

CLIMATE CHANGE BILL 2019

(BILL NO. of 2019)

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DRAFT

A BILL

FOR AN ACT TO ESTABLISH A COMPREHENSIVE RESPONSE TO CLIMATE CHANGE, TO PROVIDE FOR THE REGULATION AND GOVERNANCE OF THE NATIONAL RESPONSE TO CLIMATE CHANGE, TO INTRODUCE A SYSTEM FOR THE MEASUREMENT, REPORTING AND VERIFICATION OF GREENHOUSE GAS EMISSIONS 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 Climate Change Act 2019.

(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—

“adaptation” means adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects which moderates harm or exploits beneficial opportunities;

“adaptation project” means a project in Fiji that contributes towards adaptation objectives in this Act and the National Adaptation Plan;

“Adaptation Registry” means the Fiji National Adaptation Registry established under section 77(1);

“anthropogenic emissions” means emissions that are attributable to human activity;

“approved international emissions reduction standard” includes, but is not limited to, the Clean Development Mechanism, the Verified Carbon Standard, the Gold Standard and any other standard declared to be an approved international emissions reduction standard by regulations made in accordance with section 46(1)(u);

“archipelagic waters” has the meaning in section 2 of the Marine Spaces Act 1977;

“associated entity” has the meaning in section 2 of the Financial Management Act 2004;

“at-risk community” means a community that is located in an area that is at risk of becoming permanently uninhabitable as a result of the adverse impacts of climate change, including sudden and slow-onset climatic events and processes;

“authorised officer” means a person appointed as an authorised officer under section 9(3) and includes inspectors in accordance with section 15(2);

“baseline” means a level of emissions that serves as a reference level for determining the amount of emissions reductions achieved;

“blue carbon” means the carbon sequestered by coastal and marine ecosystems and stored in the form of biomass and sediments, including but not limited to mangroves, salt marshes and sea grasses;

“budget coding and tracking system” means a system dedicated to tracking and reporting on climate change related expenditure in Fiji which uses national budget codes to isolate climate-relevant expenditure;

“Cabinet Committee on Climate and Disaster Risk” means the committee established under section 14;

“cancel” or “cancellation” means, in relation to an emissions reduction unit, the cancellation of that unit from a Registry account or a foreign account;

“carbon dioxide equivalent”, of an amount of greenhouse gas, means the amount of the gas multiplied by a value specified in the regulations in relation to that kind of greenhouse gas;

“carbon sequestration property right” means the exclusive legal property right to carbon sequestration and carbon stocks;

“carbon sequestration” means the process of removing carbon from the atmosphere and storing it, including in soil and vegetation other than harvested wood products or other vegetation that has been harvested, lopped or felled;

“carbon stocks” means the amount of carbon that is stored in forest biomass and blue carbon but not including harvested wood products or other vegetation that has been harvested, lopped or felled;

“Certified Emission Reduction” or “CER” means an emission reduction issued under the Clean Development Mechanism;

“Clean Development Mechanism” or “CDM” means the mechanism defined in Article 12 of the Kyoto Protocol;

“climate change” means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods;

“climate change displacement” or “climate displacement” means the relocation and resettlement of people internally or across international borders due to the effects of climate change, including sudden and slow-onset climatic events and processes occurring either alone or in combination with other economic, social and political factors;

“climate finance” means money available for or mobilised by State or non-State entities to finance climate change mitigation and adaptation programmes, actions and interventions;

“climate resilience” means the capability of communities, the built environment and ecosystems to respond to, withstand and recover from the adverse impacts of climate change;

“CMA” means the Conference of the Parties serving as the Meeting of the Parties to the Paris Agreement;

“Committee” means the National Climate Change Coordination Committee established under section 13;

“company” has the meaning in section 3 of the Companies Act 2015;

“Conference of the Parties” means the Conference of the Parties to the Convention;

“Conservator of Forests” means the conservator of forests appointed under section 3 of the Forest Act 1992;

“Constitutional body” means a body created or continued under the Constitution of the Republic of Fiji;

“Convention” means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992;

“conversion statement” means a statement issued in accordance with section 54(4);

“Court” means the High Court of Fiji;

“crediting period” means the period of time that is specified in an emissions reductions methodology, regulations or a decision made in accordance with section 48 during which an emissions reduction project, programme or activity can generate emissions reduction units;

“Division” means the Climate Change and International Cooperation Division;

“double counting” means the counting of a single emission reduction more than once towards achieving climate change mitigation by entities or jurisdictions;

“Environment and Climate Adaptation Levy” or “ECAL” means the Environment and Climate Adaptation Levy established under the *Environment and Climate Adaptation Levy Act 2015*;

“emissions” means the release of greenhouse gases and/or their precursors into the atmosphere over a specified area and period of time and includes for the purposes of measurement, reporting and verification Scope 1, Scope 2 and Scope 3 emissions;

“emissions reduction” means—

(a) the removal or sequestration of one or more greenhouse gases from the atmosphere; or

(b) the avoidance or reduction of emissions of one or more greenhouse gases;

“emissions reduction activity” means an activity that is intended to generate verified emissions reductions;

“emissions reduction methodology” means the scientific approach and method that provides the basis upon which different types of emissions reduction projects, programmes and activities are developed and emission reductions estimated;

“emissions reduction programme” means a programme that is intended to generate verified emissions reductions;

“emissions reduction project” means a project that is intended to generate verified emissions reductions;

“emissions reduction standard” means a standard or scheme under which emissions reduction programmes, projects and activities can be registered and generate verified emissions reductions and for which emissions reduction units are issued;

“emissions reduction unit” means a tradable certificate or permit that represents one tonne of carbon dioxide equivalent verified emissions reductions;

“energy consumption” means the amount and energy content of each energy type that an entity consumes;

“energy production” means the amount and energy content of each energy type that an entity produces;

“exclusive economic zone” has the meaning in section 2 of the Marine Spaces Act 1977;

“facility” means an activity or a series of activities that release greenhouse gas emissions, the production of energy or the consumption of energy and that form a single undertaking or enterprise and meets any requirements in regulations made under section 27(2);

“Fiji Emissions Reduction Activity” means an emissions reduction activity that has been approved by the Head of Division in accordance with section 48;

“Fiji Emissions Reduction Methodology” means an emissions reduction methodology approved in accordance with section 47;

“Fiji Emissions Reduction Programme” means an emissions reduction programme that has been approved by the Head of Division in accordance with section 45;

“Fiji Emissions Reduction Project” means an emissions reduction project that has been approved by the Head of Division in accordance with section 45;

“Fiji Emissions Reduction Standard” means the emissions reduction standard established under Part 10;

“Fiji Emissions Reduction Statement” means a statement issued in accordance with section 49;

“Fiji GHG Inventory” means the Fiji GHG Inventory established under section 26;

“Fiji Mitigation Outcome Unit” means an emissions reduction unit issued in accordance with this Act and having a unique serial number;

“Fiji National Provident Fund Board” means the board continued in existence by section 5 of the Fiji National Provident Fund Act 2011;

“Fiji Taskforce on Relocation” means the Fiji Taskforce on Relocation of Communities Vulnerable to the Impact of Climate Change established under section 79(1);

“Fiji Taskforce on Relocation Terms of Reference” means the Fiji Taskforce on Relocation of Communities Vulnerable to the Impacts of Climate Change Terms of

- Reference contained at Annex 3 of the National Planned Relocation Guidelines and as amended from time to time;
- “focal point” means a focal point appointed by the Head of Division in accordance with section 12(4);
- “foreign account” means an account kept within a registry that is located in or relates to a foreign country or group of countries and includes an account in any foreign registry established for the purposes of the Paris Agreement, the Verified Carbon Standard and the Clean Development Mechanism;
- “forest” includes but is not limited to—
- (a) land spanning more than 0.5 hectares with trees higher than 5 metres and a canopy cover of more than 10 %, or trees able to reach these thresholds in situ;
 - (b) areas with bamboo and forest palms provided that height and canopy cover criteria are met;
 - (c) forest road, fire breaks and other small open areas; and
 - (d) areas defined by both the presence of trees and the absence of other predominant land uses,
- and excludes tree stands in agricultural production systems;
- “forest biomass” means all organic matter in a forest, such as leaves, branches, trunks, roots, litter, and soil organic matter, irrespective if dead or alive;
- “global stocktake” means the global stocktake carried out in accordance with Article 14 of the Paris Agreement;
- “Government company” has the meaning given in section 2 of the Financial Management Act 2004;
- “greenhouse gas” or “GHG” means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF₆) and nitrogen trifluoride (NF₃);
- “Head of Division” means the Head of the Climate Change and International Cooperation Division or if this position no longer exists then the head of department or division or director with responsibility for climate change;
- “holding” means, in relation to an emissions reduction unit, the holding of that unit in a Registry account or a foreign account;
- “Information Platform” means the information platform established in accordance with section 33;
- “integrated risk scenarios” means scenarios that model the physical impacts caused by climate change and their interaction with other projected risks;
- “IPCC” means the Intergovernmental Panel on Climate Change;
- “inspector” means an inspector appointed in accordance with section 18 of the Environment Management Act 2005;

“internationally transferred mitigation outcome” or “ITMO” means an emissions reduction developed in accordance with Article 6 of the Paris Agreement and includes—

(a) Fiji Mitigation Outcome Units transferred internationally in accordance with section 56; and

(b) emissions reductions generated outside of Fiji and approved for international transfer to the Government or entities operating within Fiji in accordance with this Act and the regulations;

“internal waters” has the meaning given to that term in the Marine Spaces Act 1977;

“issuance” means, in relation to an emissions reduction unit, the issue of an emissions reduction unit in accordance with an emissions reduction scheme;

“iTaukei land” has the meaning given in section 2 of the iTaukei Land Trust Act 1940;

“iTaukei Land Trust Board” means the iTaukei Land Trust Board established under section 3 of the iTaukei Land Trust Act 1940;

“iTaukei owners” has the meaning given to that term in section 2 of the iTaukei Land Trust Act 1940;

“Kyoto Protocol” means the Kyoto Protocol to the United Nations Framework Convention on Climate Change adopted on 11 December 1997 and which entered into force on 16 February 2005 and any amendments made to the Kyoto Protocol that have entered into force or enter into force after this Act comes into force;

“landowner” means—

(a) in the case of freehold land, the registered proprietor of the freehold land;

(b) in the case of iTaukei land, the registered iTaukei landowner;

(c) in the case of Rotuman land, the owner of the land in accordance with the Rotuma Lands Act 1959; or

(d) in the case of land on Rabi Island, the owner of the land in accordance with the Banaban Lands Act 1965;

“long term emissions reduction target” has the meaning given in section 35;

“long term ocean sustainability target” has the meaning given in section 85(1);

“Low Emission Development Strategy” or “LEDS” means a strategy prepared in accordance with section 42;

“Low Emission Development Strategy Steering Committee” or “LEDS Steering Committee” means the steering committee established under section 41;

“managed investment scheme” has the meaning in section 3 of the Companies Act 2015;

“Minister” means the Minister responsible for climate change;

“ministry” or “department” means a ministry or department of the civil service for the management of which a person is responsible under section 127 of the Constitution of the Republic of Fiji, whether the ministry or department is titled or referred to as a ministry, department or office or in some other way;

“mitigation” means efforts that seek to prevent or slow down the increase of atmospheric greenhouse gas concentrations by limiting current or future emissions and enhancing potential sinks for greenhouse gases;

“Montreal Protocol” means the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in Montreal on 16 September 1987 and as subsequently adjusted and amended;

“National Adaptation Plan” or “NAP” means a plan prepared in accordance with section 71;

“National Adaptation Plan Steering Committee” or “NAP Steering Committee” means the steering committee established under section 70;

“NAP Steering Committee Terms of Reference” means the NAP Steering Committee Terms of Reference published by the Ministry of Economy in January 2018 and as updated from time to time;

“National Building Code” means the National Building Code 1990 set out in the schedule to the Public Health (National Building Code Regulations) 2004;

“National Climate Change Policy” or “NCCP” means a policy prepared in accordance with section 24;

“National Development Plan” means Fiji’s National Development Plan as amended or replaced from time to time;

“National Disaster Management Council” means the council established under section 4 of the Natural Disaster Management Act 1998;

“national emissions trading scheme” means a mandatory or voluntary regional, national, state or provincial law, scheme, programme, fund, facility, system, initiative or other framework in a jurisdiction other than Fiji under which verified emissions reductions are created and traded;

“National Environment Council” means the National Environment Council established under section 7 of the Environmental Management Act 2005;

“national inventory report” means the report of anthropogenic emissions by sources and removals by sinks of greenhouse gases required under Article 13, paragraph 7(a) of the Paris Agreement;

“National Oceans Policy” means a policy prepared in accordance with section 87;

“National Oceans Policy Steering Committee” means the steering committee established under section 70;

“National Planned Relocation Guidelines” means guidelines prepared in accordance with section 80;

“Nationally Determined Contribution” or “NDC” means the efforts by Fiji to address climate change communicated in accordance with Article 4 of the Paris Agreement;

“Paris Agreement” means the Paris Agreement adopted on 12 December 2015 and which entered into force on 4 November 2016 and all associated decisions of the Conference of the Parties and the CMA;

“permanence period” means the period specified in a Fiji Emissions Reduction Methodology for which carbon sequestered in accordance with the methodology must remain sequestered to be considered a permanent emissions reduction, or as otherwise may be determined in regulations by the Minister;

“person” includes any individual, State entity, company or association or body of persons, corporate or unincorporated;

“proponent”, in relation to an emissions reduction project, programme or activity, means the person who—

- (a) is responsible for carrying out the project, programme or activity; and
- (b) has the legal right to carry out the project, programme or activity;

“protection order” means an order made by the Head of Division that is designed to prevent losses of sequestered carbon;

“REDD+” means reducing emissions from deforestation and forest degradation in developing countries and the conservation of forest carbon stocks, sustainable management of forests and enhancement of forest carbon stocks as established under decision 1/CP.16 and all associated decisions of the Conference of the Parties;

“registered holder” means, in relation to an emissions reduction unit, the person in whose Registry account or foreign account there is an entry for the unit;

“Registry” means the Fiji National Registry established under section 57;

“Registry account” means an account kept in accordance with regulations made in accordance with section 57(6);

“removal” means the removal of one or more greenhouse gases from the atmosphere;

“renewable energy” means energy that is produced by renewable resources, including solar energy, wind energy, biomass, tidal energy, wave energy, geothermal energy and hydropower;

“reporting period” means the period of time that is specified in an emissions reductions methodology or regulations made in accordance with this Act to be the reporting period for an emissions reduction project, programme or activity;

“research” means any study, investigation, inquiry, scientific analysis or similar activity into any matter relating to climate change and which may assist with the implementation of this Act;

“research findings” includes the analysis, conclusions and data associated with any research;

“Reserve Bank” means the Reserve Bank of Fiji established under section 3 of the Reserve Bank of Fiji Act 1983;

“reversal” means the reversal of emissions reductions;

“scope 1 emissions” means the emissions released to the atmosphere as a direct result of an activity, or series of activities at a facility level;

“scope 2 emissions” means the emissions released to the atmosphere from the indirect consumption of an energy commodity;

“scope 3 emissions” means the emissions other than scope 2 emissions that are generated in the wider economy, and that occur as a consequence of the activities of a facility but from sources not owned or controlled by that facility’s business;

“sink” means any process, activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of a greenhouse gas from the atmosphere;

“source” means any process or activity which releases a greenhouse gas, an aerosol or a precursor of a greenhouse gas into the atmosphere;

“Standard Operating Procedures” means the National Emergency Operations Centre Standard Operating Procedures 2010 as amended or replaced from time to time;

“State entity” means a ministry, department, constitutional body, statutory authority, government company or associated entity;

“statutory authority” has the meaning in section 2 of the Financial Management Act 2004;

“sustainable development” means development that meets the needs of the present without compromising the ability of future generations to meet their own needs and includes achieving the principles of sustainable development—

(a) the precautionary principle—where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing measures to anticipate, prevent or minimise the causes of climate change and mitigate its effects, taking into account that such measures should be cost-effective;

(b) the principle of inter-generational equity—the wellbeing of current and future generations is supported and protected by a socially inclusive, equitable, environmentally sustainable, net-zero emissions economy and the health, diversity and productivity of the environment is protected and enhanced for the benefit of future generations;

(c) the conservation of communities, infrastructure, biological diversity and ecological integrity should be a fundamental consideration in decision-making;

(d) decision-making processes should effectively integrate both long-term and short-term environmental, economic, social and equitable considerations; and

(e) improved valuation, pricing and incentive mechanisms including the polluter pays principle should be promoted;

“Sustainable Development Goals” or “SDGs” means the United Nations Sustainable Development Goals adopted in Resolution 70/1 of the United Nations General Assembly for the year 2030, and any subsequent sustainable development goals agreed by the United Nations to replace the existing goals;

“Talanoa” means the process of inclusive, participatory and transparent dialogue with the purpose of sharing stories, building empathy and making wise decisions for the collective good;

“territorial seas” has the meaning in section 2 of the Marine Spaces Act 1977;

“transfer” means, in relation to an emissions reduction unit, the transfer of a unit from one Registry account or foreign account to another Registry account or foreign account;

“UNFCCC Secretariat” means the secretariat established under Article 8 of the Convention and serving at the secretariat of the Kyoto Protocol and the Paris Agreement;

“verified carbon unit” or “VCU” is an emission reduction unit issued under the Verified Carbon Standard;

“verified emissions reduction” means an emissions reduction that has been verified in accordance with an emissions reduction standard;

“verification report” means a report, prepared by an independent auditor who is certified under an emissions reduction standard, which verifies that a quantity of emission reductions have been generated by an emissions reduction project, programme or activity that is registered under that emissions reduction standard;

“vulnerability” means the degree to which a system is susceptible or unable to withstand the adverse effects of climate change, including climate variability and extreme phenomena; and

“2030 marine protected area target” has the meaning given in section 85(2).

