



STANDING COMMITTEE ON SOCIAL AFFAIRS

COMMITTEE REPORT FOR AN ACT TO AMEND THE NATIONAL EMPLOYMENT CENTRE DECREE 2009

(BILL NO. 31 OF 2016)



**PARLIAMENT OF THE REPUBLIC OF FIJI
Parliamentary Paper No. 63 of 2017.**

22nd March, 2017

Published and Printed by the Department of Legislature, Parliament House, SUVA



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Introduction

Using the legislative powers provided to the Committee, this report examines the Government's proposal to introduce an amendment Bill for an Act to amend the *National Employment Centre Decree 2009* (Bill No.31 of 2016).

The Employment Centre (Amendment) Bill ("the Bill") was referred to the Committee on 27th April, 2016 after its second reading. The Committee has responsibility for examining the Bill and agreeing to any appropriate amendments.

On Tuesday 23rd November, 2016 the Committee called for submissions from relevant stakeholders which included the Solicitor General's Office and the Ministry of Employment, Productivity & Industrial Relations. On Thursday, 23rd February the Fiji Commerce Employers Federation appeared before the Committee to present its views on the amendment Bill.

The Committee received 3 responses to its call for submissions. It held oral evidence sessions with the Solicitor General's Office, Fiji Commerce and Employers Federation and the Ministry of Employment, Productivity and Industrial Relations. The Committee is grateful to these institutions that participated and provided valuable contributions to the review of the Bill. A full list of the evidence received is available in the Annexes.

Upon hearing the evidence from the Ministry responsible and the Solicitor General's Office, the Committee was made aware that the purpose of the Bill seeks to amend the *National Employment Centre Decree 2009*. The intention of the Bill is to amend the Decree based on the findings of the National Employment Centre (NEC) and what they have been encountered on a daily basis in terms of operational purposes. The main purpose of the amendment is to align the provisions of the law with the current operational procedures of the NEC whilst also allowing for broad strategic directions and partnerships to be undertaken.

After careful examination of the Bill and taking into account the views expressed by the stakeholders, the Committee resolved to make no amendments to the Bill. However, there were some amendments made in the Bill by the Office of the Solicitor General and this was the practice done for all other legislations to be aligned with Fiji's national laws. The other issues that were raised during the consultation were clarified by the Ministry of Employment, Productivity and Industrial Relations and the Office of the Solicitor General and will be dealt with in by the Ministry.

Committee Remit and Membership

The Committee is a standing Committee of the Fijian Parliament and was established under Section 109 (2) of the Standing Orders (SO) of Parliament of the Republic of Fiji. The Committee comprises of five (5) members, drawn from both the Government and the Opposition parties. The Committee is mandated to examine matters related to health, education, social services, labour, culture and media. Section 110(1)(a) of the SO mandates the Committee to examine the Bill as referred by Parliament, and make appropriate amendments to the Bill, to the extent agreed by the Committee.

On Wednesday 27th April 2016, the Attorney General tabled the Employment Centre (Amendment) Bill. The House resolved that the Bill be committed to the Standing Committee on Social Affairs to examine and report back to Parliament in a future sitting day.

Committee Members

The members of the Standing Committee on Social Affairs are as follows:

- | | | |
|----------------------------|---|--------------------|
| 1. Hon. Viam Pillay | ⇒ | Chairperson |
| 2. Hon. Veena Bhatnagar | - | Deputy Chairperson |
| 3. Hon. Salote Radrodro | ⇒ | Member |
| 4. Hon. Anare Vadei | - | Member |
| 5. Hon. Mohammed M. A Dean | - | Member |

During the Standing Committee's meetings, the following alternate membership arose pursuant to Standing Order 115 (5):

1. Hon. Ruveni N. Nadalo (Alternate Member for Hon. Mohammed M. A Dean);

Analysis of the Evidence received

The Committee received 3 submissions and heard oral evidence from 3 stakeholders at public hearings held at the Parliament Buildings, Suva from 23rd December, 2016 to 15th March, 2017.

The report is a bi-partisan one that includes contributions from all parties represented in the Committee.

A number of key issues were raised during the Committee's scrutiny with regards to the contents of the Bill. The Committee considered all the written and oral submissions made by the stakeholders and after its internal deliberation, the Committee formulated its conclusion below.

In particular, the Committee was made aware that the proposed amendment in the Bill were administrative in nature and therefore after a thorough discussions with the relevant stakeholders the Committee noted that the amendments is necessary as it will address all operational issues that were encountered by the Ministry responsible. However, the Committee also noted that another main reason of the amendments is to align the provisions of the law with the current operational procedures of the NEC. On this regard, all other issues that were raised by the Members in regards to the proposed amendment Bill in terms of each clause has been clarified and addressed accordingly.

Further, it was noted that the amendments were proposed based on the recent launched made to the revised edition of the Laws of Fiji in which all Decrees and Promulgations are now referred to as Acts as per the revised edition of the Laws Consequential Amendments Act 2016.

Additional issues considered by the Ministry of Employment, Productivity and Industrial Relations, and the Solicitor General's Office

Overall, the majority of the stakeholders consulted expressed full support of the Bill. For example, the Ministry of Employment, Productivity and Industrial Relations said:

“When the National Employment Centre (NEC) came into operation in 2009, as of late there have been certain parts of the law where the operation on the ground and the provisions in the law do not match. So, in totality, the Bill to amend the National Employment Centre Decree captures the mismatches between the operations on the ground and the requirements in the law. So,

this Bill is aligning the two processes. Overall, the Ministry endorses the Bill.”
(Oral Evidence, 23rd December, 2016)

Consultation

Members asked all stakeholders who they had consulted with because they wanted to ensure that a full consultation had been undertaken. The Ministry assured the Committee that since the amendments were administrative in nature that was the reason why other stakeholders were not consulted. The Committee proposed that once the Bill has been passed then these organisations should be consulted on the changes being made in the Act.

Clause 9 [Amends Section 97 (1) (a)]

The Committee raised issues with Clause 9 of the Bill. It was of the view on whether it is better to put this amended section in the Act or the Regulation for ease of revision given that incorporating any new amendments in the Act takes a very long process rather than incorporating it in the Regulation. It was noted that Clause 9 to remain as it is given its intended purpose.

Clause 10 [Amends Section 103]

The Committee questioned the Solicitor General’s Office on Clause of the Bill on why the NEC Board cannot report directly to the line Minister rather than reporting again to the Employment Relation Advisory Board. The Solicitor General’s Office said that:

“In regard to Clause 10, SG’s Office had consulted Ministry of Employment, the amended Bill allows the Minister to, not only consult Employment Relations Advisory Board (ERAB) but it also allows ERAB to consult the National Employment Centre Board (NECB), ERA is tripartite body which not only represents Government, but workers and employers also, and they are the body which advises Ministry of Employment. This ensures further that the Interest of the National Employment Centre is safeguarded, where ERAB consults the NECB first before ERAB consults THE Minister. The consultation of ERAB and NECB to remain as its safe guards the interest of NEC Board.” ((Oral Evidence, 15th March, 2017)

National Employment Centre to be a Separate body from the Ministry of Employment, Productivity and Industrial Relations

The Committee queried the Solicitor General’s Office (SG’s Office) on whether the National Employment Centre can be a separate body from the Ministry of Employment, Productivity and Industrial Relations. The SG’s Office confirmed with the Committee that they had also consulted the Ministry of Employment, Productivity and Industrial Relations as it was regarded as a policy issue, the Ministry responded that it is currently looking into achieving the separation of National Employment Centre from the Ministry, but it will be a long

process if the Ministry adopt that new dimension. In this case, the Committee noted that it will be overall review of the Ministry include the review of legislation. However, the advice from SG's office was that for NEC to be remaining and part of the Ministry.

