

EDUCATION ACT 2026
(ACT NO. 5 OF 2026)

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ACT NO. 5 OF 2026

I assent.

RATU N. T. LALABALAVU

President

[2 June 2026]

AN ACT

TO GIVE EFFECT TO THE CONSTITUTIONAL RIGHT TO EDUCATION, AND
FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

PART 1—PRELIMINARY

Short title and commencement

1.—(1) This Act may be cited as the Education Act 2026.

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

Interpretation

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

“Act” means this Act and the regulations made under it;

“Appeals Board” means the Teachers’ Appeals Board established under section 107;

“auditing standards” means—

- (a) international auditing standards applicable to supreme audit institutions, subject to such modifications as the Auditor-General considers appropriate and notifies in the Gazette; or

(b) any other relevant standards that the Auditor-General considers appropriate and notifies in the Gazette;

“Auditor-General” means the person appointed as the Auditor-General under section 151(2) of the Constitution or a person appointed to act as the Auditor-General under section 151(3) of the Constitution;

“authorised officer” means a person who is authorised by the Permanent Secretary to perform a function under this Act;

“Authority” means the National Curriculum and Assessment Authority established under section 24;

“Board” means the Fiji Teachers Registration Board established under section 4(1) of the Fiji Teachers Registration Act 2008 and continued under section 83;

“boarding school” means a government school or government-aided school that provides boarding and accommodation to students who are enrolled at the school;

“child” means a person who has not reached the age of 18 years;

“citizen of Fiji” means a person who has acquired citizenship of Fiji in accordance with the Citizenship of Fiji Act 2009;

“Commission” means the Higher Education Commission established under section 5(1) of the Higher Education Act 2008 and continued under section 127;

“compulsory school age” means an age within the age range prescribed by the Minister for the purpose of compulsory education;

“Consolidated Fund” means the Consolidated Fund continued under section 9 of the Financial Management Act 2004;

“Constitution” means the Constitution of the Republic of Fiji;

“Convention” means the Convention on the Rights of the Child adopted by the United Nations General Assembly by its resolution 44/25 of 20 November 1989;

“Council” means the Education Advisory Council established under section 13;

“Fiji National University” means the Fiji National University established under section 4(1) of the Fiji National University Act 2009;

“foreign student” means a student who is not—

(a) a citizen of Fiji; and

(b) the child of a citizen of Fiji;

“FTRA” means the Fiji Teachers Registration Authority established under section 83;

“Government” means the Government of the Republic of Fiji;

“government-aided school” means a school that is—

- (a) not owned by the Government;
- (b) maintained out of public funds; and
- (c) controlled by the Ministry;

“government school” means a school that is—

- (a) owned by the Government;
- (b) maintained out of public funds; and
- (c) controlled by the Ministry;

“head of school” or “head of a school” means a person who—

- (a) is appointed by—
 - (i) for a government school and a government-aided school, the Permanent Secretary;
- (b) is responsible for the overall management and administration of the school; and
- (c) in a primary school or secondary school, holds the position of head teacher, principal or any other equivalent position;

“higher education institution” means an educational institution in or operating in Fiji that provides award-conferring post-secondary education or provides educational support services for students of other higher education institutions including overseas institutions, and includes—

- (a) technical and vocational education and training centres;
- (b) information technology centres;
- (c) secretarial schools;
- (d) language schools;
- (e) hospitality training centres;
- (f) educational agencies;
- (g) caregiving training providers;
- (h) performing arts and sports academies;
- (i) religious educational institutions;

(j) colleges; and

(k) universities;

“home school” means an arrangement to provide an education to a student at any home or other approved location, not including at a government school, government-aided school or private school;

“local communities” means groups of persons who—

(a) are not indigenous to Fiji;

(b) may be of diverse origins;

(c) share a common social or cultural interest; and

(d) have historical ties to Fiji;

“manager” means the person who is registered by the Permanent Secretary as the manager of a government-aided school or private school;

“member” means a member of the Authority, Board, Commission or Council, as the case may be, including the chairperson of the Authority, Board, Commission or Council;

“Minister” means the minister responsible for education;

“Ministry” means the ministry responsible for education;

“parent”, in relation to a child, includes a legal guardian of the child;

“Permanent Secretary” means the permanent secretary responsible for education;

“practising teacher” means a registered teacher who is part of the teaching staff of a school;

“practising teacher educator” means a registered teacher who is part of the teaching staff of a college of education or other institution that provides teacher education and training;

“primary school” means a school that provides primary education;

“public education” means education that is provided by the Government;

“recognised school” means a school that has been granted a certificate of recognition under section 54;

“registered school” means a school that has been granted a certificate of registration under section 54;

“registered teacher” means a person—

(a) who is registered or provisionally registered under Part 12; and

(b) whose name appears on the Register;

“repealed Acts” means the Acts repealed under section 174;

“secondary school” means a school that provides secondary education;

“student” means a person who is enrolled at a school and includes —

- (a) a person who is above the age of 18 years; and
- (b) a prospective student;

“supreme audit institution” means an independent and external institution that audits the national public sectors’ financial operations;

“teacher” means a person registered to teach students in a school, including a teacher-trainee;

“teacher-trainee” means a person who is—

- (a) training to become a teacher, including a person with a limited authority to teach under section 105; and
- (b) not registered as a teacher;

“University of Fiji” means The University of Fiji established under section 4(1) of the University of Fiji Act 2011; and

“University of the South Pacific” means the University of the South Pacific referred to in clause 1 of the University of the South Pacific Charter.

Meaning of school

3.—(1) In this Act, unless the context otherwise requires, a school is an institution that provides regular instruction to students, whether in person or by electronic means, and includes—

- (a) a type of school under section 38;
- (b) a classification of school under section 39; and
- (c) a school providing a category of education under section 40.

(2) Notwithstanding subsection (1), an institution in the following list is not a school—

- (a) an institution that provides instruction which is wholly or mainly of a religious character;
- (b) an institution that provides instruction which is wholly or mainly in relation to extracurricular activities, including hobbies, games or sports; and
- (c) an institution that has been exempted from subsection (1) by the Minister by an order in the Gazette.

Principles

4. This Act is to be construed with the following principles—

- (a) every person has the right to education;
- (b) it is the responsibility of the Government to provide public education;

- (c) it is the responsibility of the State to ensure that every child receives an education of the highest quality;
- (d) the education of a child is primarily the responsibility of the child's parents; and
- (e) the best interests of a child are the primary consideration in every matter concerning the child.

Objectives

5. The objectives of this Act are to—

- (a) give effect to the right to education under section 31 of the Constitution;
- (b) establish the Education Advisory Council;
- (c) establish the National Curriculum and Assessment Authority;
- (d) provide for the recognition and registration of government schools, government-aided schools and private schools;
- (e) provide for early childhood education, primary education, secondary education and technical and vocational education and training;
- (f) provide for special and inclusive education;
- (g) establish the Fiji Teachers Registration Authority, continue the Fiji Teachers Registration Board and provide for the registration of teachers;
- (h) continue the Higher Education Commission and provide for the registration of higher education institutions; and
- (i) provide for higher education.

Act binds the State

6. This Act binds the State.

PART 2—ACCESS TO EDUCATION

Right to education

7. A person has the right to—

- (a) early childhood education;
- (b) primary education;
- (c) secondary education; and
- (d) higher education.

Free education

8.—(1) For the purposes of section 31(2)(a) of the Constitution and article 28(1)(a) of the Convention, the State must ensure that primary education is provided free of charge in a government school and government-aided school.

(2) For the purposes of section 31(2)(a) of the Constitution and article 28(1)(b) of the Convention, and where the State has the available resources to provide secondary education free of charge, the State must take reasonable measures to ensure that secondary education is provided free of charge in a government school and government-aided school.

(3) For the purposes of section 31(2)(a) of the Constitution and article 28(1)(c) of the Convention, and where the State has the available resources to provide higher education free of charge, the State must take reasonable measures to ensure that higher education is provided free of charge.

(4) For the purposes of section 31(5) of the Constitution, and where the State claims that it does not have the resources to provide secondary education or higher education free of charge, the State must show that the resources are not available.

(5) For the avoidance of doubt, an education is provided free of charge to a student if the student is not required to pay a tuition fee.

Education for mature students

9.—(1) In this section, “mature student” means a person who is 19 years of age or older.

(2) For the purposes of section 31(2) of the Constitution, if the State has the available resources to provide education for mature students who are unable to complete primary education and secondary education, the Permanent Secretary must take reasonable measures to ensure that the education is made available by—

- (a) establishing or designating a government school to provide education to mature students only;
- (b) supporting the expansion or establishment of a government-aided school to provide education to mature students only; or
- (c) developing or implementing education programmes to provide education to mature students in a government school or government-aided school.

(3) If a programme is developed and implemented under subsection (2)(c), the mature student must be educated separately from the students who are children.

PART 3—COMPULSORY EDUCATION

Compulsory education

10.—(1) In this section—

“regularly attend” means to attend school on each school day as a student, unless there is a reasonable excuse for the student to not attend school; and

“school day” means a day on which a student is required to attend school, and does not include a Saturday, Sunday or public holiday.

(2) A child who is of compulsory school age must—

- (a) be enrolled at a school; and
- (b) regularly attend the school as a student.

- (3) If a child of compulsory school age is not enrolled at a school—
 - (a) the Permanent Secretary must take reasonable measures to make reasonable inquiries into the matter; and
 - (b) if the Permanent Secretary is not satisfied with the reason for the non-compliance, the Permanent Secretary must direct either parent, or both parents, of the child to immediately enrol the child at a school.
- (4) If a child of compulsory school age is enrolled at a school and fails to regularly attend the school as a student—
 - (a) the Permanent Secretary must take reasonable measures to make reasonable inquiries into the matter; and
 - (b) if the Permanent Secretary is not satisfied with the reason for the non-compliance, must direct either parent, or both parents, of the child to ensure that the child regularly attends the school.
- (5) The Permanent Secretary must apply to a magistrate for a compulsory education order if—
 - (a) a directive has been issued to either parent, or both parents, of the child under subsection (3) or (4); and
 - (b) despite the directive, the child—
 - (i) is still not enrolled at a school; or
 - (ii) still fails to regularly attend the school.
- (6) A compulsory education order has the effect of any or all of the following—
 - (a) to direct a parent, or both parents, of the child to comply with subsection (2);
 - (b) to direct a parent, or both parents, of the child to take reasonable measures to ensure compliance with subsection (2) within a specified period of time;
 - (c) to direct the Permanent Secretary to monitor compliance with subsection (2); or
 - (d) to direct a parent, or both parents, of the child to attend a counselling session.
- (7) A person who contravenes a compulsory education order commits an offence and is liable on conviction to a fine not exceeding \$500 or imprisonment for a term not exceeding 2 months or both.
- (8) This section does not apply to a child of compulsory school age—
 - (a) if a parent of the child presents, within a reasonable time, a prescribed reason to the Permanent Secretary's satisfaction for the child's non-enrolment or absence at the school; or
 - (b) if the child is exempted under section 11.

Exemption

11.—(1) A person may apply to the Minister for an exemption from the requirements of section 10.

(2) The application must be made in the prescribed manner and form.

(3) The Minister may, by notice in the Gazette and subject to such terms and conditions as the Minister considers necessary, exempt any child of compulsory school age or class of children of compulsory school age if he or she is satisfied that the application is supported by a prescribed reason.

Reporting

12.—(1) The head of a school, other than a home school, must report any non-compliance with section 10 to the Permanent Secretary.