Application

3. — (1) This Act binds the State.

(2) This Act applies to all things done in, on, above or below Fiji’s land and airspace, including its internal waters, territorial waters, archipelagic waters and exclusive economic zone and including the seabed and subsoil underlying those waters.

(3) Emissions from international aviation or international shipping do not count as emissions from sources in Fiji for the purposes of this Act.

(4) The Minister may make regulations to authorise participation in schemes adopted to regulate emissions from international aviation or international shipping.

Objectives

4. The objectives of this Act are to—

- (a) provide a framework by which Fiji can develop and implement clear and long term climate change measures and policies that will safeguard the future of Fiji and its people in the face of the climate emergency;
- (b) enable Fiji to meet its international obligations under the Convention and the Paris Agreement and to implement Fiji's NDC;
- (c) facilitate the achievement of regional commitments and aspirations relating to climate change including but not limited to the Suva Declaration on Climate Change;
- (d) establish institutional and governance structures for the implementation of this Act;
- (e) facilitate the evidence-based consideration of climate change issues in specified areas of government and private sector decision making;
- (f) integrate the consideration of climate change projections, articulation of risk reduction responsibilities and formulation of resilience-building objectives across all sector plans and strategies;
- (g) provide for the development, implementation and review of the NCCP, NAP, LEDS, National Oceans Policy and any other climate change policies;
- (h) establish a transparent framework for the monitoring, reporting and verification of anthropogenic emissions by sources and removals by sinks of greenhouse gases;
- (i) enhance government transparency and enable informed private and civil sector decision-making and risk management through the establishment of data management systems and the publicly accessible Information Platform that contain data relating to Fiji's greenhouse gas emissions, climate change projections and vulnerability;
- (j) set a long term emissions reduction target and carbon budgets and reduce Fiji's greenhouse gas emissions consistently with the aim of achieving each carbon budget and the long term emissions reduction target;
- (k) provide for a strategic response to the climate emergency through the implementation, operation and administration of regulations, measures and actions that aim to reduce Fiji's greenhouse gas emissions;
- (l) provide for the development of emissions reduction projects, programmes and activities and facilitate access to international carbon markets;
- (m) provide for the implementation, operation and administration of regulations, measures and actions that build climate resilience and enhance adaptive capacity to the impacts of climate change, with respect to Fiji's communities, built environment and ecosystems;
- (n) provide for the relocation and rights of at-risk communities;
- (o) ensure that climate-related policies and measures adequately integrate consideration of oceans through enhancing the ability of oceans to respond to the adverse impacts of climate change and taking advantage of the mitigation potential of oceans;
- (p) safeguard Fiji's national security and sovereignty including with respect to Fiji's sovereignty over its internal waters, archipelagic waters, territorial seas and exclusive

economic zone within the meaning of the Marine Spaces Act 1977 in the context of sea level rise;

- (q) establish a framework for securing nationally- and internationally-derived finance for the implementation of this Act; and
- (r) require companies, managed investment schemes, the Fiji National Provident Fund Board, licensed financial institutions and the Reserve Bank to disclose the financial risks that climate change presents to their business and measures adopted to reduce these risks, and require company directors and the Fiji National Provident Fund Board to consider climate change risks to the extent that they present foreseeable opportunities or risks to the company.

Principles

5. This Act must be implemented in accordance with the following principles—

- (a) when taking action to address climate change, Fiji will respect, promote and consider the rights and freedoms recognised in Chapter 2 of the Constitution of the Republic of Fiji;
- (b) Fiji, the Pacific Region and the Earth are facing a climate emergency that requires a rapid and ambitious transformation towards a net zero emissions global economy;
- (c) the principle of intergenerational equity, in which the wellbeing of current and future generations is supported and protected by a socially inclusive, equitable, environmentally sustainable, net-zero emissions economy and the health, diversity and productivity of the environment is protected and enhanced for the benefit of future generations;
- (d) the precautionary principle and the taking of precautionary measures to anticipate, prevent or minimise the causes of climate change and mitigate its effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective;
- (e) sustainable development, including the importance of achieving a sustainable, prosperous and peaceful future through the implementation of the Sustainable Development Goals, the Sendai Framework for Disaster Risk Reduction and the Addis Ababa Action Agenda, and also that domestic policies and measures to protect the climate system against anthropogenic climate change should be appropriate for Fiji's specific conditions and integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change;
- (f) the principle of common but differentiated responsibilities and capabilities in light of Fiji's national circumstances, in particular that Fiji is a small island developing state that is highly vulnerable to the impacts of climate change and makes a very small contribution to global greenhouse gas levels;
- (g) the importance of averting, minimising and addressing loss and damage associated with the adverse effects of climate change in lights of Fiji's national circumstances as a small island developing state that is highly vulnerable to the impacts of climate change;

- (h) there are inextricable links between gender equality and the Sustainable Development Goals, and when taking action to address climate change Fiji will respect, promote and consider gender equality and responsiveness, women's human rights and the empowerment of women, including in the areas of formal sector employment and livelihoods, participation in decision-making and access to services, health, education, water, sanitation, housing and transport;
- (i) recognition of the *iTaukei* and the Rotumans from the island of Rotuma, their respective ownership of *iTaukei* lands and Rotuman lands, their unique culture, customs, traditions and language;
- (j) oceans are both critical to the identity and livelihoods of Fijians and the Pacific island peoples and play an important role in climate change mitigation. Healthy oceans are necessary to delivering a healthy climate - oceans must be protected through urgent and ambitious action on climate change and the reduction of other anthropogenic stressors such as plastics pollution and other forms of pollution and waste; and
- (k) climate change remains the single greatest threat to the livelihoods, security and wellbeing of the peoples of Fiji and the Pacific, and therefore progressing the implementation of the Paris Agreement and the Boe Declaration on Regional Security with urgency is critical to safeguarding Fiji's national security and sovereignty.

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PART 2 — DECLARATION OF CLIMATE EMERGENCY

Declaration of climate emergency

6. — (1) This Act recognises that Fiji, the Pacific Region and the Earth are facing a climate emergency that requires a rapid and ambitious transformation towards a net zero emissions global economy.

(2) The purpose of this Act is to set out a detailed framework to address the climate emergency.

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PART 3 — IMPLEMENTATION OF THE PARIS AGREEMENT

Implementation of the Paris Agreement

7. — (1) The purpose of this Part is to give full effect to Fiji's obligations under the Paris Agreement.

(2) The Minister must, prior to 2020 and with the assistance of the Head of Division, review Fiji's first NDC and communicate a revised NDC to the UNFCCC Secretariat which reflects Fiji's highest possible ambition, reflecting its common but differentiated responsibilities and capabilities in the light of its national circumstances;

(3) The Minister must, with the assistance of the Head of Division and in accordance with the Paris Agreement, noting the flexibility afforded to Fiji as a small island developing State, take all reasonable steps to—

- (a) prepare, communicate and maintain successive NDCs that the Minister intends Fiji to achieve;
- (b) pursue domestic mitigation measures, with the aim of achieving the objectives of Fiji's NDC;
- (c) informed by the global stocktake, communicate a NDC every 5 years which represents a progression beyond Fiji's then current NDC and reflects Fiji's highest possible ambition, reflecting its common but differentiated responsibilities and capabilities in the light of its national circumstances;
- (d) in communicating Fiji's NDC, provide the information necessary for clarity, transparency and understanding;
- (e) in communicating Fiji's NDC, adhere to any common time frames agreed to by the CMA;
- (f) account for Fiji's NDC, and in accounting for anthropogenic emissions by sources and removals by sinks of greenhouse gases corresponding to Fiji's NDC, promote environmental integrity, transparency, accuracy, completeness, comparability and consistency, and ensure the avoidance of double counting;
- (g) as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions;
- (h) provide the following information—
 - (i) a national inventory report of anthropogenic emissions by sources and removals by sinks of greenhouse gases, prepared using good practice guidelines and methodologies accepted by the IPCC and agreed upon by the CMA; and
 - (ii) information necessary to track progress made in implementing and achieving its NDC;

(4) The Minister may, with the assistance of the Head of Division and in accordance with the Paris Agreement, submit and update periodically an adaptation communication, which may include Fiji's priorities, implementation and support needs, plans and actions.

Preparation and implementation of Fiji's Nationally Determined Contributions

8. — (1) The Minister must, with the assistance of the Head of Division, take all reasonable steps to promote the achievement of any sectoral emissions reduction or limitation targets in Fiji's NDC.

(2) The Minister may request the advice of the LEDES Steering Committee on the preparation of successive NDCs.

(3) When preparing successive NDCs, the Minister must consider—

- (a) any advice of the LEDES Steering Committee provided in accordance with subsection (2);
- (b) the National Development Plan, NCCP, LEDES, NAP, National Oceans Policy and any other relevant policies;
- (c) the long term emissions reduction target and carbon budgets;
- (d) national inventory reports;
- (e) statements of Fiji's greenhouse gas emissions over the 5 year period, progress towards achieving Fiji's NDC and progress towards achieving the long term emissions reduction target with reference to the carbon budgets made in accordance with section 35(3); and
- (f) any national climate change reports prepared in accordance with section 30.

PART 4 — GOVERNANCE

Powers of the Minister

9. — (1) The Minister has the power to—

- (a) oversee the implementation of and promote compliance with this Act;
- (b) prepare and communicate Fiji's first and subsequent NDCs under the Paris Agreement;
- (c) take all reasonable steps to ensure that Fiji complies with the Paris Agreement and achieves any sectoral emissions reduction or limitation targets in Fiji's NDC;
- (d) formulate, implement and periodically review Fiji's national climate change policies and guidelines, including but not limited to the NCCP, LEDS, NAP, National Planned Relocation Guidelines, National Oceans Policy and any other relevant policy instruments;
- (e) coordinate regional and international negotiations and engagement on climate change related issues in consultation with the Minister responsible for foreign affairs;
- (f) report bi-annually to Parliament on the status of implementation of international and national obligations to respond to climate change and progress towards attainment of low carbon climate resilient development;
- (g) establish procedures for and hold public consultations on matters relating to the implementation of this Act;
- (h) establish, regulate and implement measures and actions on climate change mitigation, adaptation, climate displacement and oceans in accordance with this Act, the Paris Agreement and other ratified international treaties and all other applicable legal provisions;
- (i) establish procedures for the issuance and transfer of Fiji Mitigation Outcome Units in accordance with the Paris Agreement, this Act and regulations, order or by-laws;
- (j) formulate and implement education programmes for industry groups or the general public related to the implementation of this Act or climate change policy;
- (k) establish effectiveness and performance indicators to facilitate the evaluation of the results of the implementation of this Act;
- (l) convene other ministries to support national efforts to mainstream climate change mitigation, adaptation and climate displacement into development planning, decision making and policy;
- (m) design and promote the creation and implementation of economic, fiscal, financial and market-based instruments;
- (n) encourage scientific and technological research, the development, transfer and deployment of technologies, equipment and processes for climate change mitigation and adaptation;
- (o) draft and propose budget provisions for the implementation of this Act;

- (p) appoints experts and establish an independent advisory board to assist with providing advice in relation to the implementation of the Act, including in relation to the setting of carbon budgets; and
- (q) perform any other functions that are necessary to fulfil the objectives of this Act and respond to climate change.

(2) The Minister may, either generally or as otherwise provided by the instrument of delegation, by written instrument signed by the Minister, delegate to an authorised officer all or any of the Minister's powers and functions under this Act, other than this power of delegation.

(3) The Minister may, by written instrument signed by the Minister, appoint a person, or persons included in a class of persons, to be an authorised officer or authorised officers for the purpose of—

- (a) the exercise by that person or those persons of the powers of an authorised officer under this Act or of such of those powers as are specified in the instrument; or
- (b) the performance by that person or those persons of the functions of an authorised officer under this Act or of such of those functions as are specified in the instrument.

(4) The Minister may, in consultation with relevant ministers, introduce regulations, orders or by-laws that give effect to any provision of this Act and that impose duties or obligations on any person, including but not limited to public entities.

(5) The Minister may, in consultation with relevant ministers, develop standards and codes of practice as required to accelerate Fiji's response to climate change in accordance with the objectives and principles of this Act, Fiji's current NDC and other legislative and policy instruments where relevant.

Obligation to review this Act

10. The Minister must review the implementation of this Act every 5 years.

Climate change duties of State entities

11. — (1) The Minister may, in consultation with relevant ministers, introduce regulations which impose obligations relating to climate change on any State entity.

(2) Any State entity on which a climate change obligation has been imposed under subsection (1) must act in a manner best suited to achieve the successful implementation of this Act.

Head of the Climate Change and International Cooperation Division

12. — (1) The Head of Division has the following functions—

- (a) to assist the Minister with the implementation and enforcement of this Act;
- (b) to provide advisory support to other government ministries to support national efforts to mainstream climate change into decision making and policy;
- (c) to prepare reports as required under this Act, the Convention and the Paris Agreement;
- (d) to develop and maintain the Information Platform;

- (e) to develop and maintain the Pacific Regional Central Repository for Hazard, Exposure and Loss Data;
- (f) to develop and maintain the Fiji GHG Inventory;
- (g) to develop and maintain the Adaptation Registry;
- (h) in consultation with the Cabinet Committee on Climate and Disaster Risk, to build integrated risk scenarios that model the physical impacts caused by climate change and their interaction with other projected risks over different time horizons;
- (i) to collect and maintain data on anthropogenic emissions by sources and removals by sinks of greenhouse gases;
- (j) to estimate Fiji's anthropogenic emissions by sources and removals by sinks of greenhouse gases;
- (k) to assess applications for approval to carry out emissions reduction projects, programmes and activities developed in accordance with emissions reduction methodologies;
- (l) to declare that an emissions reduction project, programme or activity is a Fiji Emissions Reduction Project, Programme or Activity for the purposes of this Act;
- (m) to assess applications for the issuance of Fiji Mitigation Outcome Units generated by approved projects, programmes and activities;
- (n) to establish and maintain the Registry, including but not limited to establishing and maintaining accounts and ensuring emissions reduction projects, programmes and activities and the issuance, holding, transfer, surrender or cancellation emissions reduction units are accurately and transparently recorded in the Registry;
- (o) to develop rules and standards to ensure there is no double counting of emissions reductions achieved by approved projects, programmes and activities;
- (p) to develop, coordinate and facilitate policies, guidelines and standards for the international transfer of Fiji Mitigation Outcome Units;
- (q) to approve the international transfer of Fiji Mitigation Outcome Units in accordance with the Paris Agreement and other market mechanisms; and
- (r) to develop, approve and update sectoral and industry-specific baselines.

(2) The Head of Division must exercise any other such other functions and authorities as are prescribed by regulation or prescribed and directed by the Minister.

(3) At the request of the Director, a State entity must assist the Head of Division to the extent possible within the capacity constraints of the relevant State entity.

(4) The Head of Division must, in consultation with the relevant permanent secretary, appoint a focal point from within each government ministry.

(5) Each focal point is responsible for promoting, and must report to the Head of Division bi-annually, on the implementation of this Act within their ministry.

National Climate Change Coordination Committee

- 13.** — (1) This section establishes the National Climate Change Coordination Committee.
- (2) All permanent secretaries are to be members of the Committee.
- (3) The permanent secretary responsible for climate change may nominate other representatives from ministries, departments and agencies to be members of the Committee.
- (4) The permanent secretary responsible for climate change is to be the chairperson of the Committee and the Head of Division is to be the deputy chairperson of the Committee.
- (5) The Committee must meet at least once a year.
- (6) The chairperson must preside at all meetings of the Committee, and if the chairperson is absent for any reason, the deputy chairperson must preside at that meeting.
- (7) The Committee must meet with the National Security Council and the National Environment Council annually.
- (8) The Committee has the following functions—
- (a) to promote the creation, implementation and monitoring of cross-cutting policies that support the implementation of this Act;
 - (b) to promote the alignment of ministerial and departmental activities with cross-cutting policies and frameworks to support the implementation of this Act;
 - (c) to promote the creation, implementation and monitoring and evaluation of relevant sector plans, assess progress and report back to the Committee;
 - (d) to assist with resolving strategic level issues and risks related to climate change and the implementation of this Act by providing advice and guidance to ministers and departments;
 - (e) to ensure the mainstreaming of the consideration of and action on climate change by the national and local governments including the provincial administrations;
 - (f) to advise the national and local governments including the provincial administrations on policy and other measures necessary for climate change response and attaining low carbon climate resilient development;
 - (g) to provide guidance on review, amendment and harmonisation of sectoral laws and policies in order to achieve the objectives of this Act;
 - (h) to request assistance from any State entity in carrying out any of its powers under this Act;
 - (i) to provide advice, analysis, information or other assistance at the request of the Minister in connection with the progress made towards meeting the objectives set under this Act or any other matter relating to climate change;
 - (j) to form technical working groups and consultative groups as required; and
 - (k) to perform any other functions requested by the Minister or the Head of Division.
- (9) The Committee must keep proper records of its proceedings.

(10) The Committee must prepare an annual report of its operations.

(11) The Minister must cause the annual report of the Committee to be laid before Parliament as soon as practicable after receiving it.

(12) The Head of Division must develop and publish terms of reference of the Committee which are to set out the powers, duties and functions of the Committee in accordance with this section and to further support the implementation of this Act and other matters relating to climate change.

(13) The Head of Division must review and if necessary update the terms of reference of the Committee at a minimum every 5 years.

(14) The Committee must act in accordance with this section and its terms of reference, and if there is a conflict between this section and its terms of reference, this section prevails.

Cabinet Committee on Climate and Disaster Risk

14. — (1) The Minister may convene a Cabinet Committee on Climate and Disaster Risk.