Gender analysis

Gender is a critical dimension to parliamentary scrutiny. Under Standing Order 110 (2) the Committee is required to ensure full consideration to the principle of gender equality so as to ensure all matters are considered with regard to the impact and benefit on both men and women equally.

The Committee considered the issue of equal opportunity for all citizens including women and men during its review of the Bill, deliberations and consultations. The Committee is satisfied that the Bill will impact on both men and women equally.

CONCLUSION

The Committee concluded and resolved that given the clarification and responses received from the key stakeholders who participated in the consultation process on the Bill, it does not recommend any amendments. The Committee is satisfied that all issues of concerns have been addressed.

The above explanation sets out why the Committee has agreed and the rationale behind its decision not to make any amendments in the Bill. However, the principal amendments were aligned to the launch of the Revised Edition of the Laws of Fiji which was done in early December last year, namely the Revised Edition of the Laws Act, Revised Edition of the Laws Consequential Amendments Act 2016, which all Decrees and Promulgations were amended and referred to as Acts. A revised copy of the Bill, which incorporates these changes, will be tabled alongside the report.

Finally, the records of enquiry with relevant stakeholders are also attached for references.

Annexe A – Glossary of terms used

CEO	Chief Executive Officer
ERAB	Employment Relations Advisory Board
FCEF	Fiji Commerce and Employers Federation
NECB	National Employment Centre Board
NEC	National Employment Centre
SGO	Solicitor General's Office
SO	Standing Orders

Annexe B – Oral evidence received

The Committee took oral evidence on the following dates from the following stakeholders:

1. Office of the Solicitor General (4th May, 2016, 23rd December, 2016 and 15th March, 2017)
2. Ministry of Employment, Productivity and Industrial Relations (23rd December, 2016)
3. Fiji Commerce and Employers Federation (23rd February, 2017)

Annexe C – Written evidence received

The Committee received 2 written submissions from the following organisations:

1. Ministry of Employment, Productivity and Industrial Relations
2. Fiji Commerce and Employers Federation



**MINISTRY OF EMPLOYMENT, PRODUCTIVITY & INDUSTRIAL RELATIONS
GPO BOX 2216, GOVERNMENT BUILDINGS, SUVA**

Level 4 Civic House, Victoria Parade
Phone: 3303500
Fax : 3304701
3310806

Level 5, Mediation Services
Phone: 3315878 / 3310097
Fax : 3317259 / 33100242

Level 6, National OHS Service
Phone: 3316995
Fax : 3315029

LSS, Level 2 Post Fij Building
Phone: 3314990 / 3306372
Fax : 3314198

NEC, Level 2 Post Fij Building
Phone: 3310331 / 3310801
Fax :



"DECENT EMPLOYMENT & PRODUCTIVITY FOR ALL"

Submission –

A Bill for an Act to Amend the National Employment Centre Decree 2009 (Bill No. 31 of 2016)

Purpose

- After being in operation since 2009, the National Employment Centre has found it necessary to amend the Decree based on their findings and what they have encountered on a daily basis in terms of operational purposes.
- The main purpose of the amendments is to align the provisions of the law with the current operational procedures of the National Employment Centre whilst also allowing for broad strategic directions and partnerships to be undertaken.

Submission

- The Ministry of Employment, Productivity and Industrial Relations endorses the Bill and makes the following submissions.
- Section 5 amended:** The current Decree mentions the Higher Education Commission hence the amendment provides clarity to the definition of the term.
- Section 18 amended:** the amendment includes the efficient and effective implementation of employment creation policies which includes a national employment policy. The amendment also deletes references to the Chief Executive Officer as the Employment Services are currently managed by Managers and these officers report to the Director National Employment Centre.
- Section 25 amended:** the amendment aligns the law with the current office establishment and refers to all workers under the National Employment Centre as "officers". The amendments also ensure that appointments are in line with the Constitutional requirement that appointments are done by the Permanent Secretary in agreement with the Minister.
- Section 29 amended:** the amendment here also aligns the law to our processes as all the Employment Services are under the National Employment Centre and annual reports are provided to the Minister responsible for civil service as the Ministry of Civil Service is responsible for the overall policy framework and implementation of the same in the civil service.
- Section 47 amended:** the inclusion of the terms "national, regional and international" ensures that there is varied and dynamic securing of strategic partnership by the National Employment

Centre with training institutions and agencies. Further, there is an expansion of institutions which the National Employment Centre can secure strategic partnerships with.

- **Section 70 amended**: the removal of Chief Executive Officer in this provision aligns the law with our current structure as we have a Director and Managers for the Employment Services.
- **Section 77 amended**: this amendment also aligns the law with our current operation and structure as the Fiji Volunteer Service is now included in our Ministerial Structure under the National Employment Centre.
- **Section 97 amended**: this amendment realizes the importance of the National Employment Centre providing professional counseling and aptitude assessment.
- **Section 103 amended**: this amendment ensures that regulations made by the Minister are done holistically on the advice of the Employment Relations Advisory Board in consultation with the National Employment Centre Board who are responsible for the overall policy and operational direction of the National Employment Centre.

**THE FIJI COMMERCE & EMPLOYERS FEDERATIONS SUBMISSION TO THE PARLIAMENTARY
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EMPLOYMENT CENTRE DECREE 2009**

1.0 INTRODUCTION:

- 1.1 In making this submission, as usual, due cognizance was given to the all-important economic principle of creating an enabling environment conducive to economic development.
- 1.2 We recognize the NEC Decree as part of the Human Capital component of the national restructuring process on "creating an enabling environment".
- 1.3 We acknowledge that when building on our human capital there is a need to regulate and strategically direct the development of our human resources to meet with our other economical needs.
- 1.4 There is no doubt in our minds that the NEC Decree and the Centre sets out to meet some of these needs.

Section 2 of the Decree sets out the object of the legislation which states "The object of this Decree is to provide a reformative legislative framework which enables provision of quality employment services to the unemployed and also the creation of decent and environmentally sustainable employment)
- 1.5 Due consideration was given to the overall performance of the National Employment Centre since 2010 till to date when deliberating over the proposed amendments. This deliberation was of course made from an employer's representative perspective.
- 1.6 The said perspective was guided by the following principles:
 - a. Managements prerogative to manage
 - b. workers rights
 - c. cost of doing business

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2.0 THE FCEF SUBMISSION

2.1 The following is the Federations submission on Bill No. 31 of 2016 for an Act to amend the NEC Decree 2009: -
Bill No. 31 of 2016

Proposed Section	Existing Provision	Proposed	FCEF Position
1		1. (1) This Act may be cited as ...	FCEF has no issue with this provision
2	5-(1) In this decree, unless the context otherwise requires –	"Higher Education Commission" means the Higher Education Commission established under section 5 of the Higher Education Promulgation 2008."	FCEF supports the insertion of this added provision to existing provision
3. (a)	18.-(1) The functions and powers of the Board are – (a) to (f) (g) to ensure the efficient and effective implementation of employment creation policies of Government through the various Employment Creation Services by way of effective facilitation, co-Ordination and monitoring roles;	Section 18 (a) deleting subsection (1) (g) and substituting the following – " (g) to ensure the efficient and effective implementation of the employment creation policies , through various employment creation services by way of effective facilitation , coordination and monitoring roles" ; and	FCEF has issues with the proposed deletion of the "Chief Executive Officer" for the reasons stated in the proposed s. 4 of the Bill.
(b)	(5) To facilitate the implementation		