(2) A parent or any other person providing instruction in a home school must provide regular attendance reports to the Permanent Secretary in the prescribed form and manner.

PART 4—EDUCATION ADVISORY COUNCIL

Establishment of Education Advisory Council

13. This section establishes the Education Advisory Council.

Membership of Council

14.—(1) The Council consists of the following members—

- (a) the Permanent Secretary, as the chairperson;
- (b) the head of the Fiji Head Teachers Association;
- (c) the head of the Fiji Principals Association;
- (d) the head of the School Management Association of Fiji;
- (e) a representative of the Fiji Teachers Union;
- (f) a representative of the Fijian Teachers Association;
- (g) a nominee of the Great Council of Chiefs;
- (h) 2 representatives of higher education institutions on a rotational basis, provided that at least one representative is always from a private higher education institution;
- (i) a representative of the technical and vocational education and training institutions;
- (j) a maximum of 10 representatives comprising at least—
 - (i) one representative each of women’s rights groups, persons with disabilities, parent associations within schools and school student bodies; and
 - (ii) persons with expertise in mental health, digital literacy, library services and curriculum development; and

- (k) 10 representatives of controlling authorities with proportionate representation from religious and cultural institutions, and communities that operate schools and, as far as practicable, representation across rural, maritime and urban schools.

(2) The Permanent Secretary, the head of the Fiji Head Teachers Association, the head of the Fiji Principals Association and the head of the School Management Association of Fiji are *ex officio* members of the Council.

(3) The Minister appoints the representatives under subsection (1)(e) to (k) as members of the Council.

(4) The Minister may only appoint a representative of school student bodies under subsection (1)(j)(i) as a member of the Council if the representative is at least 18 years of age.

Term of office

15.—(1) A member of the Council, other than an *ex officio* member, holds office for a term of 2 years.

(2) A member of the Council, other than an *ex officio* member, is eligible for reappointment if the member retains the status which qualifies him or her for membership.

Vacancy

16.—(1) A member of the Council may resign from his or her office at any time by giving written notice of the resignation to the Minister.

(2) The Minister may remove a member of the Council, other than an *ex officio* member, at any time on the basis of incapacity, non-performance, bankruptcy, neglect of duty or misconduct proved to the satisfaction of the Minister.

(3) Where a vacancy in the membership of the Council exists, the Minister must take all reasonable measures to appoint a representative under section 14(1)(e) to (k), as the case may be, as a new member of the Council.

(4) The powers of the Council are not affected by any vacancy in its membership.

Remuneration and allowances

17. The Minister determines the remuneration of, and allowances for, the members of the Council.

Functions of Council

18. The Council must perform the following functions—

- (a) provide advice and recommendations to the Minister on any education-related matter, including any education-related matter raised and submitted by a member to the Council;
- (b) provide strategic guidance on various matters to assist the Minister in making informed and effective decisions;

- (c) assist the Minister with policy and law reforms by ensuring that the reforms consider the interests of the persons or classes of persons that the members represent;
- (d) assist the Minister to address and resolve education-related issues on behalf of the persons or classes of persons that the members represent;
- (e) perform any other function conferred on the Council by any other written law; and
- (f) perform any other prescribed function.

Powers of Council

19.—(1) The Council has the power to do all things necessary or convenient to be done for the performance of its functions under this Act or any other written law.

(2) Without limiting subsection (1), the Council has the power to appoint committees and subcommittees to advise the Council on any matter, and may determine the membership, purpose and procedures of the committees or subcommittees.

Meetings of Council

20.—(1) The Council must meet—

- (a) at least once in every 4 months; and
- (b) at such times and places as the chairperson may determine.

(2) Subject to subsection (3), the chairperson must preside at each meeting of the Council.

(3) The quorum required for a meeting of the Council is two-thirds of the membership of the Council.

(4) Where a question arises at a meeting of the Council, a majority of the votes of the members of the Council present at the meeting determines the question.

(5) At a meeting of the Council, the chairperson and any other member of the Council has a deliberative vote, and where there is a tie in the number of opposing votes, the chairperson has a casting vote.

(6) A written resolution of the Council that is signed or assented to by a majority of the members of the Council, whether through physical or electronic means, is valid and deemed to have been approved at a meeting of the Council.

(7) Subject to this Act, the Council may regulate its own procedures.

(8) A defect or irregularity in, or in connection with, the appointment of a member of the Council, or in the case of an acting appointment, the occasion for acting had not arisen or had ceased, the defect or irregularity does not invalidate an act or decision of the Council.

Annual report of Council

21. Without limiting the right of the Council to report at any time, the Council must, as soon as practicable after the end of each financial year—

- (a) publish an annual report on the performance of the functions of the Council under this Act during the year; and
- (b) submit a copy of the annual report to the Minister, who must table the annual report in Parliament as soon as reasonably practicable.

Protection from liability

22.—(1) No civil or criminal proceedings lie against the Council for any thing the Council does or has failed to do in the course of the exercise or purported exercise of the powers or performance or purported performance of the functions of the Council, unless it is shown that the Council did not act in good faith or with reasonable care.

(2) No civil or criminal proceedings lie personally against any member of the Council for any thing the member does or has failed to do in the course of the exercise or purported exercise of the powers or performance or purported performance of the functions of the Council, unless it is shown that the member did not act in good faith or with reasonable care.

PART 5—CURRICULUM DEVELOPMENT AND ASSESSMENT

*Division 1—National Curriculum and Assessment Authority**Curriculum to be used in schools*

23.—(1) A registered school and a recognised school must meet the curriculum, assessment and educational standards developed, designed and approved by the Authority.

(2) A private school and a home school must meet a prescribed minimum threshold for the curriculum, assessment and educational standards developed, designed and approved by the Authority.

(3) The Authority must ensure that the curriculum in addition to the standard subjects taught in Fiji also covers the following thematic areas—

- (a) digital literacy and learning, including artificial intelligence;
- (b) civic responsibility, morality and discipline;
- (c) the formal learning of *Vosa Vaka Viti*, Hindi, Rotuman and other prescribed languages in Fiji;
- (d) health and nutrition;
- (e) physical education and sports;
- (f) music and the arts;
- (g) practical life skills;
- (h) climate change and sustainability; and
- (i) the cultures, customs and history of the indigenous people and local communities of Fiji.

Establishment of National Curriculum and Assessment Authority

24. This section establishes the National Curriculum and Assessment Authority.

Membership of Authority

25.—(1) The Authority consists of the following members—

- (a) the Permanent Secretary, as the chairperson;
- (b) the permanent secretary responsible for employment;
- (c) the permanent secretary responsible for multi-ethnic affairs;
- (d) the permanent secretary responsible for sports;
- (e) the director of the Commission;
- (f) a representative of the Fiji Arts Council;
- (g) a nominee of the Great Council of Chiefs;
- (h) a qualified and experienced curriculum specialist;
- (i) a qualified and experienced assessment specialist;
- (j) 2 representatives of higher education institutions selected on a rotational basis, provided that at least one representative must always be a private university;
- (k) 2 representatives from teacher training institutions; and
- (l) a representative of the Fiji Commerce and Employers Federation.

(2) The Permanent Secretary, the permanent secretary responsible for employment and the director of the Commission are *ex officio* members of the Authority.

(3) The Minister appoints the specialists and representatives under subsection (1)(f) to (l) as members of the Authority.

Term of office

26.—(1) A member of the Authority, other than an *ex officio* member, holds office for a term of 3 years.

(2) A member of the Authority, other than an *ex officio* member, is eligible for reappointment.

Vacancy

27.—(1) A member of the Authority may resign from his or her office at any time by giving written notice of the resignation to the Minister.

(2) The Minister may remove a member of the Authority, other than an *ex officio* member, at any time on the basis of incapacity, non-performance, bankruptcy, neglect of duty or misconduct proved to the satisfaction of the Minister.

(3) Where a vacancy in the member of the Authority exists, the Minister must take all reasonable measures to appoint a specialist or representative under section 25(1)(f) to (l), as the case may be, as a new member of the Authority.

(4) The powers of the Authority are not affected by any vacancy in its membership.

Remuneration and allowances

28. The Minister determines the remuneration of, and allowances for, the members of the Authority.

Functions of Authority

29. The Authority has the following functions—

- (a) to advise the Minister on matters relating to curriculum, assessment, and educational standards;
- (b) to develop, review, approve and implement the national curriculum frameworks, syllabi, and learning standards for all educational levels prescribed by the Minister;
- (c) to review the curriculum framework at least once every 3 years;
- (d) to design, develop, administer and manage national examinations and other forms of assessment for all educational levels prescribed by the Minister;
- (e) to establish and maintain a system for the certification of educational achievement based on national assessments and examinations;
- (f) to conduct or commission research on best practices in curriculum development, pedagogy, and assessment, both nationally and internationally;
- (g) to provide guidance, resources and support to schools and educators on the effective implementation of the national curriculum and assessment practices;
- (h) to collaborate with relevant stakeholders, including educators, parents, community groups, industry, and higher education institutions, in the performance of its functions;
- (i) to publish and disseminate information related to curriculum, assessment frameworks, and examination results; and
- (j) to perform any other functions as may be conferred on it by this Act or any other written law.

Powers of Authority

30. The Authority has the power to do all things necessary or convenient to be done for the performance of its functions under this Act or any other written law.

Meetings of Authority

31.—(1) The Authority must meet—

- (a) at least once in every 4 months; and
- (b) at such times and places as the chairperson may determine.

(2) Subject to subsection (3), the chairperson must preside at each meeting of the Authority.

(3) The quorum required for a meeting of the Authority is 8.

(4) Where a question arises at a meeting of the Authority, a majority of the votes of the members of the Authority present at the meeting determine the question.

(5) At a meeting of the Authority, the chairperson and any other member of the Authority has a deliberative vote, and where there is a tie in the number of opposing votes, the chairperson has a casting vote.

(6) A written resolution of the Authority that is signed or assented to by a majority of the members of the Authority, whether in person or through electronic means, is valid and deemed to have been approved at a meeting of the Authority.

(7) Subject to this Act, the Authority may regulate its own procedures.

(8) A defect or irregularity in, or in connection with, the appointment of a member of the Authority, or in the case of an acting appointment, the occasion for acting had not arisen or had ceased, the defect or irregularity does not invalidate an act or decision of the Authority.

Annual report of Authority

32. Without limiting the right of the Authority to report at any time, the Authority must, as soon as practicable after the end of each financial year—

- (a) publish an annual report on the performance of the Authority’s functions under this Act during the year; and
- (b) submit a copy of the annual report to the Minister, who must table the annual report in Parliament as soon as reasonably practicable.

Protection from liability

33.—(1) No civil or criminal proceedings lie against the Authority for anything the Authority does or has failed to do in the course of the exercise or purported exercise of the powers or performance or purported performance of the functions of the Authority, unless it is shown that the Authority did not act in good faith or with reasonable care.

(2) No civil or criminal proceedings lie personally against any member of the Authority for anything the member does or has failed to do in the course of the exercise or purported exercise of the powers or performance or purported performance of the functions of the Authority, unless it is shown that the member did not act in good faith or with reasonable care.

Division 2—Religious Instruction

Religious instruction in schools

34.—(1) In this section, “teacher” includes a person who is employed or engaged by a school whether or not the person provides instruction at the school.

(2) A government-aided school may provide religious instruction as part of the education that it provides, whether or not the school receives financial assistance from the Government for the provision of the instruction.