(2) The Cabinet Committee on Climate and Disaster Risk has the following functions—

- (a) to provide high level oversight of climate and disaster risks and national responses;
- (b) to support, where required, high-level inter-government policy decisions intended to advance national risk management and climate resilient development objectives;
- (c) to support and provide oversight, where required, to the relocation of at-risk communities and other matters relating to climate displacement;
- (d) to assist the Head of Division in building integrated risk scenarios that model the physical impacts caused by climate change and their interaction with other projected risks over different time horizons; and
- (e) to provide guidance to the National Disaster Management Council.

(3) The Cabinet Committee on Climate and Disaster Risk may, in writing, delegate any of its functions to an authorised officer or authorised officers.

Inspectors

15. — (1) Inspectors appointed in accordance with section 18 of the Environment Management Act 2005 are also inspectors for the purposes of enforcing this Act, including by collecting information—

- (a) to assist with the estimation of Fiji's anthropogenic emissions by sources and removals by sinks of greenhouse gases; and
- (b) in relation to emissions reduction projects, programmes and activities.

(2) Inspectors are authorised officers for the purposes of this Act.

(3) An inspector has the following powers in relation to this Act—

(a) to enter and inspect any facility, land or premises in respect of which—

- (i) a permit, approval or mitigation outcome statement has been issued; or

- (ii) information has been provided in accordance with section 27,
 - to carry out surveys, investigations, tests, or measurements (including those that involve leaving measuring equipment on the land or premises);
 - (b) if the inspector has reasonable ground to believe that a vessel or aircraft is contravening this Act, stop and inspect the aircraft or vessel;
 - (c) to conduct any examination or inquiry, including the examination of any plan, substance or thing, to ascertain whether there has been compliance with or breach of this Act;
 - (d) to take or remove samples of any matter, substance or thing required for analysis in accordance with any regulations made for the purposes of this section;
 - (e) to take possession of any machinery, equipment, plant or other thing for further examination or testing or for use as evidence;
 - (f) to take pictures, photographs or measurements or make sketches or recordings in any form;
 - (g) to examine any document or business records related to the activities carried out at the facility, land or premises, in any form, and to make and take copies of such document;
 - (h) to order the operation of the whole or part of a facility be stopped for the purposes of inspection;
 - (i) to interview any person for the purpose of inspection;
 - (j) to issue an improvement notice, in the prescribed form, to the responsible entity for a facility in relation to compliance with this Act; and
 - (k) to exercise any other powers conferred under this Act or any other written law.

(4) In exercising the powers under this Act, an inspector may be accompanied by a police officer, technical specialist or any other person for the purposes of inspection.

(5) An inspector may not enter a facility, land or premises except—

- (a) with the consent of the owner or person in possession of the premises; or
- (b) pursuant to a warrant issued under subsection (6).

(6) If a Magistrate is satisfied on affidavit evidence by an inspector that—

- (a) it is necessary to enter a facility, land or premises for the purposes of this Act; and
- (b) the consent of the owner has not been or cannot be obtained,

the Magistrate may issue a warrant authorising the inspector to enter and remain on the facility, land or premises for the purposes of this Act.

(7) If an inspector takes possession of a matter, substance, plant machinery or other item or thing from a facility, land or premises, the responsible entity for that facility, land or premises may request the Head of Division to make a decision for the return of the matter, substance, plant machinery or other item or thing.

(8) An inspector or any person assisting an inspector in accordance with subsection (4) is not personally liable for any act done in good faith in the exercise of any power under this section.

(9) An employee of the responsible entity for a facility, land or premises in respect of which an inspector is exercising powers under this Act must—

- (a) give the inspector any assistance to enable the inspector to exercise powers and functions under this Act; and
- (b) provide any document or information required by the inspector for the purpose of this Act.

(10) A person commits an offence and is liable on conviction to a fine not exceeding \$10,000 if that person knowingly or deliberately—

- (a) conceals the location or existence of any matter, substance or plant machinery from an inspector;
- (b) wilfully obstruct access to an inspector to carry out the activities permitted in accordance with this section; or
- (c) interferes with the collection of information and data by an inspector permitted in accordance with this section.

(11) A person who fails to comply with an improvement notice in relation to compliance with this Act commits an offence and is liable on conviction to a fine not exceeding \$750,000.

(12) The Minister may make regulations which provide for—

- (a) the prescribed form of an improvement notice issued in accordance with this Act;
- (b) obligations on inspectors to inform the responsible entity for a facility, land or premises that the responsible entity may refuse consent to enter premises in specified circumstances;
- (c) obligations on inspectors to make specified announcements before entering a facility, land or premises;
- (d) the right of the responsible entity for a facility, land or premises to observe execution of warrant; and
- (e) the responsibility of the responsible entity for a facility, land or premises to provide an inspector appointed under section 18 of the Environment Management Act 2005 with facilities and assistance.

PART 5 — CLIMATE CHANGE OBLIGATIONS OF STATE ENTITIES

Regard of State entities to objectives and principles

16. — (1) All State entities must ensure that any decision made and any policy, programme or process developed or implemented by the State entity from the commencement of this Act adequately takes climate change into account if it is relevant to the decision, policy, programme or process by having regard to the objectives and the principles of this Act.

(2) If the Court finds that climate change was relevant to a decision, policy, programme or process made, developed or implemented by a State entity from 1 January 2020, and also finds that the State entity did not adequately take account of climate change, the Court may make an order—

- (a) setting aside the decision, policy, programme or process and requiring that the decision, policy, programme or process must be remade in accordance with subsection (1); or
- (b) any other such order that the Court sees fit to make.

(3) The Minister may issue guidelines about how State entities are to have regard to the objectives and the principles of this Act when making a decision or developing or implementing a policy, programme or process.

(4) Guidelines issued under subsection (3) may—

- (a) apply to all decisions, policies, programmes or processes; or
- (b) apply to a specified class of decision, policy, programme or process.

(5) Without limiting subsection (3), guidelines issued under that subsection may—

- (a) provide practical guidance on the application of the objectives and the principles; or
- (b) provide guidance on when the objectives and principles may be taken into account; or
- (c) provide guidance on how an obligation to consider the objectives and principles under this Act may be discharged.

Decision-makers must have regard to climate change

17. — (1) This section applies to any decision made under any of the laws specified in Schedule 1 that could potentially be affected by or contribute to climate change.

(2) A person making a decision referred to in subsection (1) is to make a decision or take an action that promotes and is consistent with achieving —

- (a) the objectives and principles of this Act;
- (b) the mitigation of and adaptation to the potential impacts of climate change relevant to the decision or action, with reference to integrated risk scenarios developed under this Act;
- (c) the mitigation of the potential contribution to Fiji's greenhouse gas emissions of the decision or action;
- (d) the NCCP;

(e) Fiji's national security and sovereignty; and

(f) any guidelines issued by the Minister.

(3) The potential impacts of climate change relevant to the decision under subsection (2)(b) include—

(a) potential biophysical impacts;

(b) potential long and short term economic, environmental, health and other social impacts;

(c) potential contributions to climate resilience;

(d) potential beneficial and detrimental impacts;

(e) potential direct and indirect impacts; and

(f) potential cumulative impacts.

(4) The potential contribution to Fiji's emissions of the decision under subsection (2)(c) includes—

(a) potential short term and long term emissions;

(b) potential scope 1, scope 2 and scope 3 emissions;

(c) potential increases and decreases in emissions; and

(d) potential cumulative impacts of emissions.

(5) The requirements of this section apply in addition to and without limiting the power or duty of a person making a decision referred to in subsection (1) to consider any other matter.

(6) Nothing in this section limits the power of a person making a decision not referred to in subsection (1) to consider any potential impacts of climate change or potential contributions to Fiji's greenhouse gas emissions in making any other decision or taking any other action under any other act, regulation, order or by-law.

Ministerial guidelines for actions and decisions

18. — (1) The Minister may issue guidelines for a person making a decision referred to in section 17(1) as to the scope and application of the factors that the person is required to consider under section 17(2) when making that decision or taking that action.

(2) The Minister must consult with any or all ministers administering an Act, regulation, order or by-law before making a guideline that relates to a decision under that Act, regulation, order or by-law.

(3) The Minister must publish the guidelines in the Gazette.

Integration of climate change within ministries

19. — (1) Each focal point appointed in accordance with section 12(4) must take all reasonable steps to support the implementation of this Act within their ministry.

(2) Each focal point must report annually to the Head of Division on the implementation of this Act within their ministry including on the implementation of any duties, functions and obligations assigned to a minister or department under this Act or supporting regulations.

Environmental impact assessment

20. Where environmental impact assessment is required under the Environment Management Act 2005 for a proposed activity or undertaking, and that proposed activity or undertaking may result in material greenhouse gas emissions or could be adversely affected by the impacts of climate change, the environmental impact assessment must include an assessment of those matters and measures to address them.

Government procurement and human resourcing

21. — (1) All Ministers must, where relevant, develop procurement standards that are compatible with the objectives and principles of this Act and the implementation of Fiji's NDC, the NCCP, the LEDS, the NAP, the National Oceans Policy and any other relevant policy instruments. Where possible, these procurement standards are to set minimum standards for—

- (a) promoting adaptation and climate resilience; and
- (b) sourcing zero or low emissions products, vehicles and/or energy sources.

(2) All Ministers must, where relevant, annually review and assess ministerial portfolios and functions in relation to climate risks and make adjustments and changes to key performance indicators with the aim of ensuring climate change considerations are able to be adequately addressed.

(3) All Ministers must, where relevant, review and revise key performance indicators and job descriptions for civil servants within their ministry with the aim of ensuring that civil servants are increasingly equipped with relevant specialist skills to support the implementation of this Act.

(4) Ministers may request the advice of their Head of Division and the Committee in carrying out their obligations under subsections (1), (2) and (3).

Integration of climate change into curricula

22. —(1) The Minister responsible for education must, in consultation with the Minister, integrate evidence-based learning about climate change into a variety of subjects of the Fiji National Curriculum Framework at all levels.

(2) The Minister may advise State entities responsible for universities and tertiary institutions on the integration of evidence-based learning about climate change into their curricula.

National budget submissions and circular

23. — (1) All State entities must include, in their submissions of actual and estimated details of expenditure for the purposes of the national budget and budget estimates document, the contribution of the State entity to mitigation and adaptation and the financial impacts of climate change on the State entity.

(2) The Minister responsible for the economy must provide information on the economic implications of climate change in the supplement to the budget address.

PART 6 — DEVELOPMENT AND EVALUATION OF THE NATIONAL CLIMATE
CHANGE POLICY

Development of the National Climate Change Policy

24. — (1) The Minister must, with the assistance of the Head of Division, develop and implement a NCCP for the period 2020 to 2030 and for successive periods of 10 years.

(2) The Head of Division must publish the NCCP online prior to the commencement of each successive period.

(3) The Minister and the Head of Division, in developing and implementing the NCCP, are to be informed by—

- (a) the objectives, principles, rights, powers and obligations established under this Act;
- (b) the data collated and submitted by the Minister, the Head of Division and the Division in satisfaction of monitoring and reporting requirements under the Convention, the Paris Agreement and SDGs;
- (c) the best available scientific knowledge about climate change, including relevant information published by the IPCC;
- (d) technology and technological innovations relevant to climate change;
- (e) economic circumstances, in particular the likely impact of the NCCP on the following—
 - (i) the economy;
 - (ii) the competitiveness of particular sectors of the economy;
 - (iii) small and medium enterprises;
 - (iv) employment opportunities; and
 - (v) the socio-economic well-being of any segment or part of the population;
- (f) social circumstances, in particular the likely impact of strategies and policies on the marginalised and disadvantaged communities;
- (g) fiscal impacts especially in relation to the avoidance of future costs;
- (h) environmental circumstances, in particular the likely impact of the NCCP on land and ocean biodiversity and ecosystem services;
- (i) international law and policy relating to climate change; and
- (j) traditional knowledge of the *iTaukei* and Rotumans related to climate change adaptation and mitigation.

(4) The NCCP should—

- (a) state clear objectives and include appropriate targets to achieve those objectives;
- (b) be explicitly in line with this Act, the Paris Agreement and other relevant national, regional and international policies, strategies and frameworks;

- (c) provide clear policy guidelines, and related strategic actions, to meet the overall objective(s) of the policy; and
 - (d) embed gender, human-rights, and social and cultural issues.
- (5) The NCCP must set out measures—
- (a) to implement and promote the achievement of Fiji’s NDC for the relevant period;
 - (b) to encourage sustainable development, including that policies and measures to protect the climate system against anthropogenic climate change should be appropriate for Fiji’s specific conditions and integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change;
 - (c) for adaptation to climate change;
 - (d) for mitigation against climate change;
 - (e) to mainstream climate change disaster risk reduction actions in development programmes taking into account the existing work of the Cabinet Committee on Climate and Disaster Risk and the National Disaster Management Council and any other relevant bodies and actions under this Act;
 - (f) for public awareness and engagement in climate change response and disaster reduction;
 - (g) to identify strategic areas of national infrastructure that are at risk from climate change and require measures to improve their climate resilience;
 - (h) to strengthen approaches to the collection of data under this Act and to the maintenance of the Fiji GHG Inventory and Registry;
 - (i) to enhance energy conservation, efficiency and use of renewable energy in industrial, commercial, transport, domestic and other uses;
 - (j) to strengthen approaches to climate change research and development training and technology transfer;
 - (k) to review and recommend obligations of State entities and the private sector on climate change;
 - (l) to review levels and trends of greenhouse gas emissions; and
 - (m) to identify outputs, overall budget estimates and timeframes to realise expected results.
- (6) The NCCP must address all sectors of the economy and provide mechanisms for mainstreaming of the NCCP into those sectors.
- (7) The Minister must develop and implement, with the assistance of the Head of Division, monitoring and evaluation frameworks and systems to monitor, in relation to the NCCP—
- (a) delivery time-frames for results;
 - (b) institutional performance and knowledge retention; and

(c) progress made against development objectives.

Review of the National Climate Change Policy

25. — (1) The Minister must, with the assistance of the Head of Division, review and amend the NCCP for successive 10 year periods in alignment with the review and enhancement of Fiji's successive NDCs under Part 3.

(2) The Minister and the Head of Division, in reviewing the NCCP, are to be informed by the matters listed in section 24(3).

(3) The Minister must, with the assistance of the Head of Division, prepare a report which outlines the findings of the review of the NCCP and contains recommendations for the plan to be amended and must—

(a) present the report to Parliament; and

(b) publish the report online including on the Information Platform.

(4) Parliament must consider the report and proposed amendments to the plan as set out in subsection (3) and must either approve, amend or reject the Minister's proposed amendments to the NCCP.

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PART 7 — MEASUREMENT, REPORTING AND VERIFICATION

Fiji GHG Inventory

26. — (1) Head of Division must develop the Fiji GHG Inventory in accordance with the guidelines and methodologies established under the Convention, the Paris Agreement and by the IPCC. The Head of Division may make the Fiji GHG Inventory publicly available online on the Information Platform.

Collection of emissions and emissions reduction data

27. — (1) A person who operates facilities in Fiji that collectively emit in excess of the amount of tonnes of carbon dioxide equivalent per financial year designated by the Minister by regulation, order or by-law for the purposes of this subsection must, from the financial year commencing on 1 August 2020, keep and provide information to the Head of Division on—

- (a) their net greenhouse gas emissions for the financial year, including emissions by sources and removals by sinks of greenhouse gases and any emission reductions transferred internationally under Article 6 of the Paris Agreement or for any other purpose; and
- (b) any other matter prescribed in regulations developed in accordance with subsection (5).

(2) A person who is required to provide information in accordance with subsection 27 and fails to do so within 3 months after the end of the financial year commits an offence and is liable on conviction to a fine not exceeding \$750,000.

(3) If the Head of Division considers that information provided by a person in accordance with subsection 27 is insufficient or inadequate in any way, the Head of Division may request, in writing, further information from the person.

(4) A person who is required to provide further information to the Head of Division in accordance with subsection (3) and fails to do so within 1 month from the date of the Head of Division's request commits an offence and is liable on conviction to a fine not exceeding \$750,000.

(5) The Minister may make regulations which set out the content and form of the information that must be kept and provided to the Head of Division in accordance with subsection 27, including with respect to—

- (a) volumes of fuel imported, exported, produced, distributed, sold, or used, and the nature of the use of that fuel;
- (b) industrial processes, including by-products from industrial processes;
- (c) emissions of greenhouse gases into the atmosphere;
- (d) composition of vehicle fleets and use of vehicles, including, but not limited to, distances travelled;
- (e) waste composition and weight, dimensional characteristics of landfills and dumps, and volume of landfill and dump gases extracted and combusted;
- (f) numbers of ruminants and other farmed livestock and their emissions;

- (g) areas of crops and amounts produced;
 - (h) amount of nitrogenous and lime fertilisers used;
 - (i) native and planted trees, the amount of harvesting, the area of land in scrub, and the area of land in other land uses that are necessary to determine land use change under the Convention or the Paris Agreement;
 - (j) imports and exports of greenhouse gases controlled by the Montreal Protocol; and
 - (k) imports, exports, manufacture, sales, and the nature of the use of products that contain hydrofluorocarbons, perfluorocarbons, and sulphur hexafluoride.
- (6) Regulations made under subsection (5) may specify—
- (a) requirements that an activity, or series of activities, must meet to be a facility under this Act;
 - (b) minimum thresholds of greenhouse gas emissions, energy consumption and energy production for facilities or persons;
 - (c) methodologies for calculating anthropogenic emissions by sources and removals by sinks of greenhouse gases; and
 - (d) the system for monitoring, reporting and verification so as to ensure the accuracy and integrity of reports.
- (7) Regulations made under subsection (5) may specify the manner and form in which records must be kept and provided, including specifying that those records must be declared as true, the form of that declaration, and who must sign that declaration.
- (8) Regulations made under subsection (5) may apply different requirements for different classes of persons covered by this provision.
- (9) The following written material may be incorporated, in whole or in part, by reference in regulations made under subsection (5)—
- (a) decisions, rules, guidelines, principles, measures, methodologies, modalities, procedures, mechanisms, or other matters adopted, agreed on, made, or approved by any international or national organisation in accordance with the Convention or the Paris Agreement; and
 - (b) any standards, requirements, or recommended practices of any international or national organisation that are adopted, agreed on, made, or approved in accordance with the Convention or the Paris Agreement,
- (10) Material incorporated by reference in regulations has legal effect as part of the regulations.