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	of the Board's function under subsection (1), each Employment Creation Service must establish its own working committee. The committee is to be chaired by the Chief Executive Officer or manager of the Employment Creation Centre	(b) In subsection (5), deleting " Chief Executive Officer or "	
4	<p><u>Appointment of officers</u></p> <p>25.—(1) All chief executive officers, managers and officers to be employed under the National Employment Centre Secretariat, the Formal Employment Service, the Self-Employment Service, the Fiji Volunteer Service and the Foreign Employment Service shall be appointed by the Minister on a performance-based contracts.</p> <p>(2) The Minister shall appoint an appropriate number of officers, on performance-based contracts, to effectively manage and operate the National Employment Centre offices throughout the Fiji Islands and its Secretariat</p>	<p>a) in subsection (1)</p> <p>i. deleting "chief executive officers, managers and "; and</p> <p>ii. deleting " Minister on a performance-based contract" and</p> <p>(b) in subsection (2) . inserting "Permanent Secretary with the agreement of the" before "Minister" .</p>	<p>FCEF opposes the spirit of this amendment in its totality. The NEC should be autonomous and freed from governmental bureaucracy as is the existing policy intent.</p> <p>This proposed amendment will officially formalize the complete transition of the NEC into another governmental entity bogged down in its own bureaucracy.</p> <p>Since the establishment of the NEC the institution was managed by the line ministry and the Board was more often than not used as a rubber stamp.</p> <p>The CEO position was never filled in by a fit and proper candidate and the intended infra structure was never allowed to be set up to properly facilitate the NEC in the manner it ought to have been.</p>

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			<p>The NEC has been running as a department of the ministry of Labour since its inception. The services provided has been limited and not satisfactory and this is the NEC in the "departmentalized" form.</p> <p>The FCEF opposes the removal of the CEO position in section 4 of the Bill. The Federation also opposes the empowerment of the Permanent Secretary and the Minister in the recruitment of all human resources and the management/operation of the NEC throughout the Fiji Islands in the same said section.</p>
5	<p><u>Integrated annual report</u></p> <p>29. The National Employment Centre Secretariat must, in a timely manner, forward a copy of the integrated annual report of all the Employment Creation Services to the chairperson of the Board and the Minister, including the host Ministers of the respective services</p>	<p>Section 29 of the Decree is amended by deleting "the host Ministers of the Respective services " and substituting "the Minister responsible for civil services"</p>	<p>The FCEF opposes this proposed <u>amendment</u>. The <u>integrated annual report</u> should be endorsed by the NEC Board and forwarded to the relevant <u>line Minister</u>, in this case the <u>Minister for Employment</u>.</p>
6 (47)	<p><u>Strategic partnerships with training institutions and agencies</u></p>		<p>The FCEF supports this proposal.</p>

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<p>47.—(1) The National Employment Centre shall secure strategic partnerships with vocational training or other 1401</p> <p>training institutions or training consultants for the purposes of reviewing current offerings for life skills training, employment skills, entrepreneurship skills and foreign employment training and delivering modern and progressive life skills and employment skills training packages to the Employment Creation Services at competitive costs on user-pay basis.</p> <p>(2) The contents of skills training include good faith values, peace-building conflict resolution culture, innovation and creativity, productivity culture, financial literacy, thrift budgeting and savings, cross-culture sensitisations, religions, racial and gender harmony, prevention of HIV/AIDS and drugs, environment and sustainable development.</p>	<p>(a) in subsection (1) “national regional or international ” after “with” ; (b) inserting the following new subsection after subsection (2) – “(3) The National Employment Centre shall secure strategic partnership with</p> <p>a) social security institutions; b) financial institutions and donor agencies ; c) civil society organizations and religious institutions; d) national, regional or international information communications technology organizations; e) national, regional and international institutions dealing with sustainable development, environment and climate change matters for the purpose of capacity building and financing of green growth , green jobs and green productivity projects including the promotion of green volunteers; f) national, regional and international institutions dealing with disability matters for the purpose of capacity building and</p>	
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		<p>financing of disabilities projects, including the absorption of persons with disabilities into employment and small and microenterprise development;</p> <p>b) the ministry of Employment ,Productivity and Industrial Relations, the Ministry of Youth , the Ministry of Civil Services and the Office of the Registrar of Births, Deaths and Marriages under the Ministry of Justice ; or</p> <p>h) the iTaukei Land Trust Board , the Ministry of iTaukei Affairs , the Ministry of Provincial development and mataqali land owners for the purpose of capacity building , cost sharing and relocation of a person back to the rural areas;</p>	
7.	<p><u>Starting small and micro enterprises</u></p> <p>(5) The officer conducting a site monitoring visit under subsection (4) must, within one week, provide his or her site visit report to the Chief Executive Officer or manager of the</p>	<p>70 (5) of the Decree is amended by deleting " Chief Executive Officers or"</p>	<p>FECF opposes this amendment for the reasons submitted in section 4 of the Bill above.</p>

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	Self-Employment Service in the prescribed manner		
8.	<u>Establishment and designation of Fiji Volunteer Service</u> The Minister shall, by notice in the Gazette, designate and establish the Human Resource Management Division of the Public Service Commission to be the Fiji Volunteer Service.	77 (2) of the Decree is amended by deleting "Human Resources Management Division of the Public Services Commission to be the Fiji Volunteer Services" and substituting "Fiji Volunteer Services to be operated under or hosted by the Ministry of Employment, Productivity and Industrial Relations".	FCEF agrees that there is a drastic need to amend this provision and agree that the Fiji Volunteer Services ought to be operated by the Ministry responsible for employment. The drafting could be simplified to easily reflect this very important policy intent.
9. 97 (1)	<u>Payments of the Fund</u> 97. —(1) The money standing to the credit of the Fund may be applied by the Minister, on the advice of the Board, for the purposes of defraying the expenses of the following activities associated with employment creation— (a) life skills, employment skills and entrepreneurship skills training;	97 (1) of the Decree is amended in paragraph (a) by inserting "professional , counseling , aptitude assessment, "before "Life"	The proposal in our respectful view is more operational and should not be reflected at policy level. It could easily be entertained in the regulations.
10.	<u>Regulations</u>	s. 103 of Decree is amended in subsections (1) and (4) by inserting	This proposal is supported by the FCEF. It makes sense. The NEC Board should report

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<p>103.—(1) The Minister may, on advice of the Employment Relations Advisory Board, make regulations to give effect to any of the provisions of this Decree, and in particular to make regulations for any of the following purposes—</p>	<p>(a) providing for the particulars to be contained in any condition of engagement with the National Employment Centre under Part 7 of this Decree, including data management, attachment allowances, workplace strategic partnerships and compulsory registration of unemployed persons;</p> <p>(b) prescribing matters relating to life skills training, employment skills training, entrepreneurship skills training, workplace attachments, certificates of attachments, volunteer assignments, business attachments, foreign employment and the management, operation and monitoring of any of these</p>	<p>“after consultation with the National Employment Centre Board” after “Board”</p>	<p>directly to the relevant line Minister and not another advisory board.</p>
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	<p> matters under Parts 8, 9, 10 and 11 of this Decree; (c) prescribing the records, registers, books, accounts and other documents to be kept and the information or returns to be rendered by employers and other persons in respect of attachés, volunteers and foreign employment; (d) prescribing matters relating to the promotion of vocational training and rehabilitation into decent employment for persons with disabilities; (e) prescribing fixed penalties, fees and forms under this Decree; (f) prescribing matters relating to the management of the National Employment Centre Trust Fund under Part 12 of this Decree, including seed funding criteria; (g) prescribing matters relating to the promotion, creation and sustenance of green jobs, green industries and green growth; and (h) prescribing all matters which are required or needed to be prescribed by this Decree. </p>		
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10.	(4) The Minister may, on the advice of the Employment Relations Advisory Board, issue codes of practice or guidelines for the purposes of this Decree.	Section 103 of the Decree is amended in subsections (1) and (4) by "inserting" after consultation with the NEC Board after "Board".	We propose that the provisions for "Employment Relations Advisory Board" be simply substituted with the "National Employment Centre Board" And all other (if any) provisions referring to the said ERAB in the Decree be similarly amended.

