

# **QOLIQOLI BILL 2006**

(BILL NO. 12 OF 2006)

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# **BILL NO. 12 OF 2006**

## **A BILL**

FOR AN ACT TO PROVIDE FOR THE TRANSFER OF THE PROPRIETARY OWNERSHIP OF QOLIQOLI AREAS FROM THE STATE TO THE QOLIQOLI OWNERS, FOR THE ESTABLISHMENT OF THE QOLIQOLI COMMISSION WITH ITS POWERS AND FUNCTIONS AND FOR THE REGULATION AND MANAGEMENT OF FISHERIES RESOURCES WITHIN QOLIQOLI AREAS AND FOR RELATED MATTERS

ENACTED by the Parliament of the Fiji Islands

### **PART 1 - PRELIMINARY**

#### *Short title and commencement*

1. (1) This Act may be cited as the Qoliqoli Act 2006.
- (2) This Act comes into force on a date appointed by the Minister by notice in the Gazette.

#### *Interpretation*

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

- "Board" means the Native Land Trust Board established by section 3 of the Native Land Trust Act;
- "commercial operation" means any fisheries or non-fisheries activity within qoliqoli areas undertaken for commercial purposes or for other benefit or gain;
- "Commission" means the Qoliqoli Commission established by section 10;
- "Fiji's fisheries waters" means all waters appertaining to Fiji and includes all internal waters, archipelagic waters, territorial seas and all waters within the exclusive economic zone, as defined in the Marine Spaces Act;
- "fisheries operation" means any activity operated within qoliqoli areas, whether for commercial operations or otherwise, relating to fisheries resources;
- "fisheries resources" means any water-dwelling plant or animal, at whatever stage of development, and whether alive or dead, and includes all types of eggs of a water-dwelling animal;

- "proprietary rights and interests" mean all legal interests and rights which are conferred upon the owners of native land under the Native Lands Act and the Native Land Trust Act;
- "qoliqoli area" means any area of seabed or soil under the waters, sand, reef, mangrove swamp, river, stream or wetland or any other area, recognised and determined within customary fishing grounds under the Fisheries Act or as clarified in accordance with this Act, and includes any customary fishing grounds reclaimed before or any qoliqoli area reclaimed after the commencement of this Act;
- "qoliqoli officers" means a public officer appointed by the Commission under section 29;
- "qoliqoli owner" means the owning unit of a qoliqoli area duly registered in the Register;
- "qoliqoli rights" means the customary qoliqoli rights, usages, rules and practices in relation to fisheries resources determined and practiced by the qoliqoli owners in accordance with their respective tradition and custom;
- "Register" means the register of qoliqoli areas and owners established and maintained under section 15;
- "right of public access" means any right or interest protected under section 7;
- "right of free passage" means a right protected under section 7 in accordance with the principles relating to the right of free passage recognised and guaranteed under international law;
- "water-dwelling animal" includes mollusc, crustacean, coral, sponge, holothurian and other echinoderm, beche-de-mer, reptiles, coconut crabs or any other marine animals other than whales.

*Act binds the Government*

3. This Act binds the Government.

## **PART 2 - OWNERSHIP OF QOLIQOLI AREAS AND QOLIQOLI RIGHTS**

*Transfer of qoliqoli areas from the State*

4.-(1) This section applies to all qoliqoli areas title to which was, prior to the commencement of this Act, by operation of law, vested in the State or other legal entity.

(2) Notwithstanding the provisions of the State Lands Act or any other written law, upon the commencement of this Act, by virtue of this section and without further assurance, all proprietary rights to and interest in qoliqoli areas within Fiji's fisheries waters are transferred to and vest in the qoliqoli owners.

(3) All qoliqoli areas referred to in subsection (1) shall, unless acquired by the State pursuant to the State Acquisition of Lands Act, on the commencement of this Act and without further assurance, vest in the Board which shall administer the qoliqoli area on behalf and for the benefit of the qoliqoli owners.

(4) The Board may grant to the State or other legal entity referred to in subsection (1) a legal interest in a qoliqoli area originally vested in the State or such other entity, upon such terms and conditions as the Board, the Commission and the State or legal entity may, after consultation with the qoliqoli owners, agree.

(5) All existing legal interest in and rights over a qoliqoli area which, prior to the commencement of this Act was granted by the State or other legal entity to any person shall, on such commencement

(a) be deemed to have been granted by the Board pursuant to section 5(2) and, accordingly

(b) the State shall cease to be, and the Board shall be, bound by the terms and conditions subject to which such legal interests and rights were originally granted.

#### *Ownership of qoliqoli areas and rights*

5.-(1) Notwithstanding section 4(3), in accordance with traditional customs, practice and usage, the qoliqoli owners are hereby declared to be the rightful and proprietary owners of qoliqoli areas and qoliqoli rights, and accordingly

(a) the Board shall administer and manage all non-fisheries commercial operations within qoliqoli areas; and

(b) the Commission shall administer and manage fisheries operations within qoliqoli areas for and on behalf of, and for the benefit of, qoliqoli owners.

(2) All qoliqoli areas are deemed to be native reserve unless the Minister upon application by the qoliqoli owners, declares by order in the Gazette such areas as outside native reserve within the meaning of the Native Land Trust Act.

(3) All existing legal interest in and fights over a qoliqoli area which, prior to the commencement of this Act was granted by the State or other legal entity to any person shall, on such commencement be deemed to be outside native reserve subject to conditions the Board may impose after consultation with the holder of the legal interest and the qoliqoli owners.

### *Nature and extent of qoliqoli rights*

6.-(1) Notwithstanding section 4(3), qoliqoli owners shall have and enjoy exclusive possession of qoliqoli areas and qoliqoli rights, except that such rights shall not extend to the use of water which is unconnected with any commercial operation.

(2) The qoliqoli rights shall be exercisable by the qoliqoli owners in accordance with their respective customary and traditional practices, usages and rules.

### *Protection of rights of the public and maritime transportation*

7. The exclusive possession conferred by section 6 shall not be construed as affecting

(a) the right of members of the public to have free and undisturbed access within the qoliqoli areas for the purpose of facilitating local and international maritime transportation;

(b) the right of members of the public to have free and undisturbed access within the qoliqoli areas for the purpose of non-commercial recreational activities;

(c) the right of free passage recognised under international law through conventions ratified by Fiji.

### *Protection of legal rights and interests*

8. Subject to section 20(6), the exclusive possession conferred by section 6(1), does not affect any legal rights and interests duly granted or obtained by virtue of this Act or any other written law.

### *Exclusion of liability for past use*

9. There shall be no legal liability for any claim for compensation or damages in relation to the granting of any legal right or interest or for authorising the use of any qoliqoli area by the State prior to the coming into force of this Act by virtue of its legal ownership vested in it under the State Lands Act.

## **PART 3 - ESTABLISHMENT, FUNCTIONS AND POWERS OF THE QOLIQOLI COMMISSION**

### *Establishment of the Commission*

10.-(1) This section establishes the Qoliqoli Commission consisting of the following members

(a) a Chairperson, who shall be appointed by the Minister; and

(b) not less than 3 but not more than 5 other members who are to be appointed by the Minister on the recommendation of the Fijian Affairs