National inventory report

28. — (1) The Head of Division must prepare a national inventory report biennially and in accordance with the Paris Agreement, using the emissions data contained in the Fiji GHG Inventory.

(2) The Head of Division must submit each national inventory report to the Minister at least one month prior to the date by which national inventory reports must be submitted in accordance with the Paris Agreement.

(3) The Head of Division must make national inventory reports publicly available online as soon as practicable after they are submitted in accordance with the Paris Agreement, including on the Information Platform.

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PART 8 — RESEARCH, DATA COLLECTION, REPORTING AND COMMUNICATIONS

National climate change communications strategy

29. The Minister may direct the Head of Division to develop, review and update a national climate change communications strategy to guide the dissemination of climate change related information through a variety of formats, media-types, languages and other communications channels for the purpose of increasing the consistency of State entities' communications on climate change and improving public awareness, risk-reduction and preparedness.

National climate change reports

30. — (1) The Head of Division must prepare national climate change reports that address mitigation and adaptation as and when required by the Minister.

(2) National climate change reports may address the following—

- (a) emissions trends over the past 2, 5 and 10 years, where possible;
- (b) an assessment of the progress made towards Fiji's NDC and the long term emissions reduction target at the national and sector levels, including individual mitigation actions; and
- (c) recommendations, including at the sectoral level and at the mitigation actions level, on measures needed to meet the emissions reduction target in Fiji's NDC and the long-term emissions reduction target.

(3) In preparing national climate change reports, the Head of Division may draw on information from—

- (a) national inventory reports;
- (b) the statement of Fiji's greenhouse gas emissions over the 5 year period and progress towards achieving carbon budgets and the long term emissions reduction target; and
- (c) reports and any other materials prepared in connection with the review of the NCCP, LEDES, NAP and National Oceans Policy.

(4) The Head of Division must make national climate change reports publicly available online, including on the Information Platform.

Collection of research from persons

31. — (1) Any person who is undertaking research in Fiji must provide the Head of Division with a copy of any final research findings that relate to climate change and substantially draw upon research undertaken in accordance with the research permit within 30 days of such final research findings being—

- (a) compiled in a way that could provide valuable information that may inform the Head of Division on matters covered by this Act and the management of climate change by the Division;
- (b) formally submitted in satisfaction of some or all of the requirements of a degree or qualification either within or outside of Fiji; or

(c) published online or in print, including in an academic journal.

(2) Any person who is enrolled in or performs research at a university located in Fiji must provide the Head of Division with a copy of any final research findings that relate to climate change and substantially draw upon research undertaken in accordance with the research permit within 30 days of such final research findings being—

(a) compiled in a way that could provide valuable information that may inform the Head of Division on matters covered by this Act and the management of climate change by the Department;

(b) formally submitted in satisfaction of some or all of the requirements of a degree either within or outside of Fiji; or

(c) published online or in print, including in an academic journal.

(3) A person who is required to provide final research findings under subsection (1) or subsection (2) may apply to the Head of Division for an exemption from the requirement to provide final research findings.

(4) The Head of Division must determine an application made in accordance with subsection (3) by—

(a) approving the application and exempting the person from a requirement under subsection (1) or subsection (2);

(b) refusing the application and requiring the person to comply with subsection (1) or subsection (2); or

(c) refusing the application and requiring the person to comply with subsection (1) or subsection (2) but agreeing not to make any public disclosure of that material.

(5) Notwithstanding subsection (4), the Head of Division may exempt a person from a requirement under subsection (1) or subsection (2) if the relevant final research findings are determined by the Head of Division to be commercial in confidence.

Collection of research from organisations

32. — (1) Any organisation, including but not limited to donor organisations, non-government organisations and universities, who fund or perform research in Fiji must provide the Head of Division with—

(a) details of the research activities from the date such activities are approved; and

(b) a copy of any final research findings that relate to climate change and substantially draw upon research undertaken in Fiji within 14 days of those final research findings being published online or in print, including in an academic journal.

(2) An organisation who is required to provide final research findings under subsection (1) may apply to the Head of Division for an exemption from the requirement to provide the final research findings.

(3) The Head of Division may issue an exemption in accordance with subsection (2) where the Head of Division is satisfied that the relevant final research are commercial or confidential in nature.

(4) The Head of Division must determine an application made in accordance with subsection (2) by either—

- (a) approving the application and exempting the person from a requirement under subsection (1);
- (b) refusing the application and requiring the person to comply with subsection (1); or
- (c) refusing the application and requiring the person to comply with subsection (1) but agreeing not to make any public disclosure of that material.

Information Platform

33. The Head of Division shall develop and maintain a publicly accessible Information Platform that contains at least the following—

- (a) the National Development Plan, NCCP, LEDES, NAP, National Planned Relocation Guidelines and National Oceans Policy;
- (b) any report relating to the review of the NCCP, LEDES, NAP and National Oceans Policy;
- (c) any report, statement or communication made in accordance with Part 3, including but not limited to Fiji's NDC, national inventory reports and adaptation communications;
- (d) national climate change reports made in accordance with section 30;
- (e) any research provided to the Head of Division in accordance with sections 31 and 32;
- (f) statements of Fiji's greenhouse gas emissions over the 5 year period, progress towards achieving Fiji's NDC and progress towards achieving the long term emissions reduction target with reference to the carbon budgets made in accordance with section 35(3); and
- (g) each carbon budget;
- (h) a link to the website containing the Registry;
- (i) a link to the website containing the Adaptation Registry;
- (j) a link the website containing the Pacific Regional Central Repository for Hazard, Exposure and Loss Data;
- (k) integrated risk scenarios;
- (l) any national climate change projections;
- (m) information regarding national climate change vulnerability for human settlements, infrastructure, coastal zones and river deltas, agriculture, forests and biodiversity; and
- (n) activities supported by climate finance initiatives, including those supported by the Global Environment Facility, Green Climate Fund, Adaptation Fund, multilateral development banks, the ECAL and where available private sector sources, insurance initiatives and any other funds or mechanisms.

Pacific Regional Central Repository for Hazard, Exposure and Loss Data

34. — (1) The Head of Division shall develop and maintain a Pacific Regional Central Repository for Hazard, Exposure and Loss Data for the purposes of—

- (a) promoting the ongoing collection and curation of data sets;
- (b) facilitating the ongoing development of robust hazard, exposure and loss models; and
- (c) informing insurance initiatives led by the private sector or climate finance initiatives.

(2) The data and models contained in the Pacific Regional Central Repository for Hazard, Exposure and Loss Data shall be made publicly available online.

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PART 9 — CLIMATE CHANGE MITIGATION

Long term emissions reduction target

35. — (1) For the purposes of this Act, the long term emissions reduction target for Fiji is an amount of net zero greenhouse gas emissions by the year 2050.

(2) The Minister must, with the assistance of the Head of Division, take all reasonable steps to promote the achievement of the long term emissions reduction target through the development and implementation of the LEDS, NCCP and NDC.

(3) Every 5 years the Minister must, with the assistance of the Head of Division, publish a statement of—

- (a) Fiji’s greenhouse gas emissions over the 5 year period;
- (b) progress towards achieving Fiji’s NDC; and
- (c) progress towards achieving the long term emissions reduction target with reference to the carbon budgets.

Carbon budgeting

36. — (1) This section establishes the process for the development of 5 year carbon budgets for the purposes of planning whole of economy emissions reductions as part of a cumulative effort to achieve net zero greenhouse gas emissions by the year 2050.

(2) The Minister, with the assistance of the Head of Division, must determine a carbon budget for Fiji in respect of each of the following periods—

- (a) 1 January 2026 to 31 December 2030;
- (b) 1 January 2031 to 31 December 2035;
- (c) 1 January 2036 to 31 December 2040;
- (d) 1 January 2041 to 31 December 2045; and
- (e) 1 January 2046 to 31 December 2050.

(3) The carbon budget under subsection (2)(a) must be determined on or before 31 March 2021.

(4) The carbon budget under subsection (2)(b) must be determined on or before 31 March 2023.

(5) The carbon budget under subsection (2)(c) must be determined on or before 31 March 2028.

(6) The carbon budget under subsection (2)(d) must be determined on or before 31 March 2033.

(7) The carbon budget under subsection (2)(e) must be determined on or before 31 March 2038.

(8) The Minister, with the assistance of the Head of Division, must take all reasonable steps to promote the achievement of each carbon budget.

(9) The Minister may request the advice of the LEDES Steering Committee on the preparation of carbon budgets.

Form of carbon budgets

37. — (1) Each carbon budget must be expressed as the extent to which the amount of Fiji's greenhouse gas emissions is to be reduced in relation to the amount of Fiji's greenhouse gas emissions for the year 2020.

(2) For the purposes of this section, the Minister must determine a figure that represents the amount of Fiji's greenhouse gas emissions for the year 2020 in accordance with the IPCC methodologies.

Matters for consideration in determining carbon budgets

38. — (1) In determining each carbon budget, the Minister must have regard to—

- (a) any advice from independent experts or an independent advisory board appointed in accordance with section 9(1)(p);
- (b) any advice of the LEDES Steering Committee provided in accordance with section 36(9);
- (c) the long-term emissions reduction target;
- (d) indicative trajectories for Fiji to achieve the long-term emissions reduction target;
- (e) the National Development Plan, NDC, NCCP, LEDES and any other relevant policy instruments;
- (f) potential opportunities across Fiji's economy as a whole for reducing greenhouse gas emissions in the most efficient and cost-effective manner in the carbon budget period;
- (g) the best available scientific knowledge about climate change, including relevant information published by the IPCC;
- (h) any technology relevant to climate change;
- (i) economic circumstances, in particular the likely impact of the target on the economy and the competitiveness of particular sectors of the economy;
- (j) social circumstances, in particular the likely impact of the target on the health and wellbeing of Fijians;
- (k) environmental circumstances, in particular the benefits to the environment of emissions reduction;
- (l) natural disasters and the adverse impacts of climate change, and the extent to which they have effected or will effect Fiji's greenhouse gas emissions;
- (m) the extent to which donor funding has been made available;
- (n) existing national and global action on climate change; and
- (o) any progress towards the reduction of greenhouse gas emissions in Fiji.

(2) In addition to subsection (1), the Minister must ensure that each carbon budget constitutes a greater reduction in greenhouse gas emissions than any previous carbon budget

as part of the cumulative effort to achieve net zero greenhouse gas emissions by the year 2050.

Publication of carbon budgets

39. — (1) The Minister must cause each carbon budget to be laid before Parliament within 10 sitting days after the determination of the carbon budget.

(2) The Head of Division must make each carbon budget publicly available online as soon as practicable after the target is laid before Parliament in accordance with subsection (1), including on the Information Platform.

Amending carbon budgets

40. — (1) Subject to this section, this Part applies to a proposed amendment to a carbon budget as if the proposed amendment were the initial carbon budget for a carbon budget period.

(2) The Minister may amend a carbon budget or the carbon budgets if, in the opinion of the Minister, exceptional circumstances apply.

(3) Sections 36(3) to 36(7) does not apply to the amendment of a carbon budget.

(4) The publication of an amended carbon budget must be accompanied by a statement of the reasons why the amendment is necessary.

Low Emission Development Strategy Steering Committee

41. — (1) This section establishes the LEDS Steering Committee.

(2) The Minister must appoint an employee of the ministry responsible for climate change to be the Chair of the LEDS Steering Committee.

(3) The LEDS Steering Committee shall be constituted by sectoral representatives from State entities appointed by the Minister.

(4) The LEDS Steering Committee must, at a minimum, meet in 2022 and every 5 years thereafter for the purpose of—

- (a) considering progress under the long term emissions reduction target, the LEDS, the carbon budget and the NDC;
- (b) initiating the review of the LEDS;
- (c) advising the Minister in determining the subsequent carbon budget; and
- (d) advising the Minister in communicating an updated NDC.

Low Emission Development Strategy

42. — (1) The LEDS Steering Committee must prepare successive LEDS.

(2) The LEDS Steering Committee must review the LEDS in 2022 and every 5 years thereafter.

(3) The LEDS Steering Committee, in developing and reviewing successive LEDS, is to be informed by—

- (a) the objectives, principles, rights, powers, obligations and the long-term emissions reduction target established under this Act;
- (b) Fiji's NDC;
- (c) the data collated and submitted by the Minister, the Head of Division and the Division in satisfaction of monitoring and reporting requirements under the Convention, the Paris Agreement and SDGs;
- (d) the best available scientific knowledge about climate change mitigation, including relevant information published by the IPCC;
- (e) technology and technological innovations relevant to climate change mitigation;
- (f) economic circumstances, in particular the likely impact of the LEDS on the following—
 - (i) the economy;
 - (ii) the competitiveness of particular sectors of the economy;
 - (iii) small and medium enterprises;
 - (iv) employment opportunities; and
 - (v) the socio-economic well-being of any segment or part of the population;
- (g) social circumstances, in particular the likely impact of strategies and policies on the marginalised and disadvantaged communities;
- (h) fiscal impacts especially in relation to the avoidance of future costs;
- (i) environmental circumstances, in particular the likely impact of the LEDS on land and ocean biodiversity and ecosystem services;
- (j) international law and policy relating to climate change; and
- (k) traditional knowledge of the iTaukei and Rotumans related to climate change mitigation.

(4) The LEDS Steering Committee may call upon relevant technical expertise from within the civil service or independent experts appointed in accordance with section 9(1)(p) to support committee meetings and form technical working groups as needed to progress decision-making.

(5) The LEDS Steering Committee may convene consultative groups involving government, non-government, private sector and civil society representatives or national stakeholder workshops to help inform both the review of progress under the LEDS and the development of revised actions.

(6) The LEDS Steering Committee must prepare—

- (a) a report for the Minister which outlines the findings of the review of the LEDS and contains recommendations for how the LEDS should be updated; and
- (b) an updated LEDS in accordance with the recommendations in the report prepared in accordance with paragraph (a).

(7) The Minister must consider the recommendations of the LEDS Steering Committee when deciding whether or not to approve the updated LEDS and must publish reasons for any failure to adopt a recommendation of the LEDS Steering Committee.

(8) The Head of Division must make the updated LEDS and the report of the LEDS Steering Committee publicly available online, including on the Information Platform.

Minister has the power to introduce and implement regulations, measures and actions

43. — (1) The Minister has the power to introduce and implement regulations, measures and actions with the purpose of limiting or reducing Fiji’s greenhouse gas emissions across the economy including but not limited to the energy, transport, industry, agriculture, forestry, fisheries, waste, tourism, aviation and shipping sectors.

(2) Without limiting subsection (1), the Minister has the power to—

- (a) introduce and implement a carbon pricing mechanism, including but not limited to an emissions trading scheme;
- (b) prescribe fees and other charges due to the State paid on the volume of greenhouse gas emissions above a prescribed level;
- (c) introduce and implement fiscal incentives and national levies with the purpose of—
 - (i) limiting or reducing Fiji’s greenhouse gas emissions;
 - (ii) enhancing the conservation of natural sinks, particularly within natural protected areas and ecological conservation zones; and
 - (iii) encouraging public and private investment in renewable energy and efficient cogeneration technologies, energy efficient infrastructure and zero-waste infrastructure and processes;
- (d) enhance environmental protection of land and ocean carbon sinks in consultation with the Ministers responsible for forests, fisheries, agriculture and environment, including with respect to halting and reversing deforestation and degradation of forests, afforestation initiatives, Fiji’s REDD+ initiative, reef and fisheries conservation, mangrove protection and planting initiatives, nature-based coastal protection applications and sustainable agricultural practices;
- (e) adopt regulations, orders and by-laws and develop policies for the construction of sustainable, low-emissions, energy efficient and climate resilient infrastructure and buildings; and
- (f) implement programmes that raise awareness of the impact of patterns of production and consumption in the generation of greenhouse gas emissions and compounds and promote patterns of sustainable production and consumption in the civil, social and private sectors;

(3) The Minister must have regard to the following factors when preparing regulations, measures and actions under subsection (1)—

- (a) the objectives and principles of this Act;
- (b) Fiji’s long term emissions reduction target and carbon budgets; and

- (c) the alignment of the regulations, measures or actions with Fiji’s current National Development Plan, NDC, NCCP, and LEDES.

Transport Decarbonisation Implementation Strategy

44. — (1) The Minister must, in consultation with the Minister responsible for transport, develop and implement a detailed Transport Decarbonisation Implementation Strategy by 2021, that builds upon the LEDES to decarbonise the transport sector by 2050.

(2) The Minister must review and update the Transport Decarbonisation Implementation Strategy every 5 years.

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PART 10 — EMISSIONS REDUCTION PROJECTS, PROGRAMMES AND ACTIVITIES

Simplified outline

45. — (1) This Part establishes the Fiji Emissions Reduction Standard for the regulation of Fiji Emissions Reduction Projects, Programmes and Activities and the development of Fiji Emissions Reduction Methodologies.

(2) This Part facilitates the issuance of Fiji Mitigation Outcome Units in relation to such projects, programmes and activities undertaken in Fiji. Fiji Mitigation Outcome Units are personal property and are capable of transfer and other dealings in accordance with this Act and the regulations.