3.0 OBSERVATIONS

- 3.1 At the end of 2014 the population was estimated to be at 865,611. Two thirds of this number (66% or approximately 570,807) are Fijians in the working age group of 15 – 64.
- 3.2 Eighteen percent (or 155,810) of the total population falls under the age group of 15 – 24.
- 3.3 The formal workforce in Fiji engages approximately 130,000 – 140,000
- 3.4 Since 2010 the existing data base is never fully updated. The existing data only comprises of who registered at the NEC but whether or not the individuals in the data base have found employment has never really been managed competently. Too often when names obtained from the data base are approached they are either in formal employment, gone overseas or dead.
- 3.5 The NEC operated as a department of the Ministry of Labour and never as the autonomous entity it was meant to be.
- 3.6 This Bill was never presented to the Employment Relation Advisory Board for endorsement.

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4.0 WHAT TYPE OF SERVICES THE EMPLOYERS WANT?

4.1 Effective and updated data base on the relevant economic, industrial and labour market movements based on the above mentioned data.

4.2 One stop shop in terms of engagement.

5.0 CONCLUSION

5.1 We respectfully oppose the spirit of the Bill (i.e. to absorb the function of the NEC into a government department)

5.2 We recommend that NEC be an autonomous entity with its own Chief Executive Officer and own management structure as alluded to in our submissions proper and in the existing legislation.

5.3 The relevant line ministry be directed to implement the function of the National Employment Center in accordance with the true spirit of the 2009 NEC Decree.

Noel Tofinga
Industrial Relations Consultant
23 February, 2017.

**Annexe D – Copy of the Employment Centre Amendment Bill
(Bill No. 31 of 2016)**

BILL NO. 31 OF 2016

A BILL

FOR AN ACT TO AMEND THE NATIONAL EMPLOYMENT CENTRE ~~DECREE ACT~~ 2009

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the National Employment Centre (Amendment) Act ~~2016-2017~~.

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

(3) In this Act, the National Employment Centre ~~Decree Act~~ 2009 is referred to as the “~~Decree Principal Act~~”.

Section 5 amended

2. Section 5(1) of the ~~Decree Principal Act~~ is amended by inserting the following new definition—

““Higher Education Commission” means the Higher Education Commission established under section 5 of the Higher Education ~~Promulgation Act~~ 2008;”

2 *National Employment Centre (Amendment)— of 2016 2017*

Section 18 amended

3. Section 18 of the **Decree Principal Act** is amended by—

- (a) deleting subsection (1)(g) and substituting the following—
 - “(g) to ensure the efficient and effective implementation of the employment creation policies of the Government, including a national employment policy, through the various employment creation services by way of effective facilitation, coordination and monitoring roles;”;
- (b) in subsection (5), deleting “Chief Executive Officer or”.

Section 25 amended

4. Section 25 of the **Decree Principal Act** is amended by—

- (a) in subsection (1)—
 - (i) deleting “chief executive officers, managers and”; and
 - (ii) deleting “Minister on a performance-based contracts” and substituting “Permanent Secretary with the agreement of the Minister on a performance-based contract”; and
- (b) in subsection (2), inserting “Permanent Secretary with the agreement of the” before “Minister”.

Section 29 amended

5. Section 29 of the **Decree Principal Act** is amended by deleting “the host Ministers of the respective services” and substituting “the Minister responsible for civil service”.

Section 47 amended

6. Section 47 of the **Decree Principal Act** is amended by—

- (a) in subsection (1), inserting “national, regional or international” after “with”;
 - (b) inserting the following new subsection after subsection (2)—
 - “(3) The National Employment Centre shall also secure strategic partnerships with—
- (a) social security institutions;
 - (b) financial institutions and donor agencies;
 - (c) civil society organisations and religious institutions;
 - (d) national, regional or international information communications technology organisations;
 - (e) national, regional and international institutions dealing with sustainable development, environment and climate change matters for the purpose of capacity building and financing

of green growth, green jobs and green productivity projects, including the promotion of green volunteers;

- (f) national, regional and international institutions dealing with disability matters for the purpose of capacity building and financing of disability projects, including the absorption of persons with disabilities into employment and small and micro enterprise development;
- (g) the Ministry of Employment, Productivity and Industrial Relations, the Ministry of Youths, the Ministry of Civil Service and the Office of the Registrar of Births, Deaths and Marriages under the Ministry of Justice; or
- (h) the iTaukei Land Trust Board, the Ministry of iTaukei Affairs, the Ministry of Provincial Development and *mataqali* land owners for the purpose of capacity building, cost sharing and relocation of a person back to the rural areas.”

Section 70 amended

7. Section 70(5) of the ~~Decree~~ **Principal Act** is amended by deleting “~~Chief Executive Officer~~ or”.

Section 77 amended

8. Section 77(2) of the ~~Decree~~ **Principal Act** is amended by deleting “Human Resource Management Division of the Public Service Commission to be the Fiji Volunteer Service” and substituting “Fiji Volunteer Service to be operated under or hosted by the Ministry of Employment, Productivity and Industrial Relations”.

Section 97 amended

9. Section 97(1) of the ~~Decree~~ **Principal Act** is amended in paragraph (a) by inserting “professional counselling, aptitude assessment,” before “life”.

Section 103 amended

10. Section 103 of the ~~Decree~~ **Principal Act** is amended in subsections (1) and (4) by inserting “after consultation with the National Employment Centre Board” after “Board”.

NATIONAL EMPLOYMENT CENTRE (AMENDMENT) BILL 2016

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 National Employment Centre ~~Decree Act~~ 2009 ('~~Decree Act~~') was published in the Gazette and came into force on ~~22 December 2009~~ 1 January 2010. The ~~Decree Act~~ was implemented to reform the management of employment creation services and to provide a reformative legislative framework for the provision of quality employment services to unemployed persons, and the creation of decent and environmentally sustainable employment to promote productivity, welfare and prosperity for all Fijians.
- 1.2 The ~~Decree Act~~ established the National Employment Centre ('NEC') which provides employment creation services to unemployed persons throughout Fiji. NEC also facilitates, coordinates and monitors the provision of quality counselling services, life skills training, employment skills training and entrepreneurship skills training to promote decent and environmentally sound employment, creation of small businesses and volunteer services to boost productivity among unemployed persons.
- 1.3 Employment creation services such as the Formal Employment Service, the Self-Employment Service, the Fiji Volunteer Service and the Foreign Employment Service carry out their powers, functions and duties under NEC.

2.0 FEATURES OF THE BILL

- 2.1 The National Employment Centre (Amendment) Bill 2016 ('**Bill**') seeks to amend the ~~Decree Act~~.
- 2.2 Clause 1 of the Bill provides for the short title and commencement provisions. If passed by Parliament, the new Act will come into force on a date or dates appointed by the Minister by notice in the Gazette.

