

FIJI

ACT NO. 27 OF 1998



I assent.

[L.S.]

K. K. T. MARA
President

[19 June 1998]

AN ACT

TO AMEND THE HIGH COURT ACT

ENACTED by the Parliament of Fiji—

Part 1—PRELIMINARY

Short title, etc

1.—(1) This Act may be cited as the High Court (Amendment) Act 1998.

(2) The High Court Act (Cap.13) is in this Act referred to as the Principal Act.

*Commencement*2. This Act commences on a date appointed by the Minister and published in the *Gazette*.

Part 2—AMENDMENTS OF PRINCIPAL ACT

Interpretation

3. Section 2 of the Principal Act is amended by omitting the definitions of “judge” and “High Court” and inserting the following definitions—

“Court” or “High Court” means the High Court established by the Constitution of the Sovereign Democratic Republic of Fiji (Promulgation) Decree 1990;

“Full Court” means the Court constituted by not less than 3 judges sitting together;

“judge” means a judge of the High Court, including the Chief Justice;”.

Seal of Court

4. Section 4 of the Principal Act is amended by omitting “Royal Arms” and substituting “Coat of Arms of the State”.

Substitution of new section 9

5. Section 9 of the Principal Act is repealed and the following substituted—

“Functions of Chief Registrar

9. The Chief Registrar has power to administer oaths, and may perform such other functions as are assigned to the Chief Registrar by or under this Act or any other law or by the Rules of Court or as the Chief Justice directs.”.

When Chief Registrar unable to perform duties

6. Section 10 of the Principal Act is amended by omitting ‘and Legal Services’ and substituting ‘Service’.

Replacement of section 18

7. Section 18 of the Principal Act is repealed and the following substituted—

“Jurisdiction of the High Court

18.—(1) The High Court has the jurisdiction conferred on it by the Constitution Amendment Act 1997 and by any other written law and all other jurisdiction necessary for the administration of justice in the Fiji Islands.

(2) The High Court has the admiralty jurisdiction which the High Court of Justice in England possessed on 4th December 1987.

(3) The High Court has the powers and authority which the Supreme Court had on 4th December 1987.”.

Repeal of sections 19, 20 and 21

8. Sections 19, 20 and 21 of the Principal Act are repealed.

Insertion of new sections and Part

9. After section 21 of the Principal Act the following new sections and Part are inserted—

“Exercise of jurisdiction by Master or Chief Registrar

21A. Provision may be made by the Rules of Court for the jurisdiction of the Court to be exercisable, in such cases and subject to such conditions as are specified in the Rules of Court, by the Master or by the Chief Registrar as the Rules may specify.

Exercise of jurisdiction by Master

21B.—(1) For the purposes of the exercise of jurisdiction conferred on the Master by the Rules of Court, this Act has effect, subject to this section, as if the Court consisted of the judges and the Master.

(2) A person who is dissatisfied with a judgment of the Master may appeal, as prescribed by the Rules of Court, to the Court constituted by a single judge, but nothing in this subsection prevents the Chief Justice from constituting a Full Court to hear the appeal if the Chief Justice considers it appropriate.

(3) On an appeal under subsection (2), the Court—

- (a) shall have regard to the evidence given in the proceedings out of which the appeal arose; and
- (b) has power—
 - (i) to draw inferences of fact; and
 - (ii) in its discretion, to receive further evidence.

(4) On an appeal under subsection (2), the Court may affirm, vary or set aside the judgment of the Master and may make such order as in all the circumstances it considers just.

Exercise of jurisdiction by Chief Registrar

21C.—(1) For the purposes of the exercise of jurisdiction conferred on the Chief Registrar by the Rules of Court, this Act has effect, subject to this section, as if the Court consisted of the judges and the Chief Registrar.

(2) A person who is dissatisfied with an order of the Chief Registrar may appeal, as prescribed by the Rules of Court, to the Court constituted by a single judge.

(3) On an appeal under subsection (2), the Court may affirm, vary or set aside the order of the Chief Registrar and may make such order as in all the circumstances it considers just.

Part VIA—THE MASTER

Master

21D. There shall be a Master of the Court.

Powers and duties of Master

21E. The Master has power to administer oaths, and may exercise such other powers, and shall perform such duties, as are assigned to the Master by or under this Act.

Appointment of Master

21F. (1) The Master shall be appointed by the Judicial Service Commission.

(2) A person shall not be appointed as the Master unless the person has had not less than 5 years' practice as a legal practitioner in the Fiji Islands.

(3) A person who has reached the age of 70 shall not be appointed as the Master.

Term of office

21G. (1) The Master—

(a) holds office on and from the day specified in the instrument of appointment; and

(b) holds office, subject to this Act—

(i) for such term (not exceeding 7 years) as is specified in the instrument of appointment, but is eligible for re-appointment; or

(ii) if the instrument of appointment so provides, until reaching the age of 70.

(2) Subparagraph (1)(b)(i) does not authorise the Judicial Service Commission to appoint the Master for a term of office that will expire after he or she reaches the age of 70.

Terms and conditions not provided for by Act

21H. In relation to matters not provided for by this Act, the Master holds office on such terms and conditions (if any) as are determined in writing by the Judicial Service Commission.

Prohibition on holding other offices

21I. The Master is not, without the approval of the Judicial Service Commission, entitled to—

(a) engage in remunerative employment otherwise than in connection with his or her duties as Master; or

(b) accept appointment to another office under a law of the State.

Oath or affirmation of office

21J. Before proceeding to perform any functions of the office, the Master shall take an oath or affirmation before the Chief Justice in accordance with Part D of the Schedule to the Constitution.

Resignation

21K. The Master may resign by writing signed and delivered to the Judicial Service Commission.”.

Passed by the House of Representatives this Twenty Second day of May, in the year of our Lord, One Thousand Nine Hundred and Ninety-Eight.

Passed by the Senate this Fourth day of June, in the year of our Lord One Thousand, Nine Hundred and Ninety-Eight.