(3) This Part regulates the conduct of emissions reduction projects, programmes or activities in Fiji that are registered under an approved international emissions reduction standard and the use, sale and transfer of any VCUs, CERs or any other emissions reduction units issued under an approved international emissions reduction standard as well as the conversion of such units to Fiji Mitigation Outcome Units.

(4) This Part provides for preserving historical emissions reduction projects, programmes and activities.

(5) This Part regulates the conduct of emissions reduction projects, programmes or activities in Fiji that are conducted for the purposes of Article 6 of the Paris Agreement and the international transfer of Fiji Mitigation Outcome Units.

(6) Nothing in this Part is intended to limit the ability of persons to undertake emission reduction projects, programmes or activities that are not designed to generate emissions reduction units.

(7) This Part establishes the Fiji National Registry, to be a registry for emissions reduction projects, programmes and activities, Fiji Mitigation Outcome Units, VCUs, CERs and other emission reduction units issued under an approved international emissions reduction standard in relation to an emissions reduction project, programme or activity in Fiji and to be Fiji's national registry for any incoming ITMOs from another country or outgoing Fiji Mitigation Outcome Units to another country.

Regulations in respect of emissions reduction projects, programmes and activities

46. — (1) The Minister may make regulations in relation to the following aspects of emissions reduction projects, programmes and activities—

- (a) project, programme or activity proponent eligibility;
- (b) sectoral scope and type;
- (c) criteria for the approval of Fiji Emissions Reduction Methodologies;
- (d) criteria for the approval or an emissions reduction project, programme or activity as a Fiji Emissions Reduction Project, Programme or Activity;
- (e) variation or revocation of a declaration that an emissions reduction project, programme or activity is a Fiji Emissions Reduction Project, Programme or Activity;

- (f) accounting for emissions reductions, including to ensure that there is no double counting of emissions reductions achieved by an emissions reduction project, programme or activity;
- (g) baseline setting;
- (h) crediting periods;
- (i) reporting periods;
- (j) additionality of emissions reductions;
- (k) permanence of emissions reductions;
- (l) monitoring, reporting and verification of emissions reductions;
- (m) the consent of landholders and other interest holders;
- (n) registration of emissions reduction projects, programmes and activities in the Registry;
- (o) benefit sharing;
- (p) issuance of Fiji Mitigation Outcome Units;
- (q) imposing a charge or levy on the issuance of Fiji Mitigation Outcome Units;
- (r) transfer of Fiji Mitigation Outcome Units domestically and internationally;
- (s) approval of the registration and conduct of emissions reduction projects, programmes and activities for the purposes of Article 6 of the Paris Agreement;
- (t) incoming international transfer of ITMOs and subsequent domestic transfers of ITMOs;
- (u) approved international emissions reduction standards; and
- (v) linking the Fiji Emissions Reduction Standard to national emissions trading schemes including through Article 6 of the Paris Agreement.

(2) In accordance with this Act and regulations made under subsection (1), the Head of Division may—

- (a) develop rules and standards to ensure there is no double counting of emissions reductions achieved by emissions reduction projects, programmes and activities; and
- (b) develop, coordinate and facilitate policies, guidelines and standards for the international transfer of Fiji Mitigation Outcome Units.

Fiji Emissions Reduction Methodologies

47.— (1) The Head of Division and the Division may develop emissions reduction methodologies.

(2) The Minister may, by order or by-law, approve as a Fiji Emissions Reduction Methodology—

- (a) an emissions reduction methodology developed by the Head of Division or the Division; or
- (b) an emissions reduction methodology that is approved under an approved international emissions international emissions reduction standard or a national emissions trading scheme; and for which it has obtained consent to use.

(3) The Minister must consult with the Minister responsible for forests before approving a Fiji Emissions Reduction Methodology that relates to an emissions reduction project, programme or activity involving forests and blue carbon.

(4) The Minister may only approve a Fiji Emissions Reduction Methodology that relates to an emissions reduction project, programme or activity involving forests and blue carbon if the methodology specifies a permanence period that will apply to all emissions reduction project, programmes and activities approved in accordance with the methodology.

(5) The Minister may vary a Fiji Emissions Reduction Methodology by order or by-law.

(6) If a Fiji Emissions Reduction Methodology is varied in accordance with subsection (5), the varied Fiji Emissions Reduction Methodology must be applied to Fiji Emissions Reduction Projects, Programmes and Activities registered after the date of the variation.

Fiji Emissions Reduction Projects, Programmes and Activities

48. — (1) A person may apply to the Head of Division for the declaration of an emissions reduction project, programme or activity as a Fiji Emissions Reduction Project, Programme or Activity.

(2) A person who is applying for the declaration of an emissions reduction project, programme or activity involving forests and blue carbon must hold the carbon sequestration property right for the land upon which that project, programme or activity is proposed to be conducted.

(3) The Head of Division must determine, in writing, an application made in accordance with subsection (1) within 60 days of receiving the application by either—

- (a) declaring the emissions reduction project, programme or activity to be a Fiji Emissions Reduction Project, Programme or Activity, either unconditionally or subject to conditions; or
- (b) refusing the application.

(4) Notwithstanding subsection (3), the Head of Division must refuse an application if the emissions reduction project, programme or activity does not meet the requirements that are set out in a Fiji Emissions Reduction Methodology, this Act and the regulations, or if carried out, that project, programme or activity would result in a contravention of this Act or the regulations.

(5) The Head of Division must consult with the Conservator of Forests prior to make a determination in accordance with subsection (3) in relation to a project, programme or activity involving forests or blue carbon.

(6) The Head of Division must immediately register Fiji Emissions Reduction Projects, Programmes and Activities in the Registry.

(7) A person who disagrees with a decision of the Head of Division under subsection (3) may, within 30 days of the decision, appeal to the Court.

Fiji Emissions Reduction Statement

49. — (1) After the end of a reporting period for a Fiji Emissions Reduction Project, Programme or Activity, the proponent of that project, programme or activity may apply to the Head of Division for a Fiji Emissions Reduction Statement.

(2) An application for the purposes of subsection (1) must—

- (a) be in the form approved by the Head of Division;
- (b) nominate a Registry account number that Fiji Mitigation Outcome Units are to be issued to;
- (c) contain a verification report; and
- (d) contain such other information as prescribed by the regulations.

(3) The Head of Division may, by written notice require the applicant to give the Head of Division, within the period specified in the notice, further information in connection with the application.

(4) The Head of Division must issue a Fiji Emissions Reduction Statement within 30 days of receiving an application made in accordance with subsections (1) and (2) if it is satisfied that—

- (a) the applicant was, immediately before the end of the period, the project, programme or activity proponent;
- (b) the verification report is true and correct and the emissions reductions generated by the project, programme or activity have been verified in accordance with the regulations;
- (c) the grant of the statement will not result in any double counting of emission reductions from the project, programme or activity; and
- (d) any preconditions specified in the regulations have been met.

(5) A Fiji Emissions Reduction Statement issued in accordance with subsection (4) must state that a specified number of emissions reductions have been achieved by the Fiji Emissions Reduction Project, Programme or Activity for the relevant reporting period and that an equivalent number of Fiji Mitigation Outcome Units may be issued to the nominated Registry account.

Issue of Fiji Mitigation Outcome Units in respect of Fiji Emissions Reduction Projects, Programmes and Activities

50. — (1) This section applies if a Fiji Emissions Reduction Statement has been issued in respect of a Fiji Emissions Reduction Project, Programme or Activity for a reporting period.

(2) If a Fiji Emissions Reduction Project, Programme or Activity has resulted in verified emission reductions, the Head of Division must, as soon as practicable after the day on which the Fiji Emissions Reduction Statement was issued, issue to the Registry account nominated

on the statement a number of Fiji Mitigation Outcome Units equal to the number specified in the statement as the unit entitlement for that statement.

(3) The Head of Division must issue a Fiji Mitigation Outcome Unit in accordance with subsection (2) by making an entry for the unit in the nominated Registry account.

(4) Upon the issuance of a Fiji Mitigation Outcome Unit to a person in accordance with subsection (2), that person will be the legal owner of the Fiji Mitigation Outcome Unit.

Property in Fiji Mitigation Outcome Units

51. — (1) A Fiji Mitigation Outcome Unit is personal property and subject to this Act and regulations is transmissible by assignment, by will and by devolution by operation of law.

(2) For the absence of doubt, a Fiji Mitigation Outcome Unit is personal property for the purposes of—

(a) the Personal Property Securities Act 2017; and

(b) the Proceeds of Crime Act 1997.

(3) The registered holder of a Fiji Mitigation Outcome Unit may transfer the unit domestically or internationally subject to the requirements in this Act and regulations.

Requirement to cancel Fiji Mitigation Outcome Units where there has been a reversal of sequestration

52. — (1) If Fiji Mitigation Outcome Units have been issued in respect of a Fiji Emissions Reduction Programme, Project or Activity involving forests and blue carbon, and there has been a reversal or loss of carbon stocks within the permanence period of that programme, project or activity, the proponent must report the reversal or loss of carbon stocks to the Head of Division as soon as practicable after becoming aware of the reversal or loss of carbon stocks.

(2) The Head of Division may, taking into account any factors outside the control of the proponent that contributed to the reversal or loss of carbon stocks, by writing, require the proponent to remedy the reversal or loss of carbon stocks.

(3) A proponent may satisfy a requirement under subsection (2) to remedy the reversal or loss of carbon stocks by, within 90 days after the requirement was issued—

(a) submitting a remediation plan to the Head of Division; or

(b) purchasing and cancelling a number of Fiji Mitigation Outcome Units or other emissions reduction units approved by the Head of Division as equivalent to the reversal or loss of carbon stocks.

(4) A proponent who fails to satisfy either subsection (3)(a) or subsection (3)(b), or who fails to carry out a remediation plan to the satisfaction of the Head of Division, is liable to pay all costs incurred by the Government in rectifying the reversal or loss of carbon stocks.

Registration and conduct of emissions reduction projects, programmes and activities under approved international emissions reduction standards

53. — (1) A person who registers and conducts an emissions reduction project, programme or activity in Fiji under an approved international emissions reduction standard or uses, sells or

transfers emission reduction units under the relevant standard without the consent of the Head of Division commits an offence and is liable on conviction to a fine not exceeding \$750,000.

(2) A proponent may apply to the Head of Division for the Head of Division's consent for the proponent to—

- (a) make an application to register or conduct an emissions reduction project, programme or activity in Fiji under an approved international emissions reduction standard for a designated crediting period;
- (b) use, sell and transfer domestically and/or internationally any VCUs, CERs or any other emissions reduction units issued under an approved international emissions reduction standard for that emissions reduction project, programme or activity during the designated crediting period;

(3) A person who is making an application in accordance with subsection (2) that involves forests and blue carbon must hold the carbon sequestration property right for the land upon which the emissions reduction project, programme or activity is proposed to be conducted.

(4) The Head of Division must determine, in writing, an application made in accordance with subsection (2) within 30 days of receiving the application by either—

- (a) granting consent for some or all of the matters which are the subject of the application, either unconditionally or subject to conditions; or
- (b) refusing consent to the application.

(5) The Head of Division may only grant consent, under subsection (4)(a), to an application if it is satisfied that the project, programme or activity or domestic or international use, sale or transfer of VCUs, CERs or any other emissions reduction units issued under an approved international emissions reduction standard—

- (a) complies with this Act and any regulations;
- (b) is consistent with Fiji's NDC;
- (c) is consistent with any relevant policy, guidelines, standards or procedures adopted by the Government;
- (d) any VCUs, CERs or other emissions reduction units that are issued in relation to the project, programme or activity will be given a unique serial number and will be properly recorded and tracked in the Registry, or if the Registry is not yet operational, provision is made for the subsequent proper recording in the Registry;
- (e) if applicable, is consistent with any requirements under the Paris Agreement or any other international agreements to which Fiji is a Party including those with respect to avoiding double counting; and
- (f) if applicable, is consistent with any rules, modalities and guidance developed by the CMA for the purposes of Article 6 and Article 13 of the Paris Agreement.

(6) The Head of Division must consult with the Conservator of Forests prior to giving consent in relation to a project, programme or activity involving forests or blue carbon.

(7) A person who disagrees with a decision of the Head of Division under subsection (2) may, within 21 days of the decision, appeal to the Court.

(8) The Head of Division must record the approval of an international transfer under this section in the Registry in accordance with this Act and any regulations.

(9) Subsection (1) does not apply to emissions reduction projects, programmes or activities in Fiji that are registered under an approved international emissions reduction standard on the date this Act commences and such projects, programmes or activities are entitled to use, sell and transfer any VCUs, CERs or any other emission reduction units for the remainder of their crediting period, after which the proponent of such a project, programme or activity may—

- (a) apply for the Head of Division's consent, in accordance with subsection (2), to conduct the project, programme or activity for a subsequent crediting period in accordance with an approved international emissions reduction standard and use, sell and transfer domestically and/or internationally any VCUs, CERs or any other emissions reduction units issued for that emissions reduction project, programme or activity during that subsequent crediting period; or
- (b) apply to have the project, programme or activity declared as a Fiji Emissions Reduction Project, Programme or Activity in accordance with section 48.

(10) The proponent of an emissions reduction project, programme or activity in Fiji that is registered under an approved international emissions reduction standard must report to the Head of Division immediately upon the issuance of VCUs, CERs or any other emission reduction units in relation to the project, programme or activity and any transfers or changes in the ownership of those emission reduction units in addition to any applicable reporting requirements under section 27.

(11) The Head of Division must ensure that each VCU, CER or other emission reduction unit issued in relation to an emissions reduction project, programme or activity in Fiji that is registered under an approved international emissions reduction standard is issued with a unique serial number and properly recorded and tracked in the Registry and accounted for in the Fiji GHG Inventory.

(12) Subsections (10) and (11) apply to projects, programmes or activities that were registered under an approved international emissions reduction standard both prior to and after the commencement of this Act.

Conversion of emission reduction units generated in Fiji under international emissions reduction standards to Fiji Mitigation Outcome Units

54. — (1) The proponent of an emissions reduction project, programme or activity in Fiji that is registered under an approved international emissions reduction standard may apply to the Head of Division for the Head of Division's consent for the proponent to convert any or all of the VCUs, CERs or any other emission reduction units issued in relation to the project, programme or activity to Fiji Mitigation Outcome Units.

- (2) An application made to the Head of Division under subsection (1) must nominate—
 - (a) the applicable approved international emissions reduction standard;
 - (b) the emissions reduction project, programme or activity;
 - (c) the number of VCUs, CERs or other emission reduction units that the proponent is proposing to cancel from a foreign account;

- (d) the number of Fiji Mitigation Outcome Units that represent an equal amount of emissions reductions to the VCUs, CERs or other emission reduction units that the proponent is proposing to cancel; and
 - (e) a Registry account number that Fiji Mitigation Outcome Units may be issued to.
- (3) The Head of Division must determine, in writing, an application made in accordance with subsection (1) within 60 days of receiving the application by either—
- (a) granting consent to the application, either unconditionally or subject to conditions; or
 - (b) refusing consent to the application.
- (4) The Head of Division may only grant consent to an application if it is satisfied that—
- (a) there will be no double-counting of emissions reductions;
 - (b) the emissions reductions represented by the number of VCUs, CERs or other emission reduction units nominated in the application for cancellation are equal to the emissions reductions represented by the number of Fiji Mitigation Outcome Units nominated in the application for issuance; and
 - (c) in the case of an emissions reduction project, programme or activity involving carbon sequestration in forest biomass or blue carbon, the proponent holds the carbon sequestration property entitlement.
- (5) A person who disagrees with a decision of the Head of Division under subsection (3) may, within 21 days of the decision, appeal to the Court.
- (6) If the Head of Division grants consent to an application, the Head of Division must immediately issue a conversion statement to the proponent which sets out—
- (a) the number of VCUs, CERs or other emission reduction units issued for the nominated project, programme or activity that must be cancelled from a foreign account; and
 - (b) the equivalent number of Fiji Mitigation Outcome Units that will be issued to the nominated Registry account.
- (7) The proponent must provide evidence to the Head of Division of the cancellation of the number of emission reduction units set out in the conversion statement.
- (8) As soon as practicable after the Head of Division receives evidence of the cancellation of the number of emission reduction units set out in the conversion statement from a foreign account, the Head of Division must issue the number of Fiji Mitigation Outcomes Units set out in the conversion statement to the nominated Registry account.
- (9) The Minister may make regulations, orders and by-laws which provide for the approval of the conversion of emission reduction units in accordance with this section.

Emissions reduction projects, programmes and activities for the purposes of Article 6 of the Paris Agreement

55. — (1) A person who registers, conducts or otherwise operates an emissions reduction project, programme or activity in Fiji for the purposes of Article 6 of the Paris Agreement

without the consent of the Head of Division commits an offence and is liable on conviction to a fine not exceeding \$750,000.

(2) For the avoidance of doubt, subsection (1) only applies to an emissions reduction project, programme or activity in Fiji—

- (a) to the extent that the project, programme or activity is registered, conducted or otherwise operated for the purposes of Article 6 of the Paris Agreement; and
- (b) if a project, programme or activity was first registered and conducted for purposes other than Article 6 of the Paris Agreement, including but not limited to as a Fiji Emissions Reduction Project, Programme or Activity in accordance with this Act, subsection (1) will only apply from the date the project, programme or activity was registered, conducted or otherwise operated for the purposes of Article 6 of the Paris Agreement.

(3) A person may make an application to the Head of Division for the Head of Division's consent for the proponent to register, conduct or otherwise operate an emissions reduction project, programme or activity in Fiji for the purposes of Article 6 of the Paris Agreement.

(4) A person who is making an application in accordance with subsection (3) that involves forests and blue carbon must hold the carbon sequestration property right for the land upon which the emissions reduction project, programme or activity is proposed to be conducted.