- 2.3 Clause 2 of the Bill amends section 5 of the **Decree Act** by inserting the definition of “Higher Education Commission”. Given that the phrase is used in the **Decree Act**, it is defined as the Higher Education Commission that is established under section 5 of the Higher Education **Promulgation Act** 2008.
- 2.4 Clause 3 of the Bill amends section 18 of the **Decree Act** by deleting subsection (1)(g) and replacing it with a new subsection (1)(g). Section 18 of the **Decree Act** outlines the functions and powers of the NEC Board, and subsection (1)(g) is deleted so that NEC implements the employment creation policies of the Government, including a national employment policy. Clause 3 of the Bill also removes the reference to the chief executive officer in section 18(5) of the **Decree Act**.
- 2.5 Clause 4 of the Bill amends section 25(1) of the **Decree Act** by deleting the reference to chief executive officers and managers. Section 25(1) and (2) of the **Decree Act** are also amended so that the officers are appointed by the Permanent Secretary with the agreement of the Minister on a performance-based contract.
- 2.6 Clause 5 of the Bill amends section 29 of the **Decree Act**. Section 29 of the **Decree Act** states that the NEC Secretariat must, in a timely manner, forward a copy of the integrated annual report of all the employment creation services to the chairperson of the NEC Board and the Minister responsible for employment matters, including the host ministers of the respective services. The amendment removes “the host ministers of the respective services” and substitutes it with “the Minister responsible for civil service”.
- 2.7 Clause 6 of the Bill amends section 47 of the **Decree Act** to also allow NEC to secure strategic partnerships with —
- (a) social security institutions;
 - (b) financial institutions and donor agencies;
 - (c) civil society organisations and religious institutions;
 - (d) national, regional or international information communications technology organisations;
 - (e) national, regional and international institutions dealing with sustainable development, environment and climate change matters for the purpose of capacity building and financing of green growth, green jobs and green productivity projects, including the promotion of green volunteers;
 - (f) national, regional and international institutions dealing with disability matters for the purpose of capacity building and financing of disability projects, including the absorption of persons with disabilities into employment and small and micro enterprise development;

- (g) the Ministry of Employment, Productivity and Industrial Relations, the Ministry of Youths, the Ministry of Civil Service and the Office of the Registrar of Births, Deaths and Marriages under the Ministry of Justice; or
 - (h) the iTaukei Land Trust Board, the Ministry of iTaukei Affairs, the Ministry of Provincial Development and *mataqali* land owners for the purpose of capacity building, cost sharing and relocation of a person back to the rural areas.
- 2.8 Clause 7 of the Bill amends section 70(5) of the **Decree Act** to remove the reference to the chief executive officer.
- 2.9 Clause 8 of the Bill amends section 77(2) of the **Decree Act** to specify that the Fiji Volunteer Service operates under the Ministry of Employment, Productivity and Industrial Relations.
- 2.10 Clause 9 of the Bill amends section 97 of the **Decree Act**. Section 97 deals with the application of money standing to the credit of the NEC Trust Fund for the purpose of defraying the expenses of the certain activities associated with employment creation.
- 2.11 Clause 10 of the Bill amends section 103 of the **Decree Act**. Section 103 of the **Decree Act** provides for the making of regulations. Essentially, the amendments ensure that the NEC Board is also consulted before the making of any regulations or the issuance of codes of practice or guidelines.
- 3.0 MINISTERIAL RESPONSIBILITY**
- 3.1 The **Decree Act** comes under the responsibility of the Minister responsible for employment.

A. SAYED-KHAIYUM
Attorney-General

Annexe E – Verbatim Notes of Submissions Received by the Committee

VERBATIM NOTES OF THE MEETING OF THE SOCIAL AFFAIRS HELD AT THE COMMITTEE ROOM (EAST WING), PRECINCTS, GOVERNMENT BUILDINGS, THURSDAY 23RD FEBRUARY, 2017 AT 2.00 P.M.

Interviewee: Fiji Commerce and Employers Federation

In Attendance :

- | | | | |
|----|-------------------|---|---------------------------|
| 1. | Mr. Noel Tofinga | - | IR Consultant |
| 2. | Mr. Savenaca Baro | - | Research & Communications |
-

MR. CHAIRMAN.- Honourable Members welcome back. I would like to welcome, Mr. Noel Tofinga and Mr. Savenaca Baro who are here from the Fiji Commerce and Employers Federation, to present to this Committee in regards to Bill No. 31 of 2016, to amend the National Employment Centre Decree 2009. I welcome you, Sir, and I now give you the opportunity to present to the Committee.

MR. N. TOFINGA.- Thank you very much, Mr. Chairman.

On behalf of the Fiji Commerce and Employers Federation, I would like to make this submission not only as the employers' representative but also as the employers' representative in the National Employment Centre Board. We have been involved with the National Employment Centre(NEC) since the very beginning and on the basis of our observations and experience, this submission is made.

In making this submission, we have taken due cognisance of this Government's guiding principle in terms of creating an enabling environment conducive to economic development. We have taken that and we have merged that principle, together with the employers' guiding principle and that is, the management prerogative - to manage the workers' rights and the cost of doing business. That, in essence, in my written submission is covered under 1.0 - Introduction. In our submission proper, our written submission is under 2.0, the actual proposed amendments.

In terms of Clause 1 of the Bill, we do not have any issues with that.

In terms of Clause 2, we support the insertion of this added provision to the existing Bill. We believe this would add value to the existing legislation.

In terms of Clause 3 of the Bill, that is where our difficulty comes in. Our issues with the proposed deletion of the "Chief Executive Officer", if you allow me, it can be dealt with in how I have addressed Clause 4 of the Bill as well.

If you look at Clause 4 of the Bill, we say Clauses 3 and 4 oppose the spirit of the amendment in its totality. We oppose that. In layman's language, what this amendment does in a nutshell is, it is departmentalising an entity that is supposed to be an autonomous entity. Since the inception of NEC in 2010, the policy intent of the existing legislation and I am talking about the NEC Decree, is that it was supposed to be run autonomously - independent of any other bureaucracy or challenges that come with it. It was supposed to be effected that way but unfortunately, that has never happened.

would not have LTA operating as LTA or FEA acting as FEA. The legislation or the Constitution does allow for having an independent body and I am sure we will not have any problems in circumventing that challenge. Once the function is taken out and kept as an independent function, I am sure that will be but my saying treading carefully, perhaps the legal drafters and the legislation would have a better way of answering that but this is a layman's response to you without any prejudice.

MR. CHAIRMAN.- Thank you, Sir.

HON. S.V. RADRODRO.- One of your earnest request is to have an effective and an updated database and I fully agree with you. In your view, having to make the NEC autonomous and not to be part of the Government Ministry, would the Ministry be able to provide that kind of database? Would it function better than it is functioning now?

MR. N. TOFINGA.- As it is, the Ministry is already doing that function and they are not performing in accordance with the KPIs outlined or articulated in the Decree itself. That is the very reason why we are asking; why do you want to give it to the Ministry when the Ministry is already doing the work contrary to the Decree?

The Decree says it must have a CEO and it has to be autonomous but for some reason, the Ministry took it upon themselves to do this work and the outcome is not satisfactory. So I would say that the only way forward is to try and do it the way it was meant to be. It was meant to be like that and then someone stopped it, there have been very bad results and now we are trying to say; "Let us go back again and make it official."

MR. CHAIRMAN.- Thank you.

HON. S.V. RADRODRO.- I thank you again for your presentation because this is a very important issue that is with us, particularly in terms of the high unemployment of our youth. I thank you for bringing up those reservations in terms of the Bill and particularly, the non-consultative approach that was done in the drafting. Would you suggest that this Bill can satisfy that consultative approach and to be taken back to the Employers' Federation?

MR. N. TOFINGA.- I would suggest that it goes back to the agreed Tripartite Forum which is the National Employment Centre (NEC) Board itself and, of course, the Employment Relations Advisory Board. Those are the two tripartite forums that cover the Government, the workers and the employers. There is actually two for the NEC, given that the existing provision requires it to be like that.

However, in terms of the Bill itself, there are some things in the Bill which I agree with and that is; why have two advisory boards, one advisory board reporting to another one? I do not totally disagree with this but what I agree with here is that, you should have one advisory board reporting directly to the Minister, not an advisory board that consists of Permanent Secretaries and CEOs, competent people having to go and report to another board.

MR. CHAIRMAN.- Thank you.