(3) A teacher or student at any school must not be compelled to act in any manner that is contrary to his or her religion or belief.

(4) A student who is a child must not receive religious instruction unless his or her parent consents to it.

(5) A student who is not a child must not receive religious instruction unless he or she consents to it.

Primary consideration

35. Notwithstanding any other provision in this Act or any other written law, and where the student is a child, the best interests of the student are the primary consideration.

Division 3—Career Education and Guidance

Head of school to ensure career education and guidance are provided

36. The head of a school must take all reasonable measures to ensure that students in a prescribed year and above are provided with appropriate career education and guidance to prepare the students to join the workforce or undertake further education or training.

Commission to provide careers information service

37. The Commission must provide a publicly available careers information service that includes a database of information in respect of occupations and higher education and training.

PART 6—SCHOOLS

Division 1—Types and classifications of schools and categories of education

Types of schools

38. A school may be, according to the mode of ownership or funding of the school, one of the following types—

- (a) government school;
- (b) government-aided school;
- (c) private school; or
- (d) home school.

Classifications of schools

39. A school may be, according to the age range of the students, classified as—

- (a) an early childhood education school;
- (b) a primary school;
- (c) a secondary school;
- (d) a school providing education for mature students.

Categories of education

40.—(1) A school may provide the following categories of education—

- (a) early childhood education;
- (b) primary education;

- (c) secondary education;
- (d) technical and vocational education and training;
- (e) special and inclusive education;
- (f) a home schooling education.

(2) The Minister may, by regulations, amend the categories of education under subsection (1).

Register of Schools

41.—(1) This section establishes the Register of Schools.

(2) The Permanent Secretary must keep and maintain the Register of Schools.

(3) The Register must contain a list of all schools approved, registered or recognised under this Act including all schools that are no longer approved, registered or recognised under this Act or that have closed.

(4) The Register of Schools may be in either or both of the following forms—

- (a) in physical form, kept and maintained at the main office of the Ministry; or
- (b) in electronic form, kept and maintained on the Ministry’s website.

(5) Further particulars of the Register of Schools may be prescribed by regulations.

Division 2—Government Schools

Establishment of government schools

42. The Minister may, with the approval of Cabinet, establish a government school in any locality, provided that due consideration is given to the existing schools in the locality.

Control of government schools

43. The Permanent Secretary has control of all government schools.

Board of Governors

44.—(1) A government school must have a Board of Governors to be appointed by the Minister with such functions and powers as the Minister may prescribe.

(2) The Board of Governors of a government school may regulate its own procedures.

Division 3—Government-Aided Schools

Control of government-aided schools

45. The controlling authority of a government-aided school has control of the government-aided school.

Manager

46.—(1) The controlling authority of a government-aided school must—

- (a) appoint a manager of the school; and
- (b) submit the prescribed details of the proposed manager to the Permanent Secretary for registration.

(2) The Permanent Secretary may—

- (a) register the proposed manager as the manager of the school; or
- (b) refuse to register the proposed manager as the manager of the school if he or she—
 - (i) has been convicted of any offence involving dishonesty, fraud, violence or immorality; or
 - (ii) is undischarged bankrupt.

Division 4—Private Schools

Control of private schools

47. The controlling authority of a private school has control of the private school.

Manager

48.—(1) The controlling authority of a private school must—

- (a) appoint a manager of the school; and
- (b) submit the prescribed details of the proposed manager to the Permanent Secretary for registration.

(2) The Permanent Secretary may—

- (a) register the proposed manager as the manager of the school; or
- (b) refuse to register the proposed manager as the manager of the school if he or she—
 - (i) has been convicted of any offence involving dishonesty, fraud, violence or immorality; or
 - (ii) is an undischarged bankrupt.

PART 7—ESTABLISHING AND CLOSING SCHOOLS

Division 1—Establishing Schools

Requirement to be registered or recognised

49. A person must not establish or operate a school unless it is, in accordance with this Act—

- (a) approved by the Permanent Secretary, or by the Minister after an appeal; and
- (b) registered or recognised by the Permanent Secretary, or by the Minister after an appeal.

Establishing government schools

50. The Permanent Secretary may establish a government school and upon establishment the school is taken to be registered under this Act.

Use of the term “school”

51. For the purposes of sections 52 to 57, “school” means a government-aided and private school but does not mean a home school.

Approval to register or recognise a school

52.—(1) The Permanent Secretary may grant approval to register or recognise a school if he or she is satisfied that the school meets the requirements for approval under section 53.

(2) A person that intends to establish and operate a school must first apply to the Permanent Secretary for approval to register or recognise the school.

(3) The application must be in writing and accompanied by the prescribed fee.

(4) The Permanent Secretary may impose conditions together with the approval of an application and the applicant must comply with those conditions.

Requirements for approval of registration or recognition of schools

53.—(1) The Permanent Secretary may only grant approval if the following requirements are met—

- (a) there is a sufficient number of potential students in the proposed area where the school is to be located;
- (b) there is a sufficient number of teachers and available facilities for the proposed schools;
- (c) the proposed site of the school is suitable and adequate for the type of school proposed;
- (d) the proposed school would be in the best interests of education;
- (e) for a government-aided school, establishing the proposed school would be a suitable and reasonable use of public funds;
- (f) there are not enough adequate schools already available in the proposed area to cater to the type of school proposed; or
- (g) the proposed manager or a person assisting in the management of the school is not prohibited or not likely to be prohibited from carrying out that role under section 164.

(2) The Permanent Secretary must notify the applicant in writing of—

- (a) the decision to approve or refuse the application; and
- (b) in the case of refusal, the applicant’s right to appeal the decision under section 61.

Application for certificate of registration or recognition

54.—(1) If the Permanent Secretary, or the Minister after an appeal, approves the registration or recognition of a school, the Permanent Secretary or Minister, as the case may be, may grant the applicant a certificate of registration or recognition in accordance with this Division.

(2) After receiving the Permanent Secretary's notice of approval under section 53(2), the person seeking to establish the school must apply for a prescribed certificate of registration or recognition.

(3) For the avoidance of doubt, even if a school is already registered or recognised under written law, the following changes require a new application for registration or recognition after an approval under section 52 has been granted—

- (a) changing the nature or form of education that the school provides;
- (b) changing the school's classification;
- (c) reopening the school after it has been closed for 6 months or more; or
- (d) transferring the school to a new location.

(4) The Permanent Secretary may refuse an application for a certificate of registration or recognition if, in his or her opinion, there has been a breach of—

- (a) any prescribed condition of registration or recognition; or
- (b) any condition imposed by the Permanent Secretary when approving the application under section 52(4).

(5) The Permanent Secretary may, when issuing a certificate of registration or recognition—

- (a) classify the school in a category which restricts the highest form or type of education which may be provided by the school; and
- (b) impose conditions that the Permanent Secretary considers appropriate.

(6) The Permanent Secretary may amend or revoke any condition imposed under subsection (5)(b).

Cancellation of certificate of registration or recognition

55.—(1) The Permanent Secretary may cancel the certificate of registration or recognition of a school if he or she is satisfied that the school has been closed for a period of 6 consecutive months.

(2) The Permanent Secretary may, at any time, cancel the certificate of registration or recognition of a school which has ceased or failed to conform to the conditions prescribed, or imposed by the Permanent Secretary, for the school.

(3) If the Permanent Secretary cancels a certificate of registration he or she may, in accordance with the regulations, issue a certificate of recognition in its place.

Changes to controlling authority

56.—(1) The Permanent Secretary must specify the controlling authority of any registered or recognised school in the certificate of registration or recognition of the school.

(2) The controlling authority of a school must, within 3 months of a change to or of the controlling authority, notify the Permanent Secretary in writing of the change and, as an attachment to the notice, return the certificate for endorsement of the change.

(3) Subsection (2) is deemed to be a prescribed condition of any certificate of registration or recognition.

Power to request return of certificates

57.—(1) The Permanent Secretary may request in writing that a controlling authority or manager of a school return the school's certificate of registration or recognition to him or her so the Permanent Secretary may make an endorsement on the certificate of the exercise of any of the Permanent Secretary's powers under this Part.

(2) The reference to the Permanent Secretary's powers under subsection (1) includes the power to—

- (a) impose, amend or remove conditions; and
- (b) amend or cancel a certificate and, if the Permanent Secretary deems appropriate, replace it with a new certificate of either registration or recognition.

(3) The controlling authority or manager that receives the request under subsection (1) must, within 14 days of receiving the request, return the certificate of registration or recognition.

(4) Subsection (3) is deemed to be a condition of the certificate of registration or recognition.

Approving home schools

58.—(1) The Permanent Secretary may only approve a home school if—

- (a) the proposed site of the school is suitable and adequate for the education of a student;
- (b) the proposed home school will be in the best interests of the student;
- (c) there are not enough adequate schools already available in the proposed area to cater to the type of school proposed;
- (d) the proposed parent or person providing instruction to the student is not prohibited or not likely to be prohibited from carrying out that role under section 164; and
- (e) the school meets any other prescribed requirements.

(2) A person that intends to set up a home school must apply to the Permanent Secretary for approval.

(3) The application must be in writing and accompanied by the prescribed fee.

(4) The Permanent Secretary may impose conditions together with the approval of an application and the applicant must comply with those conditions.

(5) The Permanent Secretary must notify the applicant in writing of—

- (a) the Permanent Secretary's decision to approve or refuse the application; and
- (b) in the case of refusal, the applicant's right to appeal the decision under section 61.

*Division 2—Closing of Schools**Closing government-aided and private schools*

59.—(1) The Permanent Secretary may order the manager of a school to close the school if the Permanent Secretary is satisfied that—

- (a) the school is conducted in a manner which is calculated to be detrimental to the physical, mental or moral welfare of its students;
- (b) the education or instruction given to the students is prejudicial to the peace, good order or good government of Fiji;
- (c) the premises of the school do not and cannot at reasonable expense be made to meet the prescribed requirements relating to health and safety;
- (d) the school persistently and materially teaches a curriculum that does not comply with the basic curriculum set by the Authority;
- (e) the school, after a publication has been declared unsuitable for use in schools by the Permanent Secretary, knowingly uses or refers to the publication, or any copy, or extract of it, as part of the instruction provided in the school;
- (f) the school is not registered or recognised under and in accordance with this Part and does not have a valid certificate of registration or recognition;
- (g) any person managing or assisting in the management of the school has been prohibited from serving in that capacity under section 164; or
- (h) it is not in the best interests of education in relation to the best use of Government funds, or otherwise to keep any school open.

(2) The Permanent Secretary may order the manager of a school to close the school if the controlling authority of the school requests that the school be closed.

(3) A school closed under this section for less than 6 months may be reopened at the discretion of the Permanent Secretary.

Stopping home schools

60.—(1) The Permanent Secretary may order a responsible person to stop the home school if the Permanent Secretary is satisfied that—

- (a) the school is conducted in a manner which is calculated to be detrimental to the physical, mental or moral welfare of its students;
- (b) the education or instruction given to a student is prejudicial to the peace, good order or good government of Fiji;
- (c) the premises of the school do not and cannot at reasonable expense be made to meet the prescribed requirements relating to health and safety;
- (d) the school persistently and materially teaches a curriculum that does not comply with the basic curriculum set by the Authority that applies to the school;

- (e) the school, after a publication has been declared unsuitable for use in schools by the Permanent Secretary, knowingly uses or refers to the publication, or any copy, or extract of it, as part of the instruction provided in the school;
- (f) the school is not approved under and in accordance with this Part; or
- (g) any person providing instruction in the school has been prohibited from serving in that capacity under section 168.