(5) The Head of Division must determine, in writing, an application made in accordance with subsection (3) within 60 days of receiving the application by either—

- (a) granting consent for some or all of the matters which are the subject of the application, either unconditionally or subject to conditions; or
- (b) refusing consent to the application.

(6) The Head of Division may only grant consent, under subsection (5)(a), to an application if it is satisfied that the project, programme or activity—

- (a) complies with this Act and any regulations;
- (b) is consistent with Fiji's NDC, LEDS and the long term emissions reduction target;
- (c) is consistent with and will be accounted for in accordance with any rules, modalities and guidance developed by the CMA for the purposes of Article 6 and Article 13 of the Paris Agreement; and
- (d) any emissions reduction units, including ITMOs, that are issued in relation to the project, programme or activity will be given a unique serial number and will be properly recorded and tracked in the Registry, or if the Registry is not yet operational, provision is made for the subsequent proper recording in the Registry.

(7) A person who disagrees with a decision of the Head of Division under subsection (5) may, within 21 days of the decision, appeal to the Court.

(8) The Head of Division must record the approval of a project, programme or activity under this section in the Registry in accordance with this Act and any regulations.

(9) The Head of Division may revoke the approval of a project, programme or activity under this section in circumstances where—

- (a) the Head of Division becomes aware of false or misleading information provided to the Head of Division in relation to the project, programme or activity;
- (b) the Head of Division becomes aware of fraudulent or criminal conduct associated with the project, programme or activity or the units issued for the project, programme or activity; or
- (c) the project, programme or activity fails to meet requirements specified in regulations made for the purposes of this Part.

(10) Emissions reduction units, including ITMOs, issued in relation to an emissions reduction project, programme or activity approved under this section must be given a unique serial number that allows them to be registered and tracked by the Registry.

International transfer of Fiji Mitigation Outcome Units

56. — (1) A person who, without the consent of the Head of Division—

- (a) transfers Fiji Mitigation Outcome Units to a foreign account; or
- (b) transfers Fiji Mitigation Outcome Units internationally and for the purposes of Article 6 of the Paris Agreement,

commits an offence and is liable upon conviction to a fine not exceeding \$750,000.

(2) The Minister may make regulations that prevent, restrict or limit the international transfer of Fiji Mitigation Outcome Units.

(3) A person may make an application to the Head of Division for the international transfer of—

- (a) Fiji Mitigation Outcome Units to a foreign account; or
- (b) Fiji Mitigation Outcome Units for the purposes of Article 6 of the Paris Agreement.

(4) An application made under subsection (3) must set out—

- (a) the account number of the relevant Registry account held by the applicant; and
- (b) such other information as is specified in the regulations.

(5) The Head of Division must determine, in writing, an application made in accordance with subsection (3) within 30 days of receiving the application by either—

- (a) granting consent for some or all of the matters which are the subject of the application, either unconditionally or subject to conditions; or
- (b) refusing consent to the application.

(6) The Head of Division may only grant consent, under subsection (5)(a), to an application if it is satisfied that the international transfer—

- (a) complies with this Act and any regulations;
- (b) is consistent with Fiji's NDC;
- (c) is consistent with any policy, guidelines, standards or procedures adopted by the Government for the transfer and use of ITMOs and the international transfer of Fiji

Mitigation Outcome Units in accordance with the Paris Agreement or any other international agreements to which Fiji is a Party including with respect to avoiding double counting; and

(d) is consistent with and will be accounted for in accordance with any rules, modalities and guidance developed by the CMA for the purposes of Article 6 and Article 13 of the Paris Agreement.

(7) A person who disagrees with a decision of the Head of Division under subsection (5) may, within 21 days of the decision, appeal to the Court.

(8) The Head of Division must record the approval of an international transfer under this section in the Registry in accordance with this Act and any regulations.

Fiji National Registry

57. — (1) This section establishes the Fiji National Registry.

(2) The Head of Division must keep and maintain the Registry by electronic means.

(3) The Head of Division must make the Registry publicly accessible online.

(4) The purposes of the Registry are as follows—

(a) to be a registry for emissions reduction projects, programmes and activities;

(b) to be a registry for Fiji Mitigation Outcome Units;

(c) to be a registry for VCUs, CERs and other emission reduction units issued under an approved international emissions reduction standard in relation to an emissions reduction project, programme or activity in Fiji; and

(d) to be Fiji's national registry for any incoming ITMOs from another country or outgoing Fiji Mitigation Outcome Units to another country.

(5) An account kept in the name of a person is to be known as a Registry account of the person.

(6) Each Registry account is to be identified by a unique number, to be known as the account number of the Registry account.

(7) The Minister may make regulations for the operation of the Registry, including for—

(a) identification procedures that must be carried out by the Head of Division before the Head of Division opens a Registry account in the name of the person;

(b) the voluntary closure of Registry account if requested by the person whose name the account is in;

(c) the suspension of Registry accounts;

(d) the unilateral closure of a Registry account by the Head of Division;

(e) entries for Fiji Mitigation Outcome Units, ITMOs, VCUs, CERs or any other emission reduction units issued in accordance with approved international emissions reduction standards;

- (f) the holding, surrender, cancellation or transfer of Fiji Mitigation Outcome Units or ITMOs;
- (g) the holding of VCUs, CERs or other emission reduction units issued in accordance with approved international emissions reduction standards;
- (h) the voluntary cancellation of Fiji Mitigation Outcome Units or ITMOs;
- (i) correction and rectification by the Head of Division of clerical errors, obvious defects or unauthorised entries in the Registry;
- (j) the publication of information relating to Fiji Mitigation Outcome Units, ITMOs, VCUs, CERs or other emission reduction units issued in accordance with approved international emissions reduction standards; and
- (k) compliance by Fiji with eligibility requirements relating to ITMOs and the international transfer of Fiji Mitigation Outcome Units under the Paris Agreement.

Publication of information

58. The Head of Division must publish the following information on the Registry as soon as practicable after the end of each financial year—

- (a) the total number of Fiji Mitigation Outcome Units issued in respect of each Fiji Emissions Reduction Project, Programme and Activity for that financial year;
- (b) the total number of ITMOs or other emissions reduction units issued in relation to project in Fiji that operated is for the purposes of Article 6 of the Paris Agreement for that financial year; and
- (c) the total number of VCUs, CERs or other emission reduction units issued in accordance with approved international emissions reduction standards in relation to project in Fiji for that financial year.

Record-keeping and monitoring requirements

59.— (1) The Minister may make regulations that require a person to make a record of certain information and retain the record for 7 years after the making of the record.

(2) If a person is the proponent for an Fiji Emissions Reduction Project, Programme or Activity, and under the applicable Fiji Emissions Reduction Methodology that project, programme or activity is subject to a requirement to monitor the project, programme or activity, the person must comply with that requirement.

Information-gathering powers

60.— (1) If the Head of Division believes on reasonable grounds that a person has information or a document that is relevant to the operation of this Part or the associated provisions, the Head of Division may, by written notice given to the person, require the person—

- (a) to give to the Head of Division, within the period and in the manner and form specified in the notice, any such information; or
- (b) to produce to the Head of Division, within the period and in the manner specified in the notice, any such documents;

(2) A person who does not comply with a requirement under subsection (1) to the extent that the person is capable of doing so commits an offence and is liable on conviction to a fine not exceeding \$750,000.

Audits

61. If a person is, or has been, the proponent of an emissions reduction project, programme or activity in Fiji and the Head of Division has reasonable grounds to suspect that the person has contravened, is contravening, or is proposing to contravene, this Part or the associated provisions, the Head of Division may, by written notice given to the person, require the person to appoint an independent auditor to—

- (a) carry out an audit on one or more aspects of the person's compliance with this Part or the associated provisions;
- (b) give the person a written report setting out the results of the audit;
- (c) give the Head of Division a copy of the audit report on or before the day specified in the notice.

Fraudulent conduct

62. — (1) If a person is convicted of an offence relating to fraudulent conduct in Fiji, and the Court is satisfied that the person was issued emissions reduction units, and the issue of those units was directly or indirectly attributable to the commission of the offence, the Court may order the person to cancel a specified number of emissions reduction units by a specified time.

(2) The number of emissions reduction units that the Court orders a person to cancel under subsection (1) must not exceed those issued to the person that were directly or indirectly attributable to the commission of the offence.

PART 11 — EMISSIONS REDUCTION PROJECTS, PROGRAMMES AND ACTIVITIES INVOLVING FORESTS AND BLUE CARBON

Application of this Part

63. This Part applies in addition to Part 10 to emissions reduction projects, programmes and activities involving forests and blue carbon.

Regulations and emissions reduction methodologies for emissions reduction projects, programmes and activities involving forests and blue carbon

64. — (1) The Minister may make regulations under section 46 to facilitate the development of emissions reduction projects, programmes and activities involving forests or blue carbon including REDD+ activities.

(2) The Minister responsible for forests must assist the Minister in making any regulations under subsection (1) in accordance with any policies, procedures and safeguards for the implementation of forests, blue carbon projects and REDD+ programmes and activities as may exist from time to time under section 68.

(3) Regulations made under subsection (1) may provide for circumstances in which a protection order or other arrangement may be imposed in relation to an area or areas of forests or blue carbon that has or have been subject to the reversal or loss of carbon stocks.

(4) The Minister responsible for forests may advise the Minister on approving emissions reduction methodologies as Fiji Emissions Reduction Methodologies under section 47(2) in relation to emissions reduction methodologies involving forests or blue carbon.

Definition of carbon sequestration property rights

65. — (1) In this Act, carbon sequestration property right means the exclusive and distinct legal property right to carbon sequestration and carbon stocks.

(2) A carbon sequestration property right shall be in the form of a lease that attaches to the land until its term is concluded or renewed.

Creation and transfer of carbon sequestration property rights

66. — (1) A carbon sequestration property right may be granted by the Registrar of Titles with the consent of the Conservator of Forests upon application to—

- (a) the person who is the registered landowner of the land to which the right applies and over which no conflicting licence, lease or concession exists;
- (b) a person who holds a licence, lease or concession over the land to which the right applies which has been granted by the registered landowner and has the consent of the registered landowner of the land; or
- (c) a third party to which the landowner of the land to which the right applies has consented to be issued the carbon sequestration property right.

(2) A carbon sequestration property right can only be granted under subsection (1) or transferred on iTaukei land with the consent of the iTaukei Land Trust Board.

(3) A carbon sequestration property right must be—

- (a) in a form approved by the Registrar of Titles in consultation with the Conservator of Forests; and
- (b) for a term that is equal to or greater than the permanence period set out in the relevant emissions reduction methodology or as otherwise determined by the Conservator of Forests.

(4) The Registrar of Titles must list all carbon sequestration property rights on a Register of Carbon Sequestration Property Rights and include details of the land and any licence, lease or concession to which they apply.

(5) The Registrar of Titles must list all carbon sequestration property rights on iTaukei land in the Register of iTaukei Leases.

(6) The Registrar of Titles must not register more than one carbon sequestration property entitlement in respect of particular land.

(7) A registered carbon sequestration property right may be transferred.

(8) A registered carbon sequestration property right must not be varied.

Land over which a carbon sequestration property rights is granted

67. No mining or exploration activity is to be approved on lands over which a REDD+ programme has been implemented or over which carbon sequestration property rights are granted.

REDD+ and Blue Carbon Policy

68. The Conservator of Forests is responsible for—

- (a) developing and updating Fiji's national REDD+ policy and strategy including the development of any national or sub-national REDD+ programme;
- (b) Fiji's Blue Carbon policy and strategy;
- (c) the development of the national forest reference emissions level;
- (d) developing policies, procedures and safeguards for the implementation of REDD+ and blue carbon projects, programmes and activities;
- (e) Fiji's involvement in international REDD+ programmes including but not limited to the Forest Carbon Partnership Facility and the Green Climate Fund results-based payments programme;
- (f) the development of a benefit sharing arrangement for REDD+ and blue carbon projects, programmes and activities; and
- (g) advising the Head of Division on the role of forests, blue carbon and REDD+ in the NDC.

REDD+ transactions by the Government

69. — (1) Where the Government participates in any transaction under international REDD+ programmes, including but not limited to the Forest Carbon Partnership Facility and the Green Climate Fund results-based payments programme, the Minister is to be taken to have the authority of the landholder to sell and transfer all carbon sequestered by the forest

including in the form of emissions reductions, Fiji Mitigation Outcome Units or carbon sequestration resulting from that programme provided that—

- (a) the Minister has the prior and informed consent of the iTaukei Land Trust Board, where relevant;
- (b) the Government compensates the iTaukei Land Trust Board, where relevant, and any other landholder with forest carbon included in the transaction under an approved benefits sharing plan;
- (c) the Minister has considered the market value of the emissions reductions or Fiji Mitigation Outcome Units at the time of evaluating the proposed transaction and the impact such a transaction will have on Fiji's NDC; and
- (d) any other necessary arrangements with landholders are entered into.

(2) The Minister responsible for forests in consultation with the Minister responsible for lands may approve a benefit sharing plan for any transaction under international REDD+ programmes.

(3) Notwithstanding any other provisions in this Act, any transaction carried out in accordance with this section is to be carried out on terms agreed between the parties to the transaction, provided that any such transactions are recorded and accounted for in the Registry.

PART 12 — CLIMATE CHANGE ADAPTATION AND RESILIENT DEVELOPMENT

National Adaptation Plan Steering Committee

70. — (1) This section establishes the National Adaptation Plan Steering Committee.

(2) The governance, membership, operation, frequency of meetings and reporting procedures of the NAP Steering Committee must be in accordance with the NAP Steering Committee Terms of Reference.

(3) The NAP Steering Committee must meet as and when instructed by the Minister but at least every 5 years for the purpose of reviewing the NAP and performing any other functions conferred by regulations.

National Adaptation Plan

71. — (1) The NAP Steering Committee must prepare successive NAPs that may address—

- (a) comprehensive risk management;
- (b) water resources;
- (c) agriculture, forestry, fishing and aquaculture;
- (d) ecosystems and biodiversity;
- (e) transportation and communication infrastructure;
- (f) land-use planning and urban development;
- (g) health and public health infrastructure;
- (h) marine and terrestrial pollution reduction objectives;
- (i) adaptation and mitigation co-benefits resulting from environmental conservation activities;
- (j) natural resource management measures that support and enhance local livelihoods;
- (k) climate information management and services, including the capacity to generate, manage, disseminate and use climate change information;
- (l) resource mobilisation, including the accumulation and coordination of resources during the design, implementation and monitoring of adaptation measures as well as any associated capacity building;
- (m) climate change awareness and knowledge, including enhancing understanding of climate change by increasing the flow of climate information to relevant adaptation stakeholders;
- (n) horizontal integration, including the mainstreaming of climate change issues into national-level development planning processes so that they are suitable climate-informed; and
- (o) vertical integration, including the integration of environmental and climate risk into sub-national development planning processes.

(2) The NAP Steering Committee must review the NAP when instructed by the Minister but at least every 5 years.

(3) The NAP Steering Committee, in developing, reviewing and updating successive NAPs, is to be informed by—

- (a) the objectives, principles, rights, powers and obligations established under this Act;
- (b) the data collated and submitted by the Minister, the Head of Division and the Division in satisfaction of monitoring and reporting requirements under the Convention, the Paris Agreement and SDGs;
- (c) the best available scientific knowledge about climate change impacts and adaptation, including relevant information published by the IPCC;
- (d) technology and technological innovations relevant to climate change adaptation;
- (e) economic circumstances, in particular the likely impact of the NAP on the following—
 - (i) the economy;
 - (ii) the competitiveness of particular sectors of the economy;
 - (iii) small and medium enterprises;
 - (iv) employment opportunities; and
 - (v) the socio-economic well-being of any segment or part of the population;
- (f) social circumstances, in particular the likely impact of strategies and policies on the marginalised and disadvantaged communities;
- (g) fiscal impacts especially in relation to the avoidance of future costs;
- (h) environmental circumstances, in particular the likely impact of the NAP on land and ocean biodiversity and ecosystem services;
- (i) international law and policy relating to climate change; and
- (j) traditional knowledge of the *iTaukei* and Rotumans related to climate change adaptation.

(4) The NAP Steering Committee may call upon relevant technical expertise from within the civil service or independent experts appointed in accordance with section 9(1)(p) to support committee meetings and form technical working groups as needed to progress decision-making.

(5) The NAP Steering Committee may convene consultative groups involving government, non-government, private sector and civil society representatives to help inform both the review of NAP progress and the development of revised actions.

(6) The NAP Steering Committee must prepare—

- (a) a report for the Minister which outlines the findings of the review of the NAP and contains recommendations for how the NAP should be updated; and

(b) an updated NAP in accordance with the recommendations in the report prepared in accordance with paragraph (a).

(7) The Minister must consider the recommendations of the NAP Steering Committee when deciding whether or not to approve the updated NAP and must publish reasons for any failure to adopt a recommendation of the NAP Steering Committee.

(8) The Head of Division must make the updated NAP and the reports of the NAP Steering Committee publicly available online, including on the Information Platform.

Minister has the power to introduce and implement regulations, measures and actions

72. — (1) The Minister has the power to introduce and implement regulations, policies, measures, adaptation planning processes and actions with the purpose of increasing Fiji's resilience to climate change and ability to adapt to climate change.

(2) The Minister must have regard to the following factors when introducing and implementing regulations, policies, measures, adaptation planning processes and actions under subsection (1)—

(a) the objectives and principles of this Act; and

(b) the alignment of the regulations, measures or actions with Fiji's current National Development Plan, NDC, NCCP, and NAP.

(3) The Head of Division must record any regulations, policies, measures, adaptation planning processes and actions implemented in accordance with this section on the Adaptation Registry.