HON. V.K. BHATNAGAR.- Mr. Chairman, through you, I thank the team for their presentation. I will just tell you something that I have been thinking about, like you mentioned in

STANDING COMMITTEE ON **SOCIAL AFFAIRS**

[Verbatim Report of Meeting]

HELD IN THE

COMMITTEE ROOM (EAST WING)

ON

FRIDAY, 23RD DECEMBER, 2016

VERBATIM NOTES OF THE MEETING OF THE STANDING COMMITTEE ON SOCIAL AFFAIRS HELD AT THE COMMITTEE ROOM (EAST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON FRIDAY, 23RD DECEMBER, 2016 AT 11.00 A.M.

Interviewee: Solicitor-General's Office

In Attendance:

- | | | | |
|----|----------------|---|----------------------|
| 1. | Glenys Andrews | - | Senior Legal Officer |
| 2. | Valerie Narain | - | Legal Officer |
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MR. CHAIRMAN.- Honourable Members, welcome back.

I would also like to welcome Glenys Andrews, the Senior Legal Officer with the team from the Solicitor-General's Office. Welcome, Madam. They are here to brief the Committee in regards to the employment Bill, Bill No. 31 of 2016 which is to amend the National Employment Centre Decree for 2009.

Welcome once again, and I will now give them the opportunity to brief the Committee as far as this amendment is concerned, Clause by Clause, so that we are informed first-hand before we take the views of the Ministry and the other submissions that will come along. Thank you very much and welcome once again.

MS. G. ANDREWS.- Good morning, Honourable Members, thank you for this opportunity. This morning, my colleague, Valerie, will be taking you all through these five provisions and I will take you with the later five provisions.

MS. V. NARAIN.- Good morning, Honourable Members, this morning I will be addressing the first five Clauses of the Bill.

Firstly, Clause 1 provides for the short title and commencement. What Clause 1 of the Bill essentially provides for is that, should this Bill be passed by Parliament and becomes an Act, it will be known as the National Employment Centre (Amendment) Act 2016 and that it will come into force on a date or dates that are appointed by the Minister by notice in the Gazette.

Lastly, Clause 1(3) states that the National Employment Centre Decree 2009 will be referred to as the Decree throughout the text of the Bill.

For your information, Honourable Members, following the launch of the Revised Edition of the Laws of Fiji earlier this month and Act 31 of 2016, namely the Revised Edition of the Laws Act, Revised Edition of the Laws Consequential Amendments Act 2016, all Decrees and Promulgations are now referred to as Acts. So for the purposes of our discussion today, we will make reference to the Act instead of Decree or Promulgation.

Clause 2 of the Bill amends section 5 of the Act. This Clause inserts a new definition under section 5 of the Act. The new definition defines the term "Higher Education Commission". What this definition provides for is that, the term "Higher Education Commission" means the Higher Education Commission that was established under Section 5 of the Higher Education Act 2008. This definition is inserted, given that the phrase is used within the text of the Act. The Act here is

the National Employment Centre Act 2009, so that there is no ambiguity in terms of which Higher Education Commission is being referred to.

Moving on to Clause 3 of the Bill, this Clause amends section 18 of the Act in two places. This section provides for the functions and the powers of the National Employment Centre Board. Currently, section 18(1)(g) outlines one of the Board's functions and by way of this Bill, it is proposed that this function is amended to read, and I quote:

“to ensure the efficient and effective implementation of the employment creation policies of Government, including a national employment policy, through the various employment creation services by way of effective facilitation, coordination and monitoring roles.”

Essentially, what the Bill does is, by deleting the current section 18(1)(g) and replacing it with the proposed provision that I have just read out is that the National Employment Centre Board must now also ensure the efficient and effective implementation of a national employment policy.

Clause 3 of the Bill also proposes the amendment to section 18(5) by deleting the words; “chief executive officer or”. By way of this amendment, what section 18(5) will now provide for is that the working committee established by each employment creation service is to be chaired by the manager of the employment creation service.

Moving on to Clause 4 of the Bill, it amends section 25 of the Act in two places. Section 25 of the Act provides for the appointment of officers. Firstly, it amends section 25(1) by deleting the words; “chief executive officers, managers and”, and it also amends section 25(1) by deleting the words; “Minister on a performance-based contracts” and substituting that with the words; “Permanent Secretary with the agreement of the Minister on a performance-based contract.”

Essentially by way of this proposed amendment, section 25(1) will provide that all officers to be employed under the National Employment Centre secretariat, the Formal Employment Service, the Self-Employment Service, the Fiji Volunteer Service and Foreign Employment Service shall be appointed by the Permanent Secretary with the agreement of the Minister on a performance-based contract.

Section 25(2) is also amended by way of this Bill by inserting the words; “Permanent Secretary with the agreement of the” before the word “Minister”. What these proposed amendments essentially do, is that now in terms of appointing the appropriate number of officers on performance-based contracts to manage the National Employment Centre offices throughout Fiji, this must be carried out by the Permanent Secretary with the agreement of the Minister. This amendment is proposed so that the Act is in compliance with the Constitution in terms of appointing employees by Government Ministries, specifically so that it is compliant with section 127(7) and (8) of the Constitution.

Moving on to Clause 5 of the Bill, this Clause amends section 29 of the Act by deleting the words; “the host Ministers of the respective services” and substituting that with the words; “the Minister responsible for civil service.”

Accordingly, given those proposed amendments, section 29 will now provide that the National Employment Centre secretariat must, in a timely manner, forward a copy of the integrated annual report of all the employment creation services to the chairperson of the Board and the Minister, including the Minister responsible for Civil Service.

I will now hand over to my colleague, Glenys, who will be speaking on Clauses 6 to 10 of the Bill.

MR. CHAIRMAN.- Thank you, Madam, very quickly before you proceed with Clause 6, I will now ask Honourable Members if they have any questions or clarifications on those five Clauses.

HON. A.T. VADEI.- Mr. Chairman, in Clause 5 which is section 29 of the Act, by deleting the words; "the host Ministers of the respective services" and substituting that with the words; "the Minister responsible for civil service." Under the Constitution, the Permanent Secretary is responsible for recruiting their officers with the agreement of the Minister responsible. Why is this agreement shifted to the Minister for Civil Service and not the various host Ministers and Permanent Secretaries?

MS. V. NARAIN.- Thank you, Honourable Member, are you referring to section 29 or section 25?

HON. A.T. VADEI.- Section 29.

MS. V. NARAIN.- Section 29 refers to the integrated annual report and section 25 is referring to the appointment of officers. So Clause 5 of the Bill amends section 29 and section 29 talks about the integrated annual report.

HON. A.T. VADEI.- I am sorry, I do not have the full context of that.

MR. CHAIRMAN.- Is that clear, Honourable Member?

HON. A.T. VADEI.- Yes.

MR. CHAIRMAN.- Anything else on Clause 5, is it all alright?

HON. A.T. VADEI.- On section 25, inserting; "Permanent Secretary with the agreement of the Minister", the host Minister or the Permanent Secretary and the host Minister or the Minister for Civil Service that you are talking about?

MS. V. NARAIN.- Thank you, Honourable Member. In this instance, when we are referring to "Minister", it is the Minister for Labour because the Permanent Secretary is the Permanent Secretary for the Ministry of Labour and so it would be the agreement of the Minister for Labour since all of these comes under the jurisdiction of the Ministry of Labour and Industrial Relations.

HON. A.T. VADEI.- Thank you.

MR. CHAIRMAN.- Thank you, Honourable Members, Madam, you can proceed from there.

MS. G. ANDREWS.- Thank you, we are moving on to Clause 6 of the Bill which deals with strategic partnerships with training and institutions and agencies. The first amendment is in regards to subsection (1) and we are basically including the words; "national, regional and

international” into subsection (1) just for clarity, just to show the levels at which NEC would be required to secure strategic partnerships with the purposes of their functions under this Act.

The second amendment is basically an insertion again to clarify and specify the partnerships that NEC is required to undertake and it basically outlines the various types of institutions for this purpose, for example, social security institutions, financial institutions, civil society organisations and religious institutions, et cetera, as listed under Clause 6 of the Bill.