(2) A home school that is stopped under this section for less than 6 months may recommence at the discretion of the Permanent Secretary.

(3) In this section, “responsible person” means a parent or person that administers or oversees a home-schooling education.

Division 3—Appeals

Appeals

61.—(1) A person aggrieved by—

- (a) a refusal by the Permanent Secretary to approve an application under sections 52 or 58; or
- (b) an order to close a school under section 59 or to stop a home school under section 60 may appeal in accordance with subsection (2).

(2) An appeal under subsection (1) may be made—

- (a) to the Minister in writing; or
- (b) where the applicant is dissatisfied with the decision of the Minister, appeal to the Education Appeals Tribunal established under section 62.

(3) An appeal to the Minister must be—

- (a) made within 30 days—
 - (i) in the case of a refusal under subsection (1)(a), of the notification under section 54(2); or
 - (ii) in the case of an order under subsection (1)(b), of the order received; and
- (b) accompanied by the prescribed fee.

(4) The Minister must determine an appeal within a reasonable time.

(5) A person aggrieved by the decision of the Minister may, within 30 days of being notified of the decision, appeal to the Education Appeals Tribunal.

(6) The Permanent Secretary may, at his or her discretion, permit a school that is the subject of an appeal under subsection (1)(b) to remain open pending the determination of the appeal.

Establishment of Education Appeals Tribunal

62.—(1) This section establishes the Education Appeal Tribunal consisting of —

- (a) a chairperson, who must be a person qualified to be appointed as a Magistrate or is a retired Magistrate; and
- (b) 2 other members, of whom—
 - (i) one must have experience and expertise in education; and
 - (ii) one may have such other qualifications or experience as the Minister considers appropriate.

(2) The member of the Tribunal are to be appointed by the Minister for a term of 3 years, either on a full-time or part time basis and are eligible for reappointment.

Powers of Education Appeals Tribunal

63.—(1) In determining an appeal, the Education Appeals Tribunal may —

- (a) confirm the original decision;
- (b) amend the original decision;
- (c) substitute another decision for the original decision; or
- (d) set aside the original decision and return the matter to the Minister with any direction it considers appropriate.

(2) The Education Appeals Tribunal must determine an appeal in accordance with the prescribed procedures.

PART 8—SCHOOL REGULATION

*Division 1—Health and Safety**Health and safety requirements*

64.—(1) A school must comply with—

- (a) the prescribed health and safety requirements; and
- (b) any applicable health and safety requirements set out in any other written law.

(2) Subject to section 65, if it appears to the Permanent Secretary that a school does not comply with subsection (1), he or she may order the manager or the Board of Governors of the school to execute within a reasonable period to be stated in the order, such specified works as are necessary to secure compliance.

(3) Subject to section 65, if the Permanent Secretary is satisfied that an order has not been carried out, he or she may order the manager or the Board of Governors to close the school.

Waiver

65. If, after having regard to the nature of the site of a school, any existing building and other circumstances affecting the school premises, the Permanent Secretary is satisfied that

it is unreasonable to require the school to comply with the prescribed health and safety requirements, he or she may waive any of the prescribed requirements.

Division 2—Inspections

Inspection of schools

66.—(1) In this section, “school” includes any part of the school, and any building used in connection with the school, including any workshop, dormitory, kitchen, sanatorium, hostel and ancillary building.

(2) An authorised officer must, at least once in every 12 months and with prior notice, visit a school and conduct an inspection of the school.

(3) Notwithstanding subsection (2), an authorised officer may, at any time and without prior notice, visit a school and conduct an inspection of the school.

(4) The authorised officer who conducts an inspection must—

- (a) prepare a report in the prescribed manner and form;
- (b) outline his or her findings from the inspection; and
- (c) submit the report to the Permanent Secretary within the prescribed period.

Medical inspection and treatment

67.—(1) In this section—

“health professional” means a prescribed health professional who is authorised by the Ministry responsible for health and the Ministry to conduct the medical inspection and treatment; and

“medical inspection and treatment” includes dental inspection and treatment.

(2) A student may undergo a medical inspection and treatment by a health professional at the school he or she is enrolled in if a parent of the child consents to the inspection and treatment.

PART 9—ADMINISTRATION

Division 1—General

Admission of students

68.—(1) A government school or government-aided school must not admit a student to the school after the first two weeks in the first term of any year has lapsed.

(2) Notwithstanding subsection (1), the Permanent Secretary may approve the admission of a student for prescribed reasons.

School hours

69.—(1) The Minister may prescribe the school hours for teachers and students.

(2) The school hours applicable to a government school and a government-aided school prior to the commencement of this Act continue until such time the Minister prescribes different school hours under subsection (1).

Teacher-student ratio

70.—(1) The head of school must not assign or permit a teacher to be in charge of a class that has more than the prescribed number of students.

(2) Notwithstanding subsection (1), the Permanent Secretary may authorise the head of school of a school to assign or permit a teacher to be in charge of a class that has more than the prescribed number of students if the Permanent Secretary is satisfied that the reason provided is a prescribed reason.

*Division 2—Boarding**Criteria for enrolment to be prescribed*

71.—(1) A boarding school must enrol a student at the school in accordance with the prescribed criteria for enrolment.

(2) The criteria for enrolment must consider—

- (a) the distance between the student’s residence and the boarding school; and
- (b) whether the student resides in a rural, maritime or any other remote area where schools are not easily accessible.

PART 10—STUDENT BEHAVIOUR AND WELL-BEING*Counselling for students*

72.—(1) Subject to subsection (3), a school must employ or engage a qualified and trained school counsellor to provide counselling services to students enrolled at the school.

(2) For the purposes of subsection (3), the Ministry must employ or engage a qualified and trained school counsellor to provide counselling services to students.

(3) Where a government school or government-aided school is unable to employ or engage a qualified and trained school counsellor, the school must take all reasonable measures to ensure that students enrolled at the school have access to—

- (a) a qualified and trained school counsellor employed or engaged by the Ministry for counselling services; or
- (b) any other qualified and trained school counsellor.

(4) The requirement under subsection (1) is a deemed condition of registration or recognition of a school.

PART 11—FINANCING AND ACCOUNTABILITY*Division 1—Fees and Levies**Tuition fees*

73.—(1) A government school and government-aided school must not charge any fee for the provision of primary education or secondary education to any student enrolled at the school.

(2) Subsection (1) does not apply to a student who is a foreign student.

Boarding fees

74.—(1) A boarding school may charge the prescribed boarding fee, or a fee not more than the prescribed boarding fee, for the provision of boarding and accommodation to any student enrolled at the school.

(2) A boarding school may refuse to enrol or re-enrol a student at the school if the student—

- (a) has not paid the boarding fee to the school at the time the fee is due; or
- (b) is owing the boarding fee to the school.

Levies

75.—(1) Subject to subsections (2) and (3), a government school and government-aided school may charge a levy to the students enrolled at the schools for any of the following purposes—

- (a) the development or improvement of the school's infrastructure;
- (b) the maintenance of the school;
- (c) the purchase of books and other supplies that are likely to improve the quality of the education provided by the school or enrich the learning experiences of the students;
- (d) the purchase of equipment that is likely to improve the quality of the education provided by the school or enrich the learning experiences of the students;
- (e) the funding of educational excursions and extracurricular activities that are likely to improve the quality of the education provided by the school or enrich the learning experiences of the students; and
- (f) any other purpose authorised by the Permanent Secretary.

(2) A government school and government-aided school must apply to the Permanent Secretary in the prescribed manner and form for approval of the amount of levy to be charged.

(3) The Permanent Secretary must ensure that the amount of levy to be charged is—

- (a) reasonable and equitable; and
- (b) not excessive or burdensome to any parent.

(4) This section applies notwithstanding section 8.

Fees to be paid into Consolidated Fund etc

76. All fees charged and payable to a government school under this Division are to be accounted for and paid into the Consolidated Fund or a fund established by the Minister in the regulations.

*Division 2—Fundraising**Fundraising by schools*

77.—(1) A government school and government-aided school may organise and conduct a fundraising activity or event to raise monies for any of the following purposes—

- (a) the development or improvement of the school’s infrastructure;
- (b) the maintenance of the school;
- (c) the purchase of books and other supplies that are likely to improve the quality of the education provided by the school or enrich the learning experiences of the students;
- (d) the purchase of equipment that is likely to improve the quality of the education provided by the school or enrich the learning experiences of the students;
- (e) the funding of educational excursions and extracurricular activities that are likely to improve the quality of the education provided by the school or enrich the learning experiences of the students; or
- (f) any other purpose authorised by the Permanent Secretary.

(2) A government school or government-aided school must not force, compel, coerce, intimidate or apply pressure to a teacher, student or parent to participate in, or contribute to, a fundraising activity or event that is organised and conducted by the school.

*Division 3—Financial transparency**Responsible financial management*

78. A government school and government-aided school must manage and use any public funds provided to the school, including for the education of students, in a responsible and prudent manner.

Financial records

79.—(1) A government school and government-aided school must keep written financial records that—

- (a) correctly outline and explain the transactions of the school;
- (b) correctly outline and explain the financial position and performance of the school;
- (c) enable financial statements to be prepared and audited; and
- (d) enable other reports to be prepared as required by this Act.

(2) The financial records required under subsection (1)—

- (a) must be kept for at least 7 years after the dates of the transaction to which they relate;
- (b) must be kept at the school; and

- (c) may be kept in electronic form if they are readily retrievable and convertible into a physical form.

Financial statements

80.—(1) A government school and government-aided school must ensure that the financial statements for the school for each financial year are prepared.

(2) The financial statements must include all the information that is necessary to ensure that the financial statements give a true and fair view of the financial position and performance of the school.

(3) Without limiting subsection (2), the financial statements must consist of—

- (a) a balance sheet, profit and loss statement and other financial reports for the financial year as required by and consistent with applicable accounting standards; and
- (b) notes to the financial statements as required by applicable accounting standards.

Division 4—Audit and reporting

Audit

81. A government school and government-aided school must cause the accounts and financial statements of the school to be audited by an auditor authorised by the Auditor-General, in accordance with auditing standards.

Annual report

82. A government school and government-aided school must prepare and submit an annual report to the Permanent Secretary in the prescribed manner and form.

PART 12—TEACHER REGISTRATION

Division 1—The FTTRA and Board

Establishment of FTTRA and continuation of Board

83.—(1) This section establishes the Fiji Teacher Registration Authority which comprises the Fiji Teachers Registration Board established under the Fiji Teachers Registration Act 2008.

(2) The FTTRA—

- (a) is a body corporate with perpetual succession;
- (b) must have a common seal;
- (c) may acquire, hold and dispose of real property; and
- (d) may sue and be sued in its corporate name.

(3) The common seal of the FTTRA is to be kept as the Board directs and must not be used except as authorised by the Board.

Membership of Board

84.—(1) The members of the Board comprise a chairperson and 8 other members appointed by the Minister.

(2) The members must be persons who, in the opinion of the Minister, have adequate qualifications, skills, expertise and knowledge to contribute to the functions of the Board under this Act, and in particular for the development of the teaching profession, education standards, and general administration and financial management of the Board.

(3) The Minister has the power to co-opt other persons as members to facilitate the work of the Board, subject to terms and conditions the Minister determines.

(4) A member may be appointed for a term of up to 3 years and is eligible for reappointment.