Integrated risk scenarios

73. — (1) The Head of Division, in consultation with the Cabinet Committee on Climate and Disaster Risk and the Fiji Meteorology Service, may build integrated risk scenarios that model the physical impacts caused by climate change and their interaction with other projected risks over different time horizons.

(2) Integrated risk scenarios should be developed with reference to the best available scientific knowledge about climate change, including relevant information published by the IPCC.

(3) The Head of Division must make integrated risk scenarios publicly available online, including on the Information Platform.

Audit of public infrastructure and physical assets

74. — (1) The Head of Division must conduct an audit of existing public infrastructure and physical assets that are at risk from climate change, including—

(a) any applicable infrastructure or asset management strategies;

(b) the value of public infrastructure and physical assets, including the accounting value and the replacement value;

(c) the features of infrastructure and physical assets that influence its level of vulnerability; and

(d) the extent to which infrastructure and physical assets are climate resilient with reference to any integrated risk scenarios developed in accordance with this Act.

(2) The Head of Division must maintain a register of all existing public infrastructure and physical assets which records the data collected by the audit conducted in accordance with subsection (1).

Climate resilient buildings and infrastructure

75. — (1) In addition to sections 17, 20 and 21, all Ministers and other persons making decisions relating to proposals for new infrastructure must—

- (a) direct that a climate risk and resilience assessment be conducted on the proposal with reference to any integrated risk scenarios developed in accordance with this Act and other relevant risk scenarios;
- (b) consider the climate risk and resilience assessment prepared in accordance with paragraph (a) when deciding whether or not to approve the proposal; and
- (c) make a decision to approve or not approve the proposal that promotes and is consistent with the climate risk and resilience assessment prepared in accordance with paragraph (a).

(2) For the avoidance of doubt, proposals for new infrastructure include proposals for infrastructure that must be replaced due to the impacts of natural disasters and the adverse impacts of climate change.

National Building Code

76. — (1) The Minister responsible for health, with the assistance of the Head of Division as required, must review and if necessary amend the content, expand the scope and scale up the implementation and enforcement of the National Building Code immediately upon this Act coming into force and every 5 years thereafter for the purpose of increasing the climate resilience of Fiji's buildings and the alignment of the National Building Code with the objectives and principles of this Act.

(2) The Minister responsible for health, in reviewing and amending the National Building Code, must take into consideration—

- (a) the objectives and principles of this Act, in particular the objective to provide for the implementation, operation and administration of regulations, measures and actions that build climate resilience and enhance adaptive capacity to the impacts of climate change, with respect to Fiji's communities, built environment and ecosystems; and
- (b) the mitigation and adaptation objectives expressed in the National Development Plan, NDC, NCCP, NAP and any other relevant policy instruments.

Fiji National Adaptation Registry

77. — (1) This section establishes the Fiji National Adaptation Registry.

(2) The Head of Division must keep and maintain the Adaptation Registry.

(3) The Adaptation Registry is to be maintained by electronic means and publicly accessible online.

(4) The purpose of the Adaptation Registry is to be a registry for adaptation projects in Fiji.

Voluntary reporting on adaptation projects

78. — (1) A person who implements an adaptation project in Fiji may provide reports to the Head of Division which include—

- (a) a description of the project;
- (b) the social, economic and environmental benefits of the project;
- (c) the contribution of the project to objectives set out under the NAP or the SDGs; and
- (d) the verified outcomes of the project.

(2) If the Head of Division considers that a report provided in accordance with subsection (1) is in relation to an adaptation project in Fiji, the Head of Division must register the Project and publish the report on the Adaptation Registry.

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PART 13 — CLIMATE DISPLACEMENT

Fiji Taskforce on Relocation of Communities Vulnerable to the Impact of Climate Change

79. — (1) This section establishes the Fiji Taskforce on Relocation of Communities Vulnerable to the Impact of Climate Change.

(2) The governance, membership, operation, frequency of meetings and reporting procedures of the Fiji Taskforce on Relocation must be in accordance with the Fiji Taskforce on Relocation Terms of Reference.

National Planned Relocation Guidelines

80. — (1) The Minister, with the assistance of the Fiji Taskforce on Relocation, must prepare successive National Planned Relocation Guidelines.

(2) The Minister, with the assistance of the Fiji Taskforce on Relocation, must operationalise the National Planned Relocation Guidelines developed under subsection (1) through developing Standard Operating Procedures which enable pro-active processes for addressing the risk of climate and disaster driven displacement.

(3) The Minister, with the assistance of the Fiji Taskforce on Relocation, must review and amend the National Planned Relocation Guidelines and the Standard Operating Procedures when the Minister considers necessary but at a minimum every 5 years.

Relocation of at-risk communities

81. — (1) The Minister, with the support of the Fiji Taskforce on Relocation, is responsible for relocating and supporting at-risk communities in accordance with the following objectives—

- (a) to allow for the orderly, respectful and dignified relocation of affected communities;
- (b) to provide for a minimum standard of protection and assistance to people at risk of, or affected by, disasters and climatic change;
- (c) for permanent relocations, provide a coordination mechanism to enable all affected stakeholders to participate in decisions affecting communities;
- (d) facilitate the use of clear, inclusive and comprehensive procedures for assessing and responding to climate risk and relocation;
- (e) to relocate at-risk communities only when other adaptation measures as set out in the NAP have been exhausted;
- (f) to relocate at-risk communities only with the full free and prior informed consent of the communities;
- (g) to ensure that relocation sites—
 - (i) are on land that is capable of supporting the at-risk community and any existing or host communities; and
 - (ii) have adequate housing, infrastructure, social infrastructure and other social and financial support systems, employment opportunities and can meet the development needs of both the existing or host community and the at-risk community that is to be relocated to that site;

- (h) if an at-risk community is relocated to land that supports existing communities, the rights and concerns of those existing or host communities are taken into account and respected;
 - (i) where possible and desirable, infrastructure is relocated from the at-risk community to the relocation site;
 - (j) relocation is to be non-discriminatory;
 - (k) the adoption of approaches which are—
 - (i) human centred including prioritising community needs from the bottom up;
 - (ii) livelihoods based;
 - (iii) human rights based; and
 - (iv) pre-emptive,
 - (l) requiring inclusive and gender responsive consultation and participatory processes; and
 - (m) recognising traditional knowledge of the *iTaukei* and Rotumans and the multi-cultural and multi-faith composition of the Fijian population.
- (2) Prior to the Minister making a decision on relocating at-risk communities, the Fiji Taskforce on Relocation must—
- (a) consult with the affected persons and/or communities in the spirit of Talanoa and communicate the rights of those persons or communities, the scientific and policy justification for the proposed relocation; and
 - (b) conduct a public hearing in the spirit of Talanoa whereby the affected persons and/or communities have the right to legal representation; and
 - (c) take the views of the affected persons and/or communities, and the public hearing, into account.
- (3) If the Minister decides that the relocation of an at-risk community is necessary, the Minister must take all reasonable steps to ensure the relocation takes place in accordance with the principles in subsection (1).
- (4) The Minister must consider whether it is necessary to develop further legal frameworks, policies and strategies to manage climate and disaster-induced displacement with the purpose of protecting human rights and reducing long term risks.

Trust Fund for the Planned Relocation of Communities in Fiji that are adversely affected by climate change

- 82.** Recognising the existence of the Trust Fund for the Planned Relocation of Communities in Fiji that are adversely affected by climate change the Minister may use monies in that Fund for the purposes of this Part.

Regional displacement in the Pacific

- 83.** Recognising the vulnerability of small island developing states in the Pacific region to climate displacement, the Minister responsible for the economy, in consultation with the

Minister responsible for foreign affairs, has to power to make decisions and introduce and implement regulations, policies, measures and actions in order to facilitate the acceptance of persons from small island developing states in the Pacific who have been permanently displaced, or are at risk of being permanently displaced, as a result of the adverse impacts of climate change, including sudden and slow-onset climatic events and processes.

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PART 14 — OCEANS AND CLIMATE CHANGE

Healthy oceans for a healthy climate

84. This Act recognises that—

- (a) oceans are critical to the identity and livelihoods of Fijians and the Pacific island peoples;
- (b) healthy oceans are necessary to delivering a healthy climate and therefore oceans must be protected through urgent and ambitious action on climate change and the reduction of other anthropogenic stressors such as plastics pollution;
- (c) oceans play an important role in climate change mitigation; and
- (d) oceans are critical to Fiji’s economy and sovereignty.

Ocean sustainability targets

85. — (1) This subsection sets Fiji’s long term ocean sustainability target, which is for Fiji’s internal waters, archipelagic waters, territorial seas and exclusive economic zone to be 100% sustainably managed.

(2) This subsection sets Fiji’s 2030 marine protected area target, which is for 30% of Fiji’s internal waters, archipelagic waters, territorial seas and exclusive economic zone to be designated as a marine protected area by 2030.

(3) The Minister must take all reasonable steps to promote the achievement of the long term ocean sustainability target in subsection (1) and the 2030 marine protected area target in subsection (2) through the development and implementation of the National Oceans Policy.

National Oceans Policy Steering Committee

86. — (1) This section establishes the National Oceans Policy Steering Committee.

(2) The Minister must appoint an employee of the ministry responsible for climate change to be the Chair of the National Oceans Policy Steering Committee.

(3) The National Oceans Policy Steering Committee shall be constituted by representatives of the ministries responsible for economy, environment, maritime development, fisheries and transport as appointed by the Ministers responsible for those ministries.

(4) The National Oceans Policy Steering Committee must meet as and when instructed by the Minister but at least every 5 years for the purpose of reviewing the National Oceans Policy.

National Oceans Policy

87. — (1) The National Oceans Policy Steering Committee must prepare successive National Oceans Policies.

(2) The National Oceans Policy Steering Committee must review and if necessary update the National Oceans Policy when instructed by the Minister but at least every 5 years.

(3) The National Oceans Policy Steering Committee, in developing, reviewing and updating successive National Oceans Policies, is to be informed by—

- (a) the long term ocean sustainability target and the 2030 marine protected area target;
- (b) the objectives, principles, rights, powers and obligations established under this Act;
- (c) the best available scientific knowledge about climate change and other anthropogenic impacts on oceans and about the climate change mitigation potential of oceans, including relevant information published by the IPCC;
- (d) the data collated and submitted by the Minister, the Head of Division and the Division in satisfaction of monitoring and reporting requirements under the Convention, the Paris Agreement and SDGs;
- (e) technology and technological innovations relevant to the sustainable management of oceans;
- (f) economic circumstances, in particular the likely impact of the National Oceans Policy on the following—
 - (i) the economy;
 - (ii) the competitiveness of particular sectors of the economy;
 - (iii) small and medium enterprises;
 - (iv) employment opportunities; and
 - (v) the socio-economic well-being of any segment or part of the population;
- (g) social circumstances, in particular the likely impact of strategies and policies on the marginalised and disadvantaged communities;
- (h) fiscal impacts especially in relation to the avoidance of future costs;
- (i) environmental circumstances, in particular the likely impact of the National Oceans Policy on land and ocean biodiversity and ecosystem services;
- (j) international law and policy relating to climate change and oceans; and
- (k) traditional knowledge of the *iTaukei* and Rotumans related to the sustainable management of oceans.

(4) The National Oceans Policy Steering Committee may call upon relevant technical expertise from within the civil service or independent experts appointed in accordance with section 9(1)(p) to support committee meetings and form technical working groups as needed to progress decision-making.

(5) The National Oceans Policy Steering Committee may convene consultative groups involving government, non-government, private sector and civil society representatives to help inform both the review of National Oceans Policy and the development of revised actions.

(6) The National Oceans Policy Steering Committee must prepare—

- (a) a report for the Minister which outlines the findings of the review of the National Oceans Policy and contains recommendations for how the National Oceans Policy should be updated; and

- (b) an updated National Oceans Policy in accordance with the recommendations in the report prepared in accordance with paragraph (a).

(7) The Minister must consider the recommendations of the National Oceans Policy Steering Committee when deciding whether or not to approve the updated National Oceans Policy and must publish reasons for any failure to adopt a recommendation of the National Oceans Policy Steering Committee.

(8) The Head of Division must make the updated National Oceans Policy and the report of the National Oceans Policy Steering Committee publicly available online, including on the Information Platform.

Minister has the power to introduce and implement regulations, policies, measures and actions

88. — (1) The Minister has the power to introduce and implement regulations, policies, measures and actions that promote the conservation and restoration of Fiji’s internal waters, archipelagic waters, territorial seas and exclusive economic zone and coastal environments, including but not limited to—

- (a) protecting stores of blue carbon;
- (b) sustainable management of oceans and reducing anthropogenic stresses on marine and coastal ecosystems; and
- (c) fiscal incentives and education campaigns supporting alternatives to plastic bags, straws, cups and utensils.

(2) Regulations, policies, measures and actions introduced and implemented under subsection (1) must use a science-based and data-driven approach.

Mitigation potential of oceans

89. The Minister has the power to adopt regulations, orders, by-laws and policies and implement measures and actions to enhance the mitigation potential of oceans, including but not limited to—

- (a) enhancing blue carbon; and
- (b) developing offshore renewable energy generation.

Minister may direct Fiji Meteorology Service to prepare studies

90. The Minister may direct the Fiji Meteorology Service or any other State entity to prepare and regularly update studies on the impact of climate change on oceans and the ability of oceans to sustainably provide resources for Fijians for commercial, subsistence and other purposes.

Marine Research Centre and marine education programmes

91. The Minister responsible for education and the Head of Division may establish a Marine Research Centre and marine education programmes at the Fiji National University and University of the South Pacific with the aim of building Fiji’s national capacity and the Pacific’s regional capacity to manage and reduce the anthropogenic stressors on oceans.

Reducing plastics pollution

92. — (1) Any business within the meaning of the Business Licencing Act 1976 that provides, sells or otherwise makes available single-use plastic bags after 1 January 2020 commits an offence and is liable upon conviction to a fine not exceeding \$750,000.

(2) Any business within the meaning of the Business Licencing Act 1976 that uses, provides, sells or otherwise makes available styrofoam after 1 January 2021 commits an offence and is liable upon conviction to a fine not exceeding \$750,000.

(3) Any business within the meaning of the Business Licencing Act 1976 that uses, provides, sells or otherwise makes available single-use plastic containers, straws, cups and utensils after 1 January 2021 commits an offence and is liable upon conviction to a fine not exceeding \$750,000.

10 year moratorium on seabed mining

93. — (1) This section puts a 10 year moratorium on seabed mining in Fiji's internal waters, archipelagic waters, territorial seas and exclusive economic zone, commencing on 1 January 2020 and ending on 31 December 2029.

(2) Notwithstanding subsection (1), a person may explore for seabed minerals during the moratorium period specified in subsection (1) if—

- (a) that person holds a valid prospector's right or mining tenement granted in accordance with section 18 of the Mining Act 1965 for the purpose of exploration for seabed minerals; and
- (b) exploration activities conducted by the person are limited to activities that are expressly authorised by the valid prospector's right or mining tenement; and
- (c) such exploration activities are for the purpose of scientific research into the benefits and risks of seabed mining; and
- (d) that person provides quarterly reports to the Head of Division and the Director of Mines describing any exploration activities conducted in the last quarter and attaching—
 - (i) any desktop research conducted by that person which relates to seabed mining; and
 - (ii) all data collected in the course of exploration activities and all associated analysis.

(3) Any person who performs seabed mining in contravention of subsection (1) commits an offence and is liable upon conviction to a fine not exceeding \$750,000.

PART 15 — SUSTAINABLE FINANCING

Powers of the Minister responsible for the economy

94. — (1) The Minister responsible for the economy has the power to—

- (a) act as a conduit between donors, climate funds, and sector recipients of climate finance to help support a collaborative approach to proposal design, funding alignment with priorities, and efficient implementation arrangements;
- (b) work closely with the national budget process and relevant offices within the ministry responsible for finance to improve budget coding and tracking systems;
- (c) carry out the reporting and monitoring of domestic climate finance sources including the ECAL, private sector sources, and insurance initiatives and make any such reports publicly available on the Information Platform;
- (d) actively oversee Fiji's engagement with the Global Environment Facility, Green Climate Fund, Adaptation Fund and multilateral development banks while engaging internationally to enhance Fiji's access to sustainable climate finance flows; and
- (e) review donor engagement and coordination arrangements to enhance efficiency, complementarity, and the leveraging of co-benefits in alignment with the NCCP.

(2) The Minister responsible for the economy may delegate the role of national focal point to any international agency distributing climate finance and where required may divide any responsibilities between the permanent secretary responsible for the economy and the Head of Division when necessary to avoid any conflicts of interest.

Incentives for the promotion of climate change initiatives

95. — (1) The Minister responsible for the economy may, in accordance with the Financial Management Act 2004, grant to persons who—

- (a) encourage and put in place measures for the mitigation of climate change including reduction of greenhouse emissions and use of renewable energy;
- (b) put in place measures to adapt and improve Fiji's resilience to climate change; or
- (c) are involved in the conduct of accredited training in programmes that are aimed at mitigating and adapting to climate change,

such incentives as may be necessary for the advancement of such measures and activities designed for the mitigation of and adaptation to climate change.

(2) The Minister responsible for the economy must, if granting incentives to persons in accordance with subsection (1), in regulations, orders or by-laws set out the nature of the incentives, the conditions for the grant or withdrawal of such incentives and such other matter as may be necessary for the exercise of the power conferred under subsection (1).

(3) In granting incentives under subsection (1), the Minister responsible for the economy must take into account international standards and best practice.

Accredited climate finance organisations

96. — (1) State entities or private organisations accredited to climate funds, including but not limited to the Green Climate Fund, can be recipients and administrators of public or private

contributions designated to be used for the implementation of measures for mitigation and adaptation to climate change with the approval of the Minister.

