconsistency between the provisions of the Fiji Independent Commission Against Corruption Act 2007 and the Criminal Procedure Act 2009, the provisions of the Fiji Independent Commission Against Corruption Act 2007 shall prevail to the extent of the inconsistency.

Crimes Act 2009 and other written laws

21T.—(1) The provisions of the Crimes Act 2009 shall be applicable in the Division to the extent that those provisions are not inconsistent with the provisions of the Fiji Independent Commission Against Corruption Act 2007.

(2) The provisions of any other written law pursuant to which the Commissioner institutes proceedings in exercise of the powers conferred on the Commissioner under section 12B of the Fiji Independent Commission Against Corruption Act 2007 shall be applicable in the Division to the extent that those provisions are not inconsistent with the provisions of the Fiji Independent Commission Against Corruption Act 2007.

Extent of jurisdiction

21U. The extent of the jurisdiction of the Division shall be that prescribed in section 8 of the Crimes Act 2009.”.

Consequential amendment

3. The Magistrates Court Act 1944 is amended after section 61G by inserting the following new Part—

“PART 8B—ANTI-CORRUPTION DIVISION OF THE MAGISTRATES COURT

Interpretation

61H. In this Part, unless the context otherwise requires—

“Commission” means the Fiji Independent Commission Against Corruption established under section 3 of the Fiji Independent Commission Against Corruption Act 2007;

“Commissioner” means the Commissioner of the Fiji Independent Commission Against Corruption appointed under section 5 of the Fiji Independent Commission Against Corruption Act 2007 and includes the Deputy Commissioner and the acting Commissioner respectively appointed under sections 6 and 7 Fiji Independent Commission Against Corruption Act 2007; and

“Division” means the Anti-Corruption Division of the Magistrates Court.

Anti-Corruption Division of the Magistrates Court

61I.—(1) This section establishes the Anti-Corruption Division of the Magistrates Court which is subordinate to the Anti-Corruption Division of the High Court.

(2) The Division consists of such Resident Magistrates as the Chief Justice determines in consultation with the Chief Magistrate.

(3) An appointment as a Magistrate of the Division does not prevent a Magistrate sitting as or executing any other power of a Resident Magistrate.

(4) The Chief Justice in consultation with the Chief Magistrate shall have the power to revoke the designation of any Magistrate from presiding in the Division.

(5) The appointment of a Magistrate under section 107(1) of the Constitution of the Republic of Fiji is not affected if the designation of the Magistrate to preside over the Division is revoked pursuant to subsection (4).

Jurisdiction and powers of the Division

61J.—(1) The Division has jurisdiction in—

(a) proceedings instituted pursuant to section 12B of the Fiji Independent Commission Against Corruption Act 2007 in respect of the offences listed in section 2A of the Fiji Independent Commission Against Corruption Act 2007; and

(b) any other matter in respect of which jurisdiction is conferred on it by a written law.

(2) All Magistrates of the Division shall exercise all such powers as are granted by law to Resident Magistrates and to Magistrates Courts.

(3) Sittings of Magistrates of the Division are to be held from time to time as required at such places in Fiji as the Chief Magistrate, in consultation with the Chief Justice, directs.

Exercise of jurisdiction

61K.—(1) The original jurisdiction of the Division is exercisable by one or more Magistrates as the Chief Justice may direct or as prescribed by the rules of the court.

(2) Sittings of Magistrates of the Division are to be held from time to time as required at such places in Fiji as the Chief Justice directs.

Appeals from the Division

61L. An appeal from the Division lies as of right to the Anti-Corruption Division of the High Court subject to Division 1 of Part 15 of the Criminal Procedure Act 2009.

Transfer of pending proceedings

61M.—(1) Upon commencement of the High Court (Amendment) Act 2021, all pending proceedings instituted by the Commissioner in the Magistrates Court shall be transferred to the Division.

(2) For the avoidance of doubt, the transfer of pending proceedings instituted by the Commissioner in the Magistrates Court shall be subject to section 139 of the Criminal Procedure Act 2009.

Practice and procedure

61N.—(1) The practice and procedure of the Division are governed by the provisions of the Fiji Independent Commission Against Corruption Act 2007, the Criminal Procedure Act 2009 and the Magistrates Courts Rules 1945 (in so far as they are capable of such application and subject to any directions of the Chief Justice or the Chief Magistrate, as the case may be).

(2) If there is inconsistency between the provisions of the Fiji Independent Commission Against Corruption Act 2007 and the Criminal Procedure Act 2009 or the Magistrates Courts Rules 1945, the provisions of the Fiji Independent Commission Against Corruption Act 2007 shall prevail to the extent of the inconsistency.

Crimes Act 2009 and other written laws

61O.—(1) The provisions of the Crimes Act 2009 shall be applicable in the Division to the extent that those provisions are not inconsistent with the provisions of the Fiji Independent Commission Against Corruption Act 2007.

(2) The provisions of any other written law pursuant to which the Commissioner institutes proceedings in exercise of the powers conferred on the Commissioner under section 12B of Fiji Independent Commission Against Corruption Act 2007 shall be applicable in the Division to the extent that those provisions are not inconsistent with the provisions of the Fiji Independent Commission Against Corruption Act 2007.

Extent of jurisdiction

61P. The extent of the jurisdiction of the Division shall be that prescribed in section 8 of the Crimes Act 2009.”.

Passed by the Parliament of the Republic of Fiji this 11th day of February 2021.