(5) The Board has the power to elect one of its members as its deputy chairperson, to perform the functions and powers of the chairperson when the chairperson is absent or unable to perform the functions and powers.

(6) The Schedule sets out other provisions relating to the Board.

Functions of Board

85. The functions of the Board are—

- (a) to be responsible to the Minister for the registration of persons qualified to be registered as teachers under this Act;
- (b) to keep teacher registration in Fiji under continuous review and to make reports and recommendations to the Minister concerning this function;
- (c) to oversee, undertake and implement the disciplinary measures outlined in Division 4 of this Part;
- (d) to confer and collaborate with employing authorities, teacher education institutions, the teaching profession, teacher organisations and the general community in relation to standards of courses of teacher education acceptable for the purpose of teacher registration and to advise the Minister accordingly;
- (e) to undertake relevant review and research projects for the purpose of this Act, as requested in writing by the Minister;
- (f) to promote the teaching profession;
- (g) to develop, formulate and improve professional teaching standards attuned to the needs of students and of a professional work force;
- (h) to develop, formulate and maintain a code of professional ethics for the teaching profession; and
- (i) to make recommendations to the Minister with respect to special projects not inconsistent with its other functions, including funding required to undertake such projects.

Powers of Board

86.—(1) In addition to the powers conferred upon it under this Act or any other written law, the Board has the following powers—

- (a) to collect prescribed fees for the purpose of this Act;
- (b) to investigate complaints and institute disciplinary action under this Part;
- (c) to produce materials in the performance of its functions; and
- (d) to exercise other powers conferred upon it under this Act or any other written law.

(2) For material produced by it, the Board may—

- (a) charge for advertising in the material;
- (b) sell the material; or
- (c) enter into an agreement with any person to sell the material.

Delegation of powers

87.—(1) The Board may delegate, in writing, its powers, functions or duties under this Act to any member of the Board or to an employee of the FTRA either generally or, as specified in the delegation, for a period, purpose or area within Fiji and may revoke or vary the delegation.

(2) For the avoidance of doubt, the Board may continue to exercise any power and carry out any function and duty delegated under this section.

Committees

88. The Board may establish the following committees consisting of its members and other persons it considers appropriate to assist it to perform its functions—

- (a) Teacher Registration Committee;
- (b) Teacher Education Committee;
- (c) Code of Professional Ethics Committee;
- (d) Professional Teaching Standards Committee;
- (e) Finance and Management Committee;
- (f) Disciplinary Committee; and
- (g) any other committee, it considers necessary for the purposes of this Act.

Directions

89.—(1) The Minister may give the Board or a person exercising a delegated authority of the Board a written policy direction in relation to its powers and functions if the Minister is satisfied that it is necessary to do so in the public interest.

(2) The Board or person must comply with the directions given under subsection (1).

Employment of staff

90.—(1) The Board may appoint employees for the efficient performance of its functions and terminate or suspend the employment of an employee in accordance with the Employment Relations Act 2007.

(2) The qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit.

(3) The Ministry must provide sufficient public officers as required for the administration of the Board.

Chief Executive Officer

91.—(1) The Board may appoint a Chief Executive Officer on the terms and conditions as the Board may determine and at a salary approved by the Board.

(2) The Chief Executive Officer—

(a) is responsible to the Board for the proper administration and management of the operations and affairs of the FTRA in accordance with the policies or policy instructions of the Board and this Act; and

(b) must perform a function delegated by the Board.

(3) For the avoidance of doubt, section 90 applies to the Chief Executive Officer.

*Division 2—Registration of Teachers**Must register to teach*

92.—(1) A person must not teach at a school in Fiji unless the person is a holder of a valid certificate of registration under section 98 or authorisation under section 105 permitting the person to teach or practice teaching at a school in Fiji.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction—

(a) for a first offence, to a fine not exceeding \$5,000; and

(b) for a second or subsequent offence, to a fine not exceeding \$20,000.

Power to register

93.—(1) The Board may grant the registration of a person as a teacher under this Act.

(2) The Board may also—

(a) refuse to grant, renew or vary registration;

(b) suspend or cancel registration; or

(c) impose, vary, suspend or remove conditions of registration.

Application for registration

94.—(1) A person qualified to be registered as a teacher may, in the prescribed form and accompanied by the prescribed fee, apply to the Board for registration.

(2) The Board may require a person to provide any further information it considers necessary to consider the application.

Criteria for registration

95.—(1) The Board must not register a person as a teacher unless it is satisfied that—

- (a) the person —
 - (i) has successfully completed an approved course and qualification relating to teacher education and training from a recognised institution, and at least one year of full-time teaching to the satisfaction of the Board;
 - (ii) has contributed to educational practice and has the qualification and experience that, in the opinion of the Board, are sufficient to warrant registration; or
 - (iii) has complied with any requirements of the Board during any period of provisional registration;
- (b) the person is of good character; and
- (c) the person is fit to be a teacher (which may include requiring the person to be certified by a registered medical practitioner as medically fit to be a teacher).

(2) In determining whether an applicant is of good character, the Board must consider any—

- (a) conviction of, or charge made against, the applicant; and
- (b) behaviour of the applicant that —
 - (i) does not satisfy a standard of behaviour generally expected of a teacher;
 - (ii) is otherwise disgraceful or improper;
 - (iii) shows that the applicant is unfit to be a teacher; or
 - (iv) it considers relevant even if the matter happened in another country.

(3) If the Board takes into account any matter under subsection (2), the Board must give the applicant an opportunity to respond, in writing or orally, to such matter.

(4) The applicant may appear before the Board with or without a representative.

Notice of Board's decision

96.—(1) The Board must, within 14 days after the date of its decision on an application, notify the applicant in writing about its decision, including the reasons for refusal if the application is refused.

(2) The notice given under subsection (1) must also state the right of appeal and the period of appeal under section 109.

(3) For an approval for provisional registration, the notice must also state—

- (a) the additional qualification or experience required for full registration; and
- (b) the time within which the applicant must obtain or complete the stated additional qualification or experience.

Registration fee

97.—(1) A person who is registered, or whose registration is renewed (including provisional registration and limited authority), must pay an annual prescribed registration fee for each year, excluding the first year, for which the registration is granted or renewed.

(2) The fee is to be paid on or before 31 December in each year during the period of the registration, and if the fee is not paid the registration lapses.

(3) A person must pay the prescribed late penalty fee if their registration lapses under subsection (2).

(4) Notwithstanding subsections (1) and (2), the Board may determine a biennial or triennial fee payment plan that is specific to the type of registration.

Certificate of registration

98.—(1) If an application for registration (including renewals of or provisional registration) is granted by the Board, the Board must issue a certificate of registration in the prescribed form.

(2) If a certificate of registration is lost or destroyed, the Board must, on payment of the prescribed fee, issue a replacement certificate.

Duration of registration

99.—(1) The period of registration is up to 3 years starting on the date the registration is granted and ending on 31 December in the year that the registration expires.

(2) The Minister may make regulations to prescribe the term for each category of registration.

Renewal of registration

100.—(1) A person whose registration expires, or lapses under section 97(2), may apply to the Board for renewal of registration.

(2) The application must be in the approved form and accompanied by the prescribed fee.

(3) The application must also be accompanied by satisfactory evidence of—

- (a) ongoing competence; and
- (b) professional development undertaken in the 12 months before the date of the application.

(4) The Board must not renew the registration of a person unless it is satisfied—

- (a) that the person continues to be of good character; and
- (b) with the evidence referred to in subsection (3).

(5) The Board may renew the registration for a period not exceeding 3 years, subject to this Act and regulations made under it and payment of the prescribed registration fees.

Restoration of registration

101.—(1) A person whose registration was cancelled or suspended or has expired may, in the prescribed form and accompanied by the prescribed fee, apply to the Board for restoration of such registration.

(2) Section 95 applies to an application under this section.

Provisional registration

102.—(1) The Board may, subject to conditions it deems appropriate, grant a provisional registration to a person who has applied for full or provisional registration if the Board is satisfied that the person—

- (a) has not complied with the qualifications and experience required for full registration but has the qualifications and experience the Board determines, as necessary for the requirement for provisional registration or is able to obtain the qualifications and experience required for full registration; and
- (b) is of good character.

(2) A person may, in the prescribed form and accompanied by the prescribed fee, apply to the Board for provisional registration.

(3) The period of provisional registration is one year and may be renewed twice for a period of one year for each renewal.

(4) A person seeking renewal under this section must apply to the Board in the approved form and be accompanied by the prescribed fee.

(5) The application must also be accompanied by satisfactory evidence of—

- (a) ongoing competence; and
- (b) professional development undertaken in the 12 months before the date of the application.

(6) The Board must not renew the registration of a person unless it is satisfied—

- (a) that the person continues to be of good character; and
- (b) with the evidence referred to in subsection (5).

Reports from employers on provisional registrants

103.—(1) The Board may require a person who has been granted a provisional registration to submit a report in an approved form from the person's employer with respect to—

- (a) the manner in which the person has performed teaching duties; and
- (b) any recommendations as to the person's suitability for full registration.

(2) A recommendation for full registration of a person granted provisional registration may only be made by the employer of the person after the person has completed one year of teaching.

Cancellation of provisional registration

104. The Board may cancel the provisional registration of a person—

- (a) if the person fails to comply with a condition of the registration; or
- (b) for any other good reason the Board determines.

Limited authority to teach

105.—(1) A person must not be allowed to practise teaching as a teacher trainee at a school, unless the person has a written authorisation under this section to undertake practical teaching at a school.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$2,000.

(3) The Board has the power to grant limited authority to a person, in the prescribed form and subject to conditions the Board deems appropriate, to teach at a school in a specified subject if the Board is satisfied that the person is of good character and—

- (a) does not meet the requirements for full registration or provisional registration but has the appropriate skill or experience that is not attained by a registered teacher;
- (b) is a teacher trainee recommended by a recognised teacher education college or by the Permanent Secretary; or
- (c) meets the special registration requirements.

(4) A person meets the special registration requirements if the person—

- (a) provides instruction in religion or culture on behalf of a recognised faith or cultural institution; and
- (b) possesses specialised knowledge or skills in religion or culture as verified and recommended by the recognised faith or cultural institution.

(5) Except for a person registered under subsection (3)(c), the period of limited authority is up to 2 years as determined by the Board and may be extended for a further period for up to 2 years.

(6) Registration under subsection (3)(c) is not limited to a period and is valid until or unless surrendered, suspended or cancelled.

Cancellation of limited authority

106. The Board has the power to cancel or suspend the limited authority issued to a person if—

- (a) the person is convicted of an offence in Fiji or in another country; or
- (b) the Board considers it appropriate to do so.

*Division 3—Appeals**Continuation of Appeals Board*

107. This section continues the Teachers’ Appeals Board established under the Fiji Teachers Registration Act 2008 consisting of the following members appointed by the Minister—

- (a) a legal practitioner who has at least 7 years of legal practice, as the chairperson; and
- (b) 2 other members.

Powers of Appeals Board

108.—(1) The power of the Appeals Board is to hear and determine an appeal under this Act.

(2) The Appeals Board has the power to confirm or vary the decision of the Registration Board or to quash the decision and make a new decision.

(3) In determining an appeal, the Appeals Board may take into consideration any evidence or statement relating to the character, academic and general suitability of the appellant.

Right of appeal

109.—(1) A person who is aggrieved by a decision of the Board given under Division 2 or 4 has the right to appeal to the Appeals Board.