Clause 7 which amends section 70 of the Act deals with the Small and Micro Enterprises (SMEs). We are basically deleting reference to the reference “chief executive officer”, given that that position now no longer exists, so it is just to streamline to current structure and current setup.

Clause 8 of the Bill amends Section 77 which deals with the establishment and designation of the Fiji Volunteer Service (FVS). Here we are deleting the reference; “Human Resource Management Division of the Public Service Commission to be the Fiji Volunteer Service” and we are substituting with the words; “Fiji Volunteer Service to be operated under or hosted by the Ministry of Employment, Productivity and Industrial Relations.” Here again, we are amending to reflect current structure and setup, given that the Fiji Volunteer Service comes under the jurisdiction of the Ministry of Employment, Productivity and Industrial Relations and not the Public Service Commission .

In Clause 9, we are amending Section 97(1) of the Act in paragraph (a) by inserting the words; “professional counselling, aptitude assessment” before the word; “life.” In this section, again we are specifying exactly what exactly the payments of the fund would be doing and part of the work that they do in addition to what all is listed, we have the professional counselling as well as the aptitude assessment in addition to everything else that has been listed out. Professional counselling is primarily as advised is counselling provided for those people who have been out of work for quite some time and so they are provided that type of counselling. Aptitude tests are undertaken just to better determine what field applicants are best suited for, and that is Section 97.

In Clause 10, we are amending Section 103 of the Act by including the words; “after consultation with the National Employment Centre”, which basically means when making regulations, the Minister may, on the advice of the Employment Relations Advisory Board after consultations with the National Employment Centre Board make regulations for those that are provided in the Act.

Honourable Members, those are basically some of what Bill No. 31 of 2016 is on. If anyone has any questions, we would be happy to answer.

MR. CHAIRMAN.- Thank you, Madam.

HON. A.T. VADEI.- Mr. Chairman, on Clause 6 which amends section 47 of the Act, does that include sporting bodies also?

MR. CHAIRMAN.- Ministry of Youth is there.

MS. G. ANDREWS.- Yes, it does not specify sporting bodies but under paragraph (g) of that section that has been inserted, we have reference to the Ministry of Youth and it is through the Ministry that we would engage sporting activities, et cetera, and organisations as such.

MR. CHAIRMAN.- Thank you. Are there any other clarifications or questions?

HON. A.T. VADEI.- When this Bill comes into force as you had mentioned in Clause 6 - international, regional and national, that means all contracts being done overseas by rugby players and all that, that can also come into this because of the employment/employee relations in that regard?

MS. G. ANDREWS.- Those would be considered as outside the jurisdiction of the NEC. If it is for the services provided under NEC, then these come into play. So for things like rugby contracts, et cetera, that is something private as supposed to under the jurisdiction of the NEC specifically.

MR. CHAIRMAN.- Thank you, Madam would you like to add anything else before we close.

HON. A.T. VADEI.- How do we classify our local staff operating in overseas-based offices like in our embassies? Do they also come under the Fiji Volunteer Scheme or NEC or how can they be classified in their employment criteria? They are locally paid from Japan if they are operating in Japan but they are locals from Fiji.

MS. G. ANDREWS.- Thank you for your question, Honourable Member. It depends on how exactly they were employed. If they have come under one of the schemes here, then they would be still classified as employees under NEC but if it is a private contract and it is entirely determined by the terms of their contract with the overseas employment. But it depends if it falls under one of the schemes that NEC provides – the National Employment Creation Services.

HON. A.T. VADEI.- Just to shed some light because some of our drivers in the Fiji Embassies overseas are locals. I do not know whether they are classified under this National Employment Centre or what sort of agreement or criteria they are qualified in because they are working under the Fiji Embassy in the US, driving under this contractual agreement but they are paid under the US rate.

MS. G. ANDREWS.- You are referring to local drivers that are Fiji citizens?

HON. A.T. VADEI.- Yes.

MS. G. ANDREWS.- If they are Fijian citizens and they are employed in the embassies then they are still Fiji workers. There is nothing different, they are just normal Government workers, like Public Servants are ...

HON. A.T. VADEI.- (Inaudible)

MS. G. ANDREWS.- Oh! They are local in the other countries?

HON. A.T. VADEI.- Yes.

MS. G. ANDREWS.- Then that is the prerogative of the embassies contracts in how they employ their employees that side. It does not fall within the ambit of NEC.

MR. CHAIRMAN.- Thank you, Honourable Member. Yes, Madam, would you like to add anything else?

MS. G. ANDREWS.- Unless if there are other questions.

MR. CHAIRMAN.- So, thank you very much Madam.

On behalf of the Standing Committee, I once again thank you very much for taking us through these amendments and it is quite clear with the Honourable Members. We will be later advised by the Ministry of Employment, Productivity and Industrial Relations. So on behalf of the Standing Committee, Merry Christmas and a Happy New Year and thank you very much for your time.

MS. G. ANDREWS.- Thank you, Honourable Members. On behalf of Valerie and I, and the officers, we would like to thank you for this opportunity and wish you all a very blessed Christmas and a Prosperous New Year.

MR. CHAIRMAN.- Thank you.

The Committee adjourned at 11.19 a.m.

The Committee resumed at 11.50 a.m.

Interviewee: Ministry of Employment, Productivity and Industrial Relations

In Attendance:

- | | | | |
|----|-----------------------------|---|--------------------------------------|
| 1. | Mrs. Salaseini Daunabuna | - | Permanent Secretary |
| 2. | Mr. Vilimone Baledrokadroka | - | Deputy Secretary |
| 3. | Ms. A. Marr | - | Director, National Employment Centre |
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MR. CHAIRMAN.- Honourable Members, welcome back. I would like to welcome the Permanent Secretary, Mrs. Salaseini Daunabuna from the Ministry of Employment, Productivity and Industrial Relations and her Team. They are here to present to the Committee in regards to amendments to Bill No. 31 of 2016. I will now give them the opportunity to present to the Committee.

Honourable Members, after the presentation, please note down your clarifications and questions and you will be allowed to raise all those.

MRS. S. DAUNABUNA.- Mr. Chairman, Honourable Members of the Committee, a very good morning to you all. I represent the Ministry of Employment as Permanent Secretary and I am here today with my Deputy Secretary, Mr. Vilimone Baledrokadroka; and our Director National Employment Centre, Ms Ann Marr.

We just here to present on the Bill for an Act amendment the National Employment Centre Decree 2009. In addition to our oral submissions, we have also prepared our written submission which we will also be handing over to the secretariat for the ease of work of the Committee.

Mr. Chairman, in the gist of our submission is that, when the National Employment Centre (NEC) came into operation in 2009, as of late there have been certain parts of the law where the operation on the ground and the provisions in the law do not match. So, in totality, the Bill to amend the National Employment Centre Decree captures the mismatches between the operations on the ground and the requirements in the law. So, this Bill is aligning the two processes.

Overall, the Ministry endorses the Bill and we have given short explanations in terms of the different sections that are proposed for amendment.

If we start from the beginning, in Clause 2 of the Bill, it amends section 5 of the Act which gives the definition of the Higher Education Commission because there is mention of that institution in the Decree but it does not give the actual definition. So, section 5 gives the meaning of the Higher Education Commission.

The next one is on Clause 3 which amends section 18. The amendment includes the efficient and effective implementation of employment creation policies and this gives the inclusion of a national employment policy which, at the moment, the Ministry has begun some groundwork on Fiji's First National Employment Policy.

The amendment also deletes the references to Chief Executive Officer because at the moment operationally, we have managers for the various employment services and these managers

report to a director of the NEC. So, the amendment is aligning the law with the current processes on the ground.