(2) Administrators of the State entities or private organisations in subsection (1) must monitor, evaluate, publish and communicate to the Minister and the Minister responsible for the economy the results of their actions to address climate change and demonstrate the effectiveness and efficiency of their expenditure.

(3) The Minister responsible for the economy may, with the support of the Head of Division, establish guidelines for the use of climate finance, to be applied by the State entities or private organisations in subsection (1), in order to ensure strategic and complementary use of the funds that will be allocated for climate finance.

Mechanisms for climate finance

97. The Minister responsible for the economy, in accordance with the laws of Fiji, has the power to institute instruments and financial mechanisms with the purpose of implementing this Act and climate change mitigation and adaptation actions pursuant to the objectives and principles of this Act, including but not limited to—

- (a) bonds and other structured instruments, guarantees, collective investment instruments and other derivative products;
- (b) convertible sovereign loans at standard rates;
- (c) capital grants or quota grants;
- (d) insurance products;
- (e) taxes; and
- (f) any other fiscal instruments for the purpose of this Act.

National climate-finance strategy

98. — (1) The Minister responsible for the economy, in consultation with the Reserve Bank, must develop successive national climate finance strategies and frameworks to support, coordinate, and design Fiji's ongoing climate finance access.

(2) Among other matters, the national climate finance strategy must address Fiji's readiness for climate finance, including but not limited to through appropriate governance arrangements, accounting systems, and transparency frameworks.

(3) The Minister, in consultation with the Reserve Bank, must review the national climate finance strategies and frameworks every 5 years.

PART 16 — PRIVATE SECTOR TRANSITION AND ENGAGEMENT

Directors must consider and evaluate climate change risks and opportunities

99. — (1) In exercising reasonable care and diligence under section 106(1) of the Companies Act 2015, directors or other officers of companies must consider and evaluate climate change risks and opportunities to the extent they are foreseeable and intersect with the interests of the company.

(2) For the purposes of this Part, climate change risks include—

- (a) the physical risks associated with climate change, including both acute risks (for example extreme weather events) and chronic risks (for example rising temperatures, rising sea levels and changes in water availability, sourcing and quality) that may affect, for example, a company's premises and other assets, operations, supply chains, transport needs and employee safety;
- (b) the transition risks associated with changes that may occur in the process of adjusting towards a lower-carbon economy including policy and legal changes, technological changes, market changes and reputation risks associated with changing customer or community perceptions;
- (c) the liability risk stemming from the failure to consider and address the physical risks and transition risks; and
- (d) the economic and financial loss or impact arising from (a), (b) and (c) above.

(3) For the purposes of subsection (1), climate change opportunities may include, but are not limited to—

- (a) reducing operating costs by improving efficiency across premises, operations and processes;
- (b) saving on annual energy costs through shifting energy usage towards low emission energy sources;
- (c) capitalising on shifting consumer and producer preferences by innovating and developing new low-emission products and services;
- (d) opportunities in new markets or types of assets; and
- (e) enhancing climate resilience to climate change risks thus avoiding future economic costs.

Fiji National Provident Fund Board must consider and evaluate climate change risks and opportunities

100. In exercising its duties under section 9 of the Fiji National Provident Fund Act 2011, the Fiji National Provident Fund Board must consider and evaluate climate change risks and opportunities to the extent they are foreseeable and intersect with the interests of each fund and the Board.

Disclosure of financial risks of climate change and measures adopted to reduce them by companies and managed investment schemes

101. — (1) All companies and managed investment schemes that are required to prepare financial statements and a directors' report under section 388 of the Companies Act 2015 must disclose, in their financial statements and directors' report—

- (a) any material financial risks to the company or managed investment scheme arising from climate change risks and climate change opportunities;
- (b) measures adopted by the company or managed investment scheme to reduce its exposure to these material financial risks;
- (c) how consideration of climate change risks are integrated in investment policies, risk management policies and investment decision-making processes; and
- (d) the climate change impacts of the company's or managed investment scheme's activities and of the use of goods and services it produces and the extent to which the company or managed investment scheme complies with the long-term temperature goal of the Paris Agreement.

(2) For this Part, the financial risks arising from climate change risks and climate change opportunities may include—

- (a) impacts on revenue arising from the impacts of climate change risks on demand for products and services;
- (b) impacts on expenditure due to costs arising from climate change risks;
- (c) impacts on the valuation of assets and liabilities arising from the impacts of changes in policies, technology and market dynamics on supply and demand; and
- (d) impacts on capital and financing, including but not limited to on debt and equity structure (for example by increasing debt levels to compensate for reduced operating cash flows or for new capital expenditures) and the ability to raise new debt and refinance.

Disclosure of financial risks of climate change and measures adopted to reduce them by the Fiji National Provident Fund Board

102. The Fiji National Provident Fund Board, when preparing financial reports in accordance with section 25 of the Fiji National Provident Fund Act 2011, must disclose in their financial reports—

- (a) any material financial risks to each fund and the Board arising from climate change risks and climate change opportunities;
- (b) measures adopted by each fund and the Board to reduce its exposure to these material financial risks;
- (c) how consideration of climate change risks are integrated in investment policies, risk management policies and investment decision-making processes; and
- (d) the climate change impacts of each fund and the Board's activities and of the use of goods and services it produces and the extent to which each fund and the Board complies with the long-term temperature goal of the Paris Agreement.

Disclosure of financial risks of climate change and measures adopted to reduce them by licensed financial institutions

103. Every licensed financial institution that is required to provide statements and returns under section 26(1) of the Banking Act 1995 must disclose in their statements and returns—

- (a) any material financial risks to the licensed financial institution arising from climate change risks and climate change opportunities;
- (b) measures adopted by the licensed financial institution to reduce its exposure to these material financial risks;
- (c) how consideration of climate change risks are integrated in investment policies, risk management policies and investment decision-making processes; and
- (d) the climate change impacts of the licensed financial institution’s activities and of the use of goods and services it produces and the extent to which the licensed financial institution complies with the long-term temperature goal of the Paris Agreement.

Disclosure of financial risks of climate change and measures adopted to reduce them by the Reserve Bank

104. The Reserve Bank must disclose in its annual accounts and reports of its operations transmitted to the Minister in accordance with section 56(1) of the Reserve Bank of Fiji Act 1983—

- (a) any material financial risks to the Reserve Bank arising from climate change risks and climate change opportunities;
- (b) measures adopted by the Reserve Bank to reduce its exposure to these material financial risks;
- (c) how consideration of climate change risks are integrated in investment policies, risk management policies and investment decision-making processes; and
- (d) the climate change impacts of the Reserve Bank’s activities and of the use of goods and services it produces and the extent to which the Reserve Bank complies with the long-term temperature goal of the Paris Agreement.

Adopting best practice

105. For the purposes of this Part regard shall be had to industry best practice including the recommendations of the Financial Stability Board’s Task Force on Climate-related Financial Disclosures.

PART 17 — ENFORCEMENT

Limitation period for offences

- 106.** No proceedings for an offence under this Act may be commenced 3 years after—
- (a) the date on which the offence was committed; or
 - (b) the date on which evidence of the offence first came to the attention of the Division,
- whichever is the later.

Other offences

- 107.** A person who—
- (a) wilfully or deliberately, provides false or misleading information in a material particular if required under this Act;
 - (b) wilfully or deliberately, fails to submit any report or to provide any document or information required under this Act; or
 - (c) for the purpose of procuring anything to be done or not to be done under this Act, whether for his or her own benefit or for the benefit of any other person, wilfully or deliberately, make a statement that is false in a material particular;

commits an offence and is liable on conviction to a fine not exceeding \$750,000 or imprisonment for a term not exceeding 10 years or both.

General penalties

- 108.** A person who commits an offence against this Act for which no penalty is provided is liable on conviction to a fine not exceeding \$750,000 or imprisonment for a term not exceeding 10 years or both.

Enforcement of this Act by third parties

- 109.** — (1) Any person may bring proceedings in the Court for an order to remedy or restrain a breach of this Act, whether or not any right of that person has been or may be infringed by or as a consequence of that breach.

(2) Proceedings under this section may be brought by a person—

- (a) on his or her own behalf; or
- (b) on behalf of himself or herself and on behalf of other persons (with their consent) having like or common interests in those proceedings.

(3) Where the Court is satisfied that a breach of this Act has been committed or that a breach of this Act will, unless restrained by order of the Court, be committed, the Court may make such order as it thinks fit to remedy or restrain the breach.

(4) The functions of the Court under this Division are in addition to and not in derogation from any other functions of the Court.

(5) For the purposes of this Part, a reference to a breach of this Act is a reference to—

- (a) a contravention of or failure to comply with this Act; and

- (b) a threatened or an apprehended contravention of or a threatened or apprehended failure to comply with this Act.

Other orders

110. — (1) The Court, when convicting a person for an offence under this Act or when making an order to remedy or restrain a breach of this Act, and having regard to the nature of the offence or the breach and the circumstances surrounding its commission, may, in addition to any penalty or order imposed, make an order—

- (a) prohibiting the person from doing any act or engaging in any activity or undertaking that may result in the continuation or repetition of the offence or breach;
- (b) so far as is practicable, requiring the demolition or removal of infrastructure or the reinstatement of infrastructure or land to the condition or state the infrastructure or land was in immediately before the offence or breach;
- (c) requiring the restoration, improvement or remediation of an area or the offsetting of any harm caused, including but not limited to through the purchase and cancellation of Fiji Mitigation Outcome Units or other emission reduction units, with the purpose of restoring the environment to as near to its original condition with the cost to be borne by the person convicted of an offence;
- (d) directing the person to pay to the Division an amount that is to be held on trust as a refundable security for costs to ensure compliance with an order made under this section; or
- (e) requiring the person to comply with any other condition the Court considers appropriate in the circumstances.

(2) The Court, when convicting a person for an offence under this Act or when making an order to remedy or restrain a breach of this Act, and having regard to the nature of the offence or the breach and the circumstances surrounding its commission, may on the application of the victim or victims, in addition to any penalty or order imposed, order the convicted person or the person who committed a breach to pay the victim or victims—

- (a) compensation for loss or damage proved to have been suffered by the victim as a result of the act or omission; or
- (b) the cost of any preventative or remedial action proved to have been reasonably taken or caused to be taken by or on behalf of the victim or victims as a result of the act or omission.

(3) For the purposes of subsection (2), a victim may include any person.

(4) An order under subsection (1)(a) is enforceable as if it were an injunction.

(5) An order under this section relating to payment of money is enforceable as if it were a judgment debt and recoverable in a Court.

(6) If a person fails to comply with a Court order or direction made under this section relating to the restoration, improvement or remediation of an area or offsetting of any harm caused by the act or omission, the Division may undertake the restoration, improvement or remediation of the area, or offsetting of any harm caused, and the cost shall become a debt

recoverable in a Court (including using the security for costs deposited on trust with the Division).

Employees protection

111. No employer may—

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose a penalty on an employee; or
- (d) intimidate or coerce an employee,

only because the employee has reported a contravention of this Act.

Civil claims and damages

112. — (1) A person who has suffered loss as a result of any breach of this Act by any person may institute a civil claim for damages in a court, which may include a claim for—

- (a) economic loss resulting from the breach or from activities undertaken to prevent, mitigate, manage, clean up or remedy the breach;
- (b) loss of earnings arising from damage to any natural resources;
- (c) loss to or of any natural environment or resource; or
- (d) costs incurred in any inspection, audit or investigation undertaken to determine the nature of any pollution incident or to investigate remediation options.

(2) A claim under this section may be set off against any compensation paid under section 110(2).

Liability of corporations and directors

113. If a corporation commits an offence under this Act, a director, officer, employee or agent of the corporation who directed, authorised, assented to, acquiesced in or participated in the commission of the offence also commits the offence, and is liable to the penalty prescribed for the offence, whether or not the corporation has been prosecuted or convicted.

Priority of penalty or damages in cases of bankruptcy

114. Notwithstanding any other written law, if a corporation commits an offence under this Act, penalties or damages awarded under this Act have priority over any secured or preferred claim lodged in any action for bankruptcy against the corporation.

SCHEDULE 1

(Section 17)

Name of Act

1. Banaban Lands Act 1965
2. Banaban Settlement Act 1970
3. Biosecurity Act 2008
4. Climate Action Trust Fund Act 2017
5. Coconut Industry Development Act 2010
6. Continental Shelf Act 1970
7. Drainage Act 1961
8. Environment and Climate Adaptation Levy Act 2015
9. Environmental Management Act 2005
10. Fiji Roads Authority Act 2012
11. Fisheries Act 1941
12. Forest Act 1992
13. Irrigation Act 1973
14. iTaukei Affairs Act 1944
15. iTaukei Land Trust Act 1940
16. Land Conservation and Improvement Act 1953
17. Land Development Act 1961
18. Land Use Act 2010
19. Mahogany Industry Development Act 2010
20. Mining Act 1965
21. Natural Disaster Management Act 1998
22. Offshore Fisheries Management Act 2012
23. Ozone Depleting Substances Act 1998
24. Pesticides Act 1971
25. Petroleum Act 1938
26. Petroleum (Exploration and Exploitation) Act 1978
27. Quarries Act 1939
28. Regulation of Building Permits Act 2017
29. Regulation of Surfing Areas Act 2010
30. Rotuma Act 1927
31. Rotuma Lands Act 1959
32. Rivers and Streams Act 1880
33. Sea Ports Management Act 2005
34. Tax Free Zones Act 1991
35. Town Planning Act 1946

SCHEDULE 2

CONSEQUENTIAL AMENDMENTS

Environment Management Act 2005

1. The Environment Management Act 2005 is amended by—

(a) in section 27(2) —

- (i) insert new subsection (e) "where the proposed activity may result in material greenhouse gas emissions or could be adversely affected by the impacts of climate change, an assessment of those matters, measures to address them and whether the activity or undertaking is compatible with the objectives and principles of the Climate Change Act 2019, Fiji's NDC, National Development Plan, NCCP, NAP and LEDS".

(b) in section 27(4) —

- (i) following "if the approving authority determines that the activity or undertaking will cause a significant environmental or resource management impact..." insert "or may result in material greenhouse gas emissions or could be adversely affected by the impacts of climate change".

(c) in section 28 —

- (i) insert new subsection (4) "where the proposed activity may result in material greenhouse gas emissions or could be adversely affected by the impacts of climate change, terms of reference must be prepared for the EIA study that require consideration of those matters, measures to address them and whether the activity or undertaking is compatible with the objectives and principles of the Climate Change Act 2019, Fiji's NDC, National Development Plan, NCCP, NAP and LEDS."

(d) in section 30 —

- (i) insert new subsection (6) "Where the EIA report finds that the activity or undertaking may result in material greenhouse gas emissions or could be adversely affected by the impacts of climate change, the EIA Administrator or the approving authority must request that the Minister responsible for climate change provide recommendations on whether or not the report should be approved with or without conditions or whether an additional study is necessary."

(e) in Schedule 1 —

- (i) insert new item 15. "Climate Change Act 2019".

Immigration Act 2003

2. The Immigration Act 2003 is amended by—

(a) in section 9(3)(a) —

- (i) remove ", research".

Immigration Regulations 2007

3. The Immigration Regulations 2007 are amended by—

(a) in regulation 36

- (i) insert new subsection (a) the proposed research activities have been approved by the Minister responsible for education or where relevant to climate change the Minister responsible for climate change; and

(b) in regulation 37 —

- (i) remove "and" and the end of subsection (c);
- (ii) replace "." at the end of subsection (d) with "; and"; and
- (iii) insert new subsection (e) "to provide any final research findings that relate to climate change to the Head of Division of the Climate Change and International Cooperation Division in accordance with section 31 of the Climate Change Act 2019."

Natural Disaster Management Act 1998

4. The Natural Disaster Management Act 1998 is amended by—

Environment Management Act 2005

5. The Environment Management Act 2005 is amended by—

Land Conversation and Improvement Act 1953

6. The Land Conversation and Improvement Act 1953 is amended by—

Land Use Act 2010

7. The Land Use Act 2010 is amended by—

Rivers and Streams Act 1880

8. The Rivers and Streams Act 1880 is amended by—

Regulation of Surfing Areas Act 2010

9. The Regulation of Surfing Areas 2010 is amended by—

Property Law Act 1971

10. The Property Law Act 1971 is amended by—

Land Transfer Act 1971

11. The Land Transfer Act 1971 is amended by—

Land Sales Act 1974

12. The Land Sales Act 1947 is amended by—

iTaukei Land Trust Act 1940

13. The iTaukei Land Trust Act 1940 is amended by—

- iTaukei Lands Act 1905*
14. The iTaukei Lands Act 1905 is amended by—
- Marine Spaces Act 1977*
15. The Marine Spaces Act 1977 is amended by—
- Continental Shelf Act 1970*
16. The Continental Shelf Act 1970 is amended by—
- Local Government Act 1972*
17. The Local Government Act 1972 is amended by—
- Mining Act 1965*
18. The Mining Act 1965 is amended by—
- Financial Management Act 2004*
19. The Financial Management Act 2004 is amended by—
- Personal Property Securities Act 2017*
20. The Personal Property Securities Act 2017 is amended by—
- Proceeds of Crime Act 1997*
21. The Proceeds of Crime Act 1997 is amended by—
- Public Health Act 1935*
22. The Public Health Act 1935 is amended by—
- Business Licensing Act 1967*
23. The Business Licensing Act 1967 is amended by—
- Companies Act 2015*
24. The Companies Act 2015 is amended by—
- Forest Act 1992*
25. The Forest Act 1992 is amended by—
- Banking Act 1995*
26. The Banking Act 1995 is amended by—
- Fiji National Provident Fund Act 2011*
27. The Fiji National Provident Fund Act 2011 is amended by—
- Reserve Bank of Fiji Act 1983*
28. The Reserve Bank of Fiji Act 1983 is amended by—
- High Court Act 1875*
29. The High Court Act 1875 is amended by—