(2) An appeal must be lodged with the Appeals Board within 30 days from the date of the notice given under section 96.

Appeals to High Court on question of law

110. A person who is aggrieved by the decision of the Appeals Board may appeal the decision to the High Court on a question of law.

Rules of Appeals Board

111. The Minister may make rules regulating the procedures for appeals.

Secretary to Appeals Board

112. The Permanent Secretary has the power to designate a senior staff of the Ministry to be the secretary to the Appeals Board.

*Division 4—Teacher Discipline and Inquiries**Disciplinary action on conviction*

113.—(1) If a registered teacher is convicted of an offence in Fiji, the Commissioner of Police or the Director of Public Prosecutions must cause to be sent to the Board a written notice stating the name of the registered teacher, the nature of the offence and the penalty imposed by the court.

(2) A registered teacher who is convicted of an offence in another country must, within 28 days after conviction notify the Board, in writing, of—

- (a) that conviction; and
- (b) the circumstances in which the offence was committed.

(3) When the Board receives a notice under subsection (1) or (2), the Board may—

- (a) caution the teacher; or
- (b) if it is of the opinion that the circumstances of the offence render the teacher unfit to teach—
 - (i) suspend the teacher’s registration for any period, and subject to any conditions, it considers appropriate; or
 - (ii) cancel the teacher’s registration.

(4) The Board, on suspending the registration of a teacher under subsection (3)(b)(i), may substitute provisional registration for any period, and subject to any conditions, the Board considers appropriate.

Complaints

114.—(1) A person (“the complainant”) has the right to complain, by notice in writing to the Board, about the professional conduct of a registered teacher (“the respondent”).

(2) The Board may dismiss a complaint if it is frivolous or vexatious and must notify the complainant of the dismissal.

(3) The Board must send a copy of the complaint to the—

- (a) respondent; and
- (b) employer of the respondent, if the employer contact details are stated in the complaint.

Inquiries

115.—(1) The Board has the power to hold an inquiry on—

- (a) a matter relating to the registration of a person under this Act; and
- (b) any complaint made under section 114.

(2) For the purposes of subsection (1), the Board may appoint a committee of inquiry to hold the inquiry and make recommendations to the Board.

(3) The Board may also hold an inquiry in respect of a registered teacher if it reasonably believes that—

- (a) the person is incompetent in teaching and has been dismissed from employment or has resigned in circumstances that, in the opinion of the person’s employer, call into question the person’s competency to teach;
- (b) the person’s registration to teach in another country has been cancelled or suspended;
- (c) the person’s employment in another country to teach has been terminated because the person’s employer was reasonably satisfied the person was not competent or fit to teach;

- (d) the person was registered on the basis of false or misleading information;
- (e) the person is no longer of good character; or
- (f) the person is convicted of an offence in Fiji or another country.

(4) The Board may hold an inquiry in respect of a person only if reasonably satisfied that it is in the public interest to do so.

Committee of inquiry

116.—(1) The Board may appoint a committee of inquiry consisting of—

- (a) 2 persons who are members of the Board; and
- (b) 3 other persons 2 of whom are registered teachers.

(2) A committee of inquiry must hold an inquiry subject to this Act and in accordance with any directions of the Board.

Conduct of inquiry

117.—(1) If the Board determines that an inquiry is to be held in respect of a person who is or was a registered teacher, the Board must serve the person with a notice of the proposed inquiry stating the following—

- (a) the nature and details of any matter of the proposed inquiry;
- (b) the date on which and the time and place at which it is to be held;
- (c) whether the inquiry is to be held by the Board or a committee of inquiry;
- (d) the full names of the members of the committee of inquiry;
- (e) that the person may submit to the Board within 14 days of service of the notice; and
- (f) a statement in writing—
 - (i) admitting to, or refuting, the substance of any matter to be inquired into; or
 - (ii) notifying the Board of the intention to appear in person.

(2) A person may be represented by any other person at an inquiry.

Committee to report to Board

118. When an inquiry is completed, the committee must prepare and submit to the Board a report including its findings and recommendations.

Decision of Board on inquiry

119. When making any decision in relation to the inquiry, the Board must take into account any findings and recommendations of the committee of inquiry, and may make any of the following decisions as a result of an inquiry—

- (a) caution the person;
- (b) suspend the registration for any period, subject to conditions;

- (c) cancel the registration; or
- (d) dismiss the complaint or matter being inquired into.

*Division 5—Miscellaneous**Register of teachers*

120.—(1) The Board must establish, keep and maintain a register of persons who are registered under this Act, containing the following information—

- (a) the full name and address of the registered person;
- (b) the type of registration (full or provisional);
- (c) particulars of the qualifications and experience by which the person is registered;
- (d) the date of making of the entry; and
- (e) any other prescribed particulars.

(2) The register must be kept at the Board’s office and other office it determines, and the register may be open for inspection during office hours by any person on payment of the prescribed fee.

(3) The Board must—

- (a) when a person is registered as a teacher, enter in the register the details set out in subsection (1) about that person;
- (b) when the registration of a person has been suspended or cancelled or has expired, make necessary notations on the register; and
- (c) enter other matters on the register, as it considers appropriate.

Removal of name from register

121. The Board may remove the name of a person from the register if—

- (a) the person has died;
- (b) the person requests that his or her name be removed from the register if the person is no longer employed as a teacher;
- (c) the registration is cancelled under section 93, 104, 106 or 119;
- (d) the person has not applied for renewal of registration under section 100; or
- (e) the person has not paid the relevant prescribed annual registration fee by the due date.

Duties of employers

122. Where a duty is imposed under this Act on an employer, the duty may be performed on behalf of the employer—

- (a) for any kindergarten, by the director or head of the kindergarten;

- (b) for any primary school, the head teacher or the manager or head of the school management; or
- (c) for any secondary school, the principal, manager or head of the school management.

Annual returns

123. The employer or a person so authorised by the employer must, on or before June each year, provide the Board with a return in the prescribed form of all persons teaching at the school as at 1 May that year.

Annual report and audit report

124.—(1) The Board is to submit an annual report to the Minister by 30 March the following year on its activities for the last financial year and the Minister must table the annual report in Parliament as soon as reasonably practicable.

(2) A copy of the certified audit statement is to be attached to the annual report.

(3) The Board is to—

- (a) keep proper accounts and records in relation to all its operations including fees collected;
- (b) ensure all payments made by it are correctly made and properly authorised; and
- (c) ensure that adequate control is maintained over—
 - (i) any assets in its custody; and
 - (ii) the incurring of liabilities.

(4) The accounts and financial records of the Board are subject to the Financial Management Act 2004, and the Audit Act 1969.

(5) The Board, on or before 31 August in each year, must—

- (a) prepare financial statements with respect to the preceding financial year in the form, and containing the information, determined by the Auditor-General; and
- (b) provide the Auditor-General with the financial statements.

PART 13—HIGHER EDUCATION

Division 1—Preliminary

Application

125. This Part applies to all higher education institutions.

Interpretation

126. In this Part, unless the context otherwise requires—

“accreditation”, in relation to a programme of study that leads to a higher education award, means the recognition that the standard of the programme of study and the way of delivering it, are appropriate to the award;

“degree awarding institute of technology” means an educational institution providing post-secondary education which specialises in technical education and training and awards qualifications up to degree level;

“higher education award” means the following qualifications—

- (a) a degree or higher degree;
- (b) a postgraduate diploma;
- (c) a postgraduate certificate;
- (d) a certificate, diploma, advanced diploma, associate degree if the programme of study relating to the diploma or certificate or associate degree is classified as higher education in the Higher Education Register; or
- (e) any other award, if the programme of study relating to the award is generally understood to be higher education;

“operating”, means conducting any form of activity in any medium to promote or in support of fee-paying or non-fee-paying higher education and training that is sourced externally, or within Fiji or both;

“other higher education institutions” means higher education institutions that are neither universities nor degree awarding institutes of technology;

“overseas institution” means an overseas higher educational institution that—

- (a) is established and operates primarily in another country; and
- (b) offers a programme of study leading to an award recognised as a higher education award by the entity responsible for recognising higher education awards in that country;

“registration” means registration of an institution by provision of a certificate of registration under section 143, and includes renewal of registration; and

“Tribunal” means the Higher Education Appeals Tribunal established under section 149.

Division 2—Higher Education Commission

Continuation of Higher Education Commission

127.—(1) The Higher Education Commission established under section 5(1) of the Higher Education Act 2008 continues in existence under this Act.

(2) The Commission is a body corporate with perpetual succession and a common seal.

(3) The Commission may—

- (a) enter into contracts;
- (b) sue and be sued;

- (c) acquire and dispose of real and personal property; and
- (d) perform any other act that a body corporate may by law perform.

(4) The use of the common seal of the Commission must be authenticated by the signature of—

- (a) the chairperson; and
- (b) a member authorised by the Commission to do so.

(5) All documents, other than those required by any written law to be under the common seal, prepared by, and all decisions of, the Commission may be signified under the hand of the chairperson, or any member or officer authorised by the Commission to act in that behalf.

(6) All cheques and other negotiable instruments, and all receipts for money paid to the Commission, must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Commission may determine, provided that at least 2 persons are to be authorised to sign the cheques and other negotiable instruments.

Membership of Commission

128.—(1) The Commission consists of the chairperson and 5 other members.

(2) The Minister appoints the members of the Commission and determines the terms and conditions of the appointment.

(3) When appointing the members of the Commission, the Minister must consider persons who possess—

- (a) independence and integrity;
- (b) a balanced combination of postgraduate qualification and experience;
- (c) knowledge and experience of higher education academic affairs;
- (d) knowledge and experience in governance and management of higher education institutions;
- (e) knowledge and experience in the design, development and delivery of higher education courses; and
- (f) research and publication experience in any academic field.

(4) Subject to this Act, the Commission may regulate its own procedures.

Functions of Commission

129. The functions of the Commission are to—

- (a) register and regulate higher education institutions in accordance with this Part;
- (b) foster and safeguard the national interest, the interests of students and parents, and also of local higher education providers;
- (c) establish national standards for different qualifications;

- (d) oversee the review process of higher education institutions;
- (e) provide assurances that the programmes developed by the higher education institutions meet national standards;
- (f) promote the development of Fiji as a knowledge society;
- (g) allocate government funds marked for higher education annually to higher education institutions according to a transparent and well-publicised criteria for allocation;
- (h) foster cooperation among higher education institutions and linkages between higher education institutions and industry;
- (i) maintain a database of higher education information;
- (j) develop or cause to be developed an academic broadband facility for use by higher education institutions; and
- (k) make recommendations to the Minister with respect to issues consistent with its functions, including special projects.

Powers of Commission

130. The Commission has the power to do all things necessary or convenient to be done for the performance of its functions under this Act or any other written law.

Committees to assist Commission

131. The Commission may establish committees consisting of its members and other persons employed or engaged by the Commission as it considers appropriate, to assist the Commission in the performance of its functions.

Review Committee

132.—(1) The Commission must establish a Review Committee consisting of 4 members appointed by the Commission, who are not members of the Commission and committees established under section 131.

(2) The Review Committee must conduct a review of the operation of existing and new higher education institutions according to the criteria and guidelines set out by the Commission.

(3) The annual reports of higher education institutions must be submitted to the Review Committee for consideration in the review process.

(4) In exceptional cases, the Review Committee may undertake a special audit of a higher education institution as directed by the Commission.

Directions

133.—(1) The Minister may give the Commission written policy directions in relation to the powers and functions of the Commission if the Minister is satisfied that it is necessary to do so in the public interest.

