

BILL NO. 26 OF 2023

A BILL

FOR AN ACT TO AMEND THE ITAUKEI AFFAIRS ACT 1944

ENACTED by the Parliament of the Republic of Fiji—

Short title and commencement

1.—(1) This Act may be cited as the iTaukei Affairs (Amendment) Act 2023.

(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 iTaukei Affairs Act 1944 is referred to as the “Principal Act”.

Section 2 amended

2. Section 2 of the Principal Act is amended after the definition of “chief” by inserting the following new definitions—

““Council” means the Great Council of Chiefs constituted under section 3 of this Act;” and

““Permanent Secretary” means the Permanent Secretary responsible for iTaukei affairs;”.

Section 3 inserted

3. The Principal Act is amended after section 2 by inserting the following new section—

“Great Council of Chiefs

3.—(1) There must be in respect of the iTaukei people a council called the Great Council of Chiefs (*Bose Levu Vakaturaga*) which must consist of such persons appointed by the President on the advice of the Minister.

(2) It is the duty of the Council, in addition to any power or duty conferred on it, to submit to the President any recommendation or proposal as it may deem to be for the benefit of the iTaukei people, and to consider any question relating to the good governance and well-being of the iTaukei people as the President or the Board may submit to the Council, and to take decisions or make recommendations thereon.”.

Section 4 amended

4. Section 4(4) of the Principal Act is amended after “to the Board” by inserting “and may refer such questions to the Council”.

Section 5 amended

5. Section 5 of the Principal Act is amended after “of the” wherever it appears by inserting “Council and of the”.

Section 11 amended

6. Section 11 of the Principal Act is amended by—

(a) in subsection (1) before “Bill” wherever it appears, inserting “proposed”; and

(b) after subsection (1), inserting the following new subsections—

“(2) Where a proposed Bill is referred to the Board under subsection (1), the Board may inform the Minister that it advises that the proposed Bill be referred to the Council and the Minister must then refer it unless the urgency of the matter is such that in his or her opinion the proposed Bill cannot be delayed.

(3) If the proposed Bill is not referred to the Council, it must be considered by the Board which must prepare a memorandum containing its comments on the proposed Bill and submit the proposed Bill with the memorandum to the Permanent Secretary.

(4) If the proposed Bill is referred to the Council, the Council must without undue delay proceed to consider it and prepare a memorandum containing its comments on the proposed Bill and submit the proposed Bill and memorandum to the Permanent Secretary.

(5) If, in the opinion of the Minister, the public interest requires or there has been undue delay, the Minister may order that the proposed Bill which has been referred to the Council be withdrawn and referred to the Board, which must then prepare a memorandum containing its comments on the proposed Bill and submit the proposed Bill with the memorandum to the Permanent Secretary.

(6) When a proposed Bill has been submitted to the Permanent Secretary with a memorandum by the Council or the Board, the proposed Bill must be presented to Cabinet.

(7) Where a proposed Bill is approved by Cabinet under subsection (6), it must be presented to Parliament with the memorandum which members of Parliament can refer to or discuss during parliamentary debate as if it were part of the Bill.”.

Consequential amendments

7. The iTaukei Trust Fund Act 2004 is amended by—

- (a) in the long title after “ROTUMANS,” inserting “TOPROVIDEFINANCIAL AUTONOMY TO THE GREAT COUNCIL OF CHIEFS,”;
- (b) in section 2 after the definition of “Board”, inserting the following new definition—

““Council” means the Great Council of Chiefs or *Bose Levu Vakaturaga* constituted under the iTaukei Affairs Act 1944;”;
- (c) in section 3 after subsection (1), inserting the following new subsection—

“(2) The Board must not transfer or assign to the Council or any person any part of the Fund other than in accordance with this Act.”;
- (d) in section 4—
 - (i) after the chapeau, inserting the following new paragraph—

“(a) to provide financial independence and autonomy in relation to the operations and administration of the Council;”;
 - (ii) in paragraph (e), deleting “Board” and substituting “Council on the recommendation of the Board”;
- (e) in section 5 after “institutions,” inserting “selected under guidelines determined by the Council,”;
- (f) in section 7—
 - (i) in subsection (3)—
 - (A) after the chapeau, inserting the following new paragraph—

“(a) 5 members must have the suitable qualifications and work experience in any of the following areas—

 - (i) investment management;

- (ii) engineering;
 - (iii) information and technology;
 - (iv) human capital; and
 - (v) tourism and hospitality.”; and
- (B) in paragraph (b), deleting “Fiji Institute of Accountants Act 1971” and substituting “Fiji Institute of Chartered Accountants Act 2021”; and
- (ii) in subsection (6), deleting “one” and substituting “2”;
- (g) in section 8, deleting “finance” and substituting “iTaukei affairs”;
- (h) in section 15, deleting “finance” and substituting “iTaukei affairs”; and
- (i) in section 17(2), deleting “Parliament” wherever it appears and substituting “Council”.

November 2023

ITAUKEI AFFAIRS (AMENDMENT) BILL 2023

EXPLANATORY NOTE

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

1.0 BACKGROUND

- 1.1 The Great Council of Chiefs (**‘Council’**) was established under the iTaukei Affairs Act 1944 (**‘Act’**). Under the Act, the Council consisted of such number of appointed, elected and nominated persons as the Governor-General prescribed by regulation with the primary function of submitting to the Governor-General such recommendations and proposals as it deemed to be for the benefit of the iTaukei people, as well as considering questions relating to the good governance and well-being of the iTaukei people as the Governor-General or the Board would submit to the Council.
- 1.2 In 2012 however the establishing provision of the Council (section 3) was repealed through the iTaukei Affairs (Amendment) Decree 2012 (No 22 of 2012) which also removed or amended various provisions under the Act that made reference to the Council.
- 1.3 The iTaukei Affairs (Amendment) Bill 2023 (**‘Bill’**) therefore seeks to amend the Act to insert an establishing provision for the GCC in the Act and to include reference to the Council in other provisions of the Act and the iTaukei Trust Fund Act 2004 as applicable.

2.0 CLAUSES

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill amends section 2 of the Act by inserting the definition of “Council” to mean the Great Council of Chiefs and the definition of “Permanent Secretary” to mean the Permanent Secretary responsible for iTaukei affairs.

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- 2.3 Clause 3 of the Bill inserts section 3 to the Act to provide for the constitution and primary function of the Council.
- 2.4 Clause 4 of the Bill amends section 4(4) of the Act to require the iTaukei Affairs Board (**‘Board’**) to refer to the Council any question relating to the iTaukei people that the Minister may submit to the Board.
- 2.5 Clause 5 of the Bill amends section 5 of the Act to empower the Minister to make regulations in relation to the Council.
- 2.6 Clause 6 of the Bill amends section 11 of the Act to require the Minister to refer to the Board or the Council any proposed Bill that is intended to be introduced to Parliament and which may appear to the Minister to affect in any important matter the rights and interests of the iTaukei people. The Board or the Council, as the case may be, is then required to submit the proposed Bill with a memorandum, which is to be used in the Parliamentary debate process.
- 2.7 Clause 7 of the Bill consequentially amends the iTaukei Trust Fund Act 2004 to *inter alia* include reference to the Council.

3.0 MINISTERIAL RESPONSIBILITY

- 3.1 The Act comes under the responsibility of the Minister responsible for iTaukei affairs.

S. D. TURAGA
Attorney-General