The next amendment is on Clause 4 which amends section 25, which is also an alignment of the processes and the legal requirements. It deletes the references to chief executive officer because at the moment, we have, as I have mentioned, managers and they report to a director. The reference now is just to officers which will capture everyone who works under the NEC.

Section 25 also gives the amendment which allows for alignment to the Constitution where appointments will be done by the Permanent Secretary in agreement with the responsible minister.

The next amendment is on Clause 5 which amends section 29. This also aligns our processes to the legal requirements and in the law at the moment, there is mention of submission of annual report to the different ministries under which the different services are aligned to. These services are still under the Ministry, under the National Employment Centre so the requirement now is the submission of the report to the minister responsible for civil service as being responsible for the overall broad policy direction of the civil service and just making sure that that ministry is kept abreast of the work of the NEC.

Clause 6 which amends section 47, includes terms; "national, regional or international" in terms of securing of strategic partnership. So, it gives it a varied and dynamic inclusion in terms of how far they can consult to be able to secure this strategic partnership, but also with training institutions and agencies. There is an expansion of the institutions under which the NEC can seek strategic partnerships.

Clause 7 amends section 70 which has also been recommended for amendment. It removes the reference to chief executive officer. As I had mentioned in the beginning, we do not have the Chief Executive Officer, we have managers and they report to the Director of the NEC.

In Clause 8, section 77 is also recommended for amendment. The recommendation is that, the reference; "Fiji Volunteer Service" be under the Ministry of Employment, Productivity and Industrial Relations because at the moment, the Fiji Volunteer Service (FVC) which was with the Public Service Commission is now under the Ministry of Employment, Productivity and Industrial Relations.

In Clause 10, section 97 is also recommended for amendment and it includes the importance of the National Employment Centre providing professional counselling and aptitude assessment in terms of the different assessments that can be provided by the Centre.

The final amendment is in Clause 10 which is section 103. This is the provision which allows for the minister to make regulations. Currently, the minister making regulation is on the advice of the Employment Relations Advisory Board, but this amendment ensures that the advice of the Employment Relation Advisory Board is not in consultation with the National Employment Centre Board. The National Employment Centre Board is established under the National Employment Centre Decree and is responsible for the overall policy and operational direction of the NEC. So in effect, the minister will get a holistic view and advice when regulations are made.

Mr. Chairman, that in totality, is the submission from the Ministry and we overall support the Bill because it does align our processes, together with the law and the legal requirements.

Thank you.

MR. CHAIRMAN.- Thank you, Madam, for taking us through. I will allow, Honourable Members, if you have any questions or clarifications. I see it is quite clear as both presented by the Solicitor-General's Office and also by the Permanent Secretary from the Ministry of Employment, Productivity and Industrial Relations.

HON. A.T. VADEI.- Thank you, Mr. Chairman. PS and team, thank you for coming forward to present your views before our Committee this morning regarding the amendments. I have got questions on Clause 8 which is the amendment to section 77.

It is not clear with the FVC regarding their contractual payment because different ministries have different payments that they did to the FVC. I found out that there is no policy regarding their contract, say 50 percent from the Ministry and 50 percent from the ministry they are doing their volunteer service. Some of them only get \$50 a week from the Ministry but the \$50 from the Ministry of Employment, Productivity and Industrial Relations is not coming forward. That is what I am asking. It is not well captured in this section or any other section with regard to this Bill because I believe they are vulnerable to the labour market.

MR. CHAIRMAN.- Madam, can you share some light on this?

MR. V. BALEDROKADROKA.- Thank you very much, Honourable Member, for the question.

Mr. Chairman, for your information, the volunteers, yes, they are very much supported under the Bill but the actual arrangement or in terms of the process on the ground, for every volunteer to access the services of the Centre, they must register first with the Centre as per the mandatory requirement of the Bill. Unless a volunteer registers with the Centre, he/she is not eligible to the allowance to be paid and the understanding that the Centre has with each respective organisation. So the volunteers must first come and register with the Centre and tell the Centre, "Yes, I am now on attachment with this particular Ministry or organisation." Then the Centre will arrange with that particular organisation to sign a Memorandum of Understanding (MOU). We have a standard MOU and that covers the volunteer in terms of the conditions that the institution must respect.

Once the MOU is signed between the two, the volunteer is entitled to that weekly allowance which currently is at \$60 and is paid on a \$50-\$50 basis. The organisation pays 50 percent and NEC pays 50 percent. So that has to be formalised first with the signing of an MOU between the two, as per the requirements in the legislation.

MR. CHAIRMAN.- That is quite clear. You can advise the volunteers who are not yet registered to be registered first, do the formal part and then the rest will follow through.

HON. A.T. VADEI.- How about those volunteers who have been recruited first by the Ministry and registered later, do they enjoy the same facilities too?

MR. CHAIRMAN.- You mean to say, those who have been recruited and have not yet registered?

HON. A.T. VADEI.- Yes.

MR. CHAIRMAN.- Can you share some clarifications on that?

MR. V. BALEDROKADROKA.- Mr. Chairman, I do not really get the question, can that be repeated, please, Honourable Vadei?

HON. A.T. VADEI.- In some Ministries, say, for technical or professional people that they recruit, they absorb that volunteer then later refer it to your Ministry for formalisation. Do they also enjoy that same benefits?

MR. V. BALEDROKADROKA.- Mr. Chairman, yes, once they come in and register with us, they meet the requirements to qualify as a client of the Centre, and then they automatically qualify for the benefits as well.

MR. CHAIRMAN.- Thank you very much for that clarification, they need to be registered first. In that scenario, they still have to come back and get registered.

Are there any other issues, Honourable Members?

Madam, would you like to add something else before we close?

MRS. S. DAUNABUNA.- Just to add on to our earlier submission, since the 2009 National Employment Centre Decree was in place, the Centre has been operating. So this Bill will give us some direction operationally as well, so it will be of assistance to us on the ground which is why we fully support it.

MR. CHAIRMAN.- Thank you, Madam, for your time. On behalf of the Standing Committee, I thank you for briefing the Committee as far as the importance of these amendments and we wish you a Merry Christmas and a Happy New Year.

For the information of Honourable Members, we will be meeting here on the 27th December, 2016 at 9.00 a.m. and on the 27th, we will be leaving for Rotuma in regards to the consultation of the two Rotuma Bills. We request all Members to be here by 9 o'clock on 27th December, 2016. Again, wishing everyone here, the PS and the team, and the people of Fiji, a Merry Christmas and a Happy New Year. Thank you very much.

MRS. S. DAUNABUNA.- Mr. Chairman, *vinaka* and we also wish the Committee a Merry Christmas and a Happy New Year.

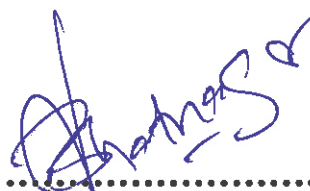
MR. CHAIRMAN.- Thank you.

The Committee adjourned at 12.05 p.m.

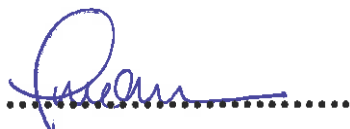
**SIGNATURES OF MEMBERS OF THE SOCIAL AFFAIRS STANDING
COMMITTEE**




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Hon. Viam Pillay
(Chairperson)



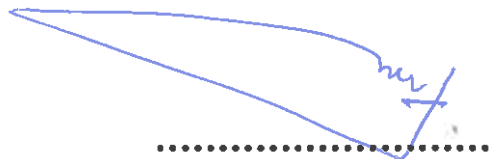
.....
Hon. Veena Bhatnagar
(Deputy Chairperson)



.....
Hon. Salote Radrodro
(Member)



.....
Hon. Anare T. Vadei
(Member)



.....
Hon. Ruveni Nadalo
(Alternate Member for Hon. Mohammed M. A Dean)