(2) The Commission must comply with the Minister's directions given under subsection (1).

Register of higher education institutions

134. The Commission must keep and maintain a register of higher education institutions that are established under this Act.

Appointment of Director and other staff

135.—(1) The Commission must, with the approval of the Minister, appoint a director on the terms and conditions as the Commission may determine.

(2) The director is responsible to the Commission for the proper administration and management of the functions and affairs of the Commission in accordance with any policy laid down by the Commission.

(3) If the director is temporarily unavailable or incapacitated by reason of illness or for any other reason temporarily unable to perform his or her duties, the Commission may appoint another person to act in the place of the director during the period of absence or disability.

(4) The Commission may appoint such other officers, employees, consultants, agents or other personnel as it considers appropriate for the effective performance of its functions.

*Division 3—Establishment and Registration of Higher Education Institutions**Restriction on operation*

136.—(1) A person must not establish or operate a university or degree awarding institute of technology unless the institution is established and registered under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$50,000 or imprisonment for a term not exceeding 12 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$250,000 or imprisonment for a term not exceeding 12 years in the case of a director of the body corporate or both.

(3) Any person who operates a higher education institution, that is neither a university nor a degree awarding institute of technology, in contravention of subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$20,000 or imprisonment for a term not exceeding 5 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years in the case of a director of the body corporate or both.

Restriction on name

137.—(1) A person must not use the term “Fiji”, “National” and “State” in the naming of a higher education institution unless its use is approved by the Minister.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$20,000 or imprisonment for a term not exceeding 5 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years in the case of a director of the body corporate or both.

Restriction on use of title “university”

138.—(1) A person must not—

- (a) use the title “university” in naming an educational institution unless the institution is a higher education institution approved as a university by the Commission;
- (b) use the title “university” in a business or corporation name unless approved by the Commission or unless the business is that of an approved university;
- (c) operate or purport to operate an establishment as a university or part of a university unless approved by the Commission;
- (d) operate or purport to operate as a university or part of a university from Fiji, through the Internet or any other telecommunications device unless approved by the Commission; or
- (e) advertise as a university, offer a course as a university, or issue an award as a university unless approved by the Commission.

(2) The Commission may grant approval to a person under subsection (1) with or without conditions.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$50,000 or imprisonment for a term not exceeding 12 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$250,000 or imprisonment for a term not exceeding 12 years in the case of a director of the body corporate or both.

Application for registration

139.—(1) An application for registration as a higher education institution must be made in writing to the Commission and accompanied by the prescribed fee.

(2) The Minister must prescribe the process for assessing applications for registration as a higher education institution.

Consideration of application for registration by Commission

140.—(1) When assessing an application for registration as a higher education institution, the Commission must consider the following—

- (a) an indication, on the basis of written material and discussion with the higher education institution, that the institution will comply with the relevant guidelines;
- (b) an assessment of senior or high-level executives, including administrative and academic staff;
- (c) an inspection of existing facilities, plans of facilities and delivery modes for programmes the institution proposes to offer to ensure that the national standards are met;
- (d) an evaluation of the financial capacity of the institution to deliver its proposed programmes and to sustain the programmes appropriately; and
- (e) willingness of the institution or person to participate in periodic review processes, including national quality assurance processes.

(2) When considering an application, the Commission may consider other information not contained in the application provided that the information is brought to the notice of the applicant.

Approval for registration

141.—(1) The Commission may approve the registration of a university or a degree awarding institute of technology that satisfies the requirements of section 140 or conforms to the prescribed schedule of criteria.

(2) If the Commission approves an application for registration with conditions, the Commission must, as soon as practicable, notify the applicant of the conditions of the approval and the reasons for imposing the conditions.

(3) An applicant who is granted conditional approval may, in writing, make representations to the Commission concerning the conditions, within 3 months after receiving notification from the Commission.

(4) The Commission must, as soon as practicable, notify an applicant of the outcome of its representation.

Enactment of a university Act

142.—(1) If the Commission grants approval for registration as a university, the Commission must cause a Bill for an Act to establish that university to be submitted to the Minister who is to table it in Parliament for enactment.

(2) The Commission may, while the enactment of an Act under subsection (1) is pending, allow a university to begin operations as soon as it is notified of the Commission's approval for registration and related fees have been paid.

Certificate of registration

143.—(1) The Commission must issue a certificate of registration to a higher education institution that has been granted an approval for, or renewal of, registration.

(2) If a certificate of registration is lost or destroyed, the Commission must, upon receipt of the prescribed fee, issue a replacement certificate.

Duration of registration

144. A registration remains in force for a period of 5 years.

Registration fee

145. The Minister may prescribe the fees relating to the registration of higher education institutions.

Revocation of registration

146.—(1) The Commission may—

- (a) after receiving a report from the Review Committee, invite and consider submissions from a higher education institution or person; and
- (b) revoke or suspend the registration or impose any condition on the registration of a higher education institution.

(2) A person may appeal against the decision of the Commission made under subsection (1) to the Tribunal.

Application for accreditation

147.—(1) An application for accreditation as a higher education institution must be made in writing to the Commission and accompanied by the prescribed fee.

(2) The Minister must prescribe the process for assessing applications for accreditation of courses and programmes in universities or degree awarding institutes of technology.

Authorisation to confer higher education award

148.—(1) A higher education institution must not confer a higher education award unless the institution is registered by the Commission under this Part.

(2) An award must not be recognised as a higher education award unless the institution conferring the award is a registered higher education institution under this Part.

(3) A higher education award, other than an honorary award, must not be conferred on a person unless the person has successfully completed a programme of study relating to the award.

(4) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$20,000 or imprisonment for a term not exceeding 5 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$100,000 or imprisonment for a term not exceeding 5 years in the case of a director of the body corporate or both.

Division 4—Appeals

Higher Education Appeals Tribunal

149.—(1) This section establishes the Higher Education Appeals Tribunal consisting of—

- (a) the chairperson, who must be a person qualified to be appointed as a Judge or is a retired Judge; and
- (b) two other members who are of high standing in the community and have considerable expertise and experience in higher education.

(2) The members of the Tribunal are to be appointed by the Minister for a term of 3 years, either on a full-time or part-time basis and are eligible for reappointment.

Review of decisions

150.—(1) Subject to subsection (2), a higher education institution that is aggrieved by a decision of the Commission and has exhausted the means prescribed under this Act for review by the Commission of its decision, may apply to the Tribunal for a review of the decision.

(2) The Tribunal has jurisdiction to review only the Commission’s decisions relating to—

- (a) a refusal of an institution’s application for registration, or for accreditation of a programme or course of study;
- (b) the imposing of conditions on an institution’s registration, or accreditation of a programme or course of study; and
- (c) the suspension or cancellation of an institution’s registration, or accreditation of a programme or course of study.

Determination of appeals

151.—(1) In determining an appeal, the Tribunal may—

- (a) confirm the original decision;
- (b) amend the original decision;
- (c) substitute another decision for the original decision; or
- (d) set aside the original decision and return the matter to the Commission with any direction it considers appropriate.

(2) The Tribunal must determine an appeal in accordance with the prescribed procedures.

Division 5—Finance

Financial year

152. The financial year of the Commission is from 1 August to 31 July of each year.

Annual estimates

153.—(1) The Commission must, in each financial year, prepare or cause to be prepared and must adopt annual estimates of income and expenditure of the Commission for the ensuing financial year.

(2) The Commission may adopt supplementary estimates at any of its meetings.

(3) The Commission must submit a copy of all annual and supplementary estimates to the Minister.

Funds of Commission

154.—(1) The funds of the Commission consist of—

- (a) moneys received by the Commission by way of grants or subsidies;
- (b) gifts, donations and contributions to the Commission;
- (c) fees, charges, rents, interests, dividends and other income accruing to the Commission;
- (d) moneys recovered or collected by the Commission or any of the Commission's officers or employees (including sums collected for the composition of offences) under this Act or any other written law administered by the Commission; and
- (e) other moneys lawfully received by the Commission for the purposes of the Commission.

(2) The funds of the Commission are subject to the financial management and procedures of the Ministry responsible for finance.

(3) The members of the Commission, Tribunal and Review Committee are to receive allowances in accordance with the conditions determined by the Minister.

Grants

155.—(1) For the purpose of enabling the Commission to carry out its functions under this Act, the Minister must allocate annual grants to the Commission of such sums as the Minister may determine out of moneys to be provided by Parliament.

(2) The Commission must account annually to the Government through the Minister all revenues it collects under section 154.

(3) The accounts of the Commission must be audited by the Auditor-General.

*Division 6—Reporting**Annual reports of higher education institutions*

156.—(1) A higher education institution must, on or before 30 June each year, provide the Commission with an annual report for the period from 1 January to 31 December of the previous year, containing the matters relating to annual reports set out by the Commission, including, where required, audited financial reports.

(2) The annual report of a higher education institution must be available for public examination, free of charge, at locations where the institution operates.

Annual report for Parliament

157. At the end of each financial year, the Commission must submit an annual report, which must include an audited financial report, to the Minister on or before 30 April the following year and the Minister must cause a copy of the report to be tabled in Parliament as soon as reasonably practicable.

Division 7—Miscellaneous

Power of Commission to access

158.—(1) The Commission may require a higher education institution to provide such information relating to any aspect of the institution's operation, as may be required.

(2) In gathering the requisite information under subsection (1), the Commission may utilise such means as it considers necessary to acquire the information.

Winding up of institutions

159.—(1) A higher education institution intending to wind up its operations must inform the Commission in writing at least 12 months before the intended date of closure.

(2) For the purposes of subsection (1), an institution must ensure that the future of the education and training of its students is not affected.

(3) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) in the case of a natural person, a fine not exceeding \$50,000 or imprisonment for a term not exceeding 12 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$250,000 or imprisonment for a term not exceeding 12 years in the case of a director of the body corporate or both.

PART 14—GENERAL POWERS

Ministerial directions

160.—(1) The Minister may give directions, not inconsistent with the provisions of this Act, as to the exercise of any of the Permanent Secretary's powers and functions under the provisions of this Act.

(2) The Permanent Secretary must—

- (a) as soon as practicable, notify the Minister of the exercise of the Permanent Secretary's powers under this Act; and
- (b) comply with a direction given under this section.

Permanent Secretary may relocate students

161. Notwithstanding any other provision in this Act or any other written law, the Permanent Secretary may relocate a student from the school that he or she is enrolled in, to any other school if the Permanent Secretary is satisfied that—

- (a) the student has severe disciplinary issues at the school;
- (b) the relocation of the student is for the student’s health or safety;
- (c) the prescribed teacher-student ratio at the school cannot be maintained;
- (d) the state of the school or any of its educational facilities is such that it warrants the relocation of the student; or
- (e) a prescribed reason warrants the relocation of the student.

PART 15—OFFENCES AND PENALTIES

*Division 1—Offences in relation to schools**Offence in relation to operating schools*

162. A person who establishes a school without approval under Part 7 and operates, manages or assists in the management of a school that is not registered or recognised and does not have a valid certificate of registration or recognition under Part 7, commits an offence and is liable on conviction to a fine not exceeding \$5,000 and in default of payment to imprisonment for a period not exceeding 6 months and to a further fine not exceeding \$20 for each day on which the offence continues after conviction.

Offence in relation to unsuitable publication

163.—(1) A person who manages or assists in the management of a school that to his or her knowledge uses an unsuitable publication or periodical publication or any copy of, or extract from, the publication, as part of the instruction, commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

(2) In this section, “unsuitable publication” means a publication that is not appropriate for student educational purposes as prescribed.

Offence to manage a school without being registered as a manager etc

164.—(1) A person who is not registered as a manager of a school or approved to open or operate a home school, and manages or assists in the management or operation of the school, commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

(2) A person who is prohibited from being a manager of a school and continues to manage or assist in the management of a school, commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

Offence to mislead type of school etc

165. A manager of a school who, with intent to mislead, wilfully publishes any written matter or wilfully causes any matter to be broadcast suggesting that the school is of a type or classification other than that in which it is registered in accordance with this Act commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

Offence to keep open or reopen a closed school etc

166. A person who keeps open or reopens a school ordered to be closed under this Act or manages or assists in the management of the school, other than in accordance with this Act commits an offence and is liable on conviction to a fine not exceeding \$2,000 or imprisonment for a term not exceeding one year or both.

Offence to insult or abuse teacher etc

167.—(1) A person who insults or harasses a teacher commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding one year or both.

(2) A person who assaults a teacher or a student commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding one year or both.

(3) A person who maliciously disturbs any school programme in the presence or hearing of the students assembled in the school or in the school premises commits an offence and is liable to a fine not exceeding \$5,000 or imprisonment for a term not exceeding one year or both.

*Division 2—Offences in relation to teacher registration**Unregistered persons not to be employed*

168.—(1) A person who employs a person not being registered or authorised under this Act to teach at a school as a teacher commits an offence and is liable on conviction to—

- (a) for a first offence, a fine not exceeding \$50,000; and
- (b) for a second or subsequent offence, a fine not exceeding \$150,000.

(2) A person not being a registered teacher who enters a school to supervise or assess the work of a practising teacher or of a trainee teacher without being authorised to do so by the Board commits an offence and is liable on conviction to—

- (a) for a first offence, a fine not exceeding \$20,000; or
- (b) for a second or subsequent offence, a fine not exceeding \$50,000.

Duty of registered teacher whose registration is cancelled

169.—(1) A registered teacher must give written notice to the Board about any of the following events within 14 days after the occurrence of the event—

- (a) if the teacher was registered in another country, the cancellation or suspension (however described) of the person's registration in that other country as a teacher; or

- (b) if the teacher was employed in another country that does not register teachers, the termination of the teacher's employment as a teacher in the other country because the teacher's employer was reasonably satisfied the teacher was not competent or fit to be employed as a teacher in that other country.

(2) A teacher who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for first offence, a fine not exceeding \$5,000; or
- (b) for second or subsequent offence, a fine not exceeding \$20,000.

Notification on sexual allegations

170.—(1) If there is a sexual allegation involving a student and a teacher and the employing authority has undertaken measures that resulted in the dismissal or resignation of the teacher, the employing authority must, within 7 days of making such decision or receiving the resignation, notify the Board of the matters set out in subsection (2).

(2) The notice must include the following—

- (a) the name of the employing authority;
- (b) if the name of the authority is different to the name of the school, the name of the school;
- (c) the name of the relevant teacher;
- (d) the date the employing authority gave notice to the relevant teacher of the dismissal or the employing authority was given notice of the resignation, and the date of effect of the dismissal or resignation;
- (e) the sexual allegation, particulars of the sexual allegation and any other relevant information; and
- (f) the reasons given by the employing authority for the dismissal or by the relevant teacher for resigning.

(3) The employer that fails to comply with the notice requirements under this section commits an offence and is liable on conviction—

- (a) for a first offence, to a fine not exceeding \$1,000; or
- (b) for a second or subsequent offence, to a fine not exceeding \$5,000.

False or misleading information or document

171. A person who gives the Board or a committee of inquiry any information that the person knows is false or misleading in a material particular or any document containing information the person knows is false, incomplete or misleading in a material particular, commits an offence and is liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 5 years.

PART 16—MISCELLANEOUS

Review of Act

172. This Act must be reviewed every 5 years from the commencement date.

Regulations

173.—(1) The Minister may, following consultation with the Council, make regulations prescribing matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act, including—

- (a) prescribing procedures, requirements, and other matters, not inconsistent with this Act;
- (b) requiring any applications, requests, or notices under this Act to be made or given in a prescribed manner;
- (c) providing for the procedure to be followed in connection with any application, request, or notice under this Act;
- (d) regulating the making of applications, requests, or notices under this Act;
- (e) prescribing fees and penalties to be paid, or the means by which those fees and penalties may be calculated or ascertained, for any matter under this Act or the regulations;
- (f) prescribing penalties exceeding a fine of \$400 or imprisonment for a term exceeding 6 months or both;
- (g) prescribing the teacher-student ratio;
- (h) prescribing procedures, requirements and other matters related to compulsory education;
- (i) prescribing procedures, requirements and other matters related to early education;
- (j) prescribing procedures, requirements and other matters related to primary education;
- (k) prescribing procedures, requirements and other matters related to secondary education;
- (l) prescribing procedures, requirements and other matters related to higher education;
- (m) prescribing procedures, requirements and other matters related to technical and vocational education and training;
- (n) prescribing procedures, requirements and other matters related to special and inclusive education;
- (o) prescribing procedures, requirements and other matters related to education for mature students;

- (p) prescribing procedures, requirements and other matters related to boarding, including the enrolment criteria for boarding and fees;
- (q) prescribing the procedures, requirements and other matters related to home schools;
- (r) prescribing procedures, requirements and other matters related to sports and other extracurricular activities;
- (s) prescribing procedures, requirements and other matters related to children in conflict with the law;
- (t) prescribing procedures, requirements and other matters related to on-the-spot inspections;
- (u) prescribing health and safety requirements;
- (v) prescribing procedures, requirements and other matters related to inspections of schools, and medical inspections and treatments;
- (w) prescribing procedures, requirements and other matters related to counselling;
- (x) prescribing procedures, requirements and other matters related to digital and financial literacy;
- (y) prescribing reasons that are required or permitted by this Act; and
- (z) regulating artificial intelligence in relation to education.

(2) The power to make regulations under subsection (1) to prescribe the manner in which a thing is done includes the power to—

- (a) prescribe when, where and how the thing is to be done;
- (b) prescribe the form that is to be used in connection with doing the thing;
- (c) prescribe the information to be provided or other evidence or documents to be provided in connection with the thing;
- (d) prescribe requirements with which information, evidence, or documents that are provided in connection with the thing are to comply;
- (e) prescribe the electronic or other delivery method that is to be used in connection with the thing;
- (f) provide for the Permanent Secretary to determine any of the matters in paragraphs (a) to (e); and
- (g) prescribe that fees are to be paid in connection with doing the thing.

(3) In relation to Part 12, the Minister may, following consultation with the Board, make regulations to regulate—

- (a) procedures and requirements for application for registration, provisional registration and limited authority;

- (b) forms for the purpose of this Act;
- (c) fees, charges and other costs for the purpose of this Act;
- (d) other procedures and rules relating to the conduct of inquiry or investigation;
- (e) inspection or entry in the register; and
- (f) other services provided by the Board,

and to prescribe penalties not exceeding \$2,000 or to imprisonment not exceeding 2 years, for offences created under such regulations.

Repeal

174.—(1) The following Acts are repealed—

- (a) the Education Act 1966;
- (b) the Fiji Teachers Registration Act 2008; and
- (c) the Higher Education Act 2008.

(2) All subsidiary legislation made under the repealed Acts are revoked.

Transitional and savings

175.—(1) This section applies notwithstanding the repeal of the Education Act 1966, the Fiji Teachers Registration Act 2008 and the Higher Education Act 2008.

(2) A person who, immediately prior to the commencement of this Act, is a member of the Education Forum continues in office until the members of the Council are appointed under this Act.

(3) A government school that exists immediately prior to the commencement of this Act continues as a government school until the Permanent Secretary closes the school under this Act.

(4) A school, other than a government school, that is recognised or registered under the Education Act 1966 continues to be recognised or registered until the Permanent Secretary, under this Act—

- (a) cancels the school's certificate of recognition or registration; or
- (b) closes the school.

(5) A Board of Governors for a government school that exists immediately prior to the commencement of this Act continues as the Board of Governors for the government school until such time the term of the Board of Governors expires, or until such time the appointment of the members of the Board of Governors expires or is revoked, whichever is earlier.

(6) Any curriculum, assessment and educational standards and frameworks approved for use, and used, in schools immediately prior to the commencement of this Act continues to be used in schools until such time new curriculum, assessment and educational standards and frameworks are developed for use by the Authority.

(7) A higher education institution that is registered under the Higher Education Act 2008 continues to be registered until such time the certification of registration expires or is revoked or suspended under this Act.

(8) An accreditation or authorisation that is issued to a higher education institution under the Higher Education Act 2008 continues to be valid under, and is subject to, this Act.

(9) A teacher who is registered under the Fiji Teachers Registration Act 2008 immediately prior to the commencement of this Act continues to be registered until such time his or her registration expires or is revoked.

(10) A person who, immediately prior to the commencement of this Act, is a member, officer, employee, agent or any other personnel of the Board or the Commission continues in office, employment or engagement on the terms on which he or she was appointed as a member, officer, employee, consultant or any other personnel.

(11) The school hours for teachers and students that exist immediately prior to the commencement of this Act continue until the school hours are prescribed under this Act.

SCHEDULE
(Section 84(6))

OTHER PROVISIONS OF THE FIJI TEACHERS REGISTRATION BOARD

Interpretation

1. In this Schedule, “member” means a member of the Board.

Conditions of appointment

- 2.—(1) A member is entitled to be paid any allowances the Minister determines.

(2) A member holds office on other terms and conditions specified in the letter of appointment.

Holding other office

3. The holder of an office who is required under any Act to devote the whole time to the duties of that office is not disqualified from—

- (a) holding that office in conjunction with the office of a member; or
- (b) accepting any allowances payable to a member.

Resignation

4. A member may resign by signed notice given to the Minister.

Removal of member

5. The Minister may remove a member from office—

- (a) if the member is convicted of a serious offence under this Act or any other written law;
- (b) if the member is convicted in another country of an offence which, if committed in Fiji, would be a serious offence;
- (c) if the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors;
- (d) if the Minister considers that the member is unable to perform adequately or competently the functions of the member’s office;
- (e) if the member has been absent for 3 consecutive meetings of the Board without the permission of the Board; or
- (f) for any other just cause or excuse.

Filling of vacancies

- 6.—(1) A member vacates office if the member—

- (a) dies;
- (b) resigns; or
- (c) is removed from office under clause 5.

(2) If the office of a member becomes vacant, the Minister may appoint to the vacant office for the remainder of that member's term of office a person who is nominated by the same body or association as that member.

Convening of meetings

7. The chairperson must convene meetings of the Board, which must be convened at least once every 4 months.

Presiding at meetings

8.—(1) The chairperson of the Board presides at all meetings of the Board at which he or she is present.

(2) If the chairperson of the Board is not present at a meeting of the Board, the deputy chairperson is to preside.

Quorum and voting at meetings

9.—(1) A quorum at any duly convened meeting of the Board is 51% of the current members.

(2) At a meeting of the Board—

- (a) the member presiding does not have an ordinary vote but only has a deliberative vote; and
- (b) a question is decided—
 - (i) by a majority of votes of the members present and voting; or
 - (ii) in the negative if there is an equality of votes of the members present and voting.

Passed by the Parliament of the Republic of Fiji this 25th day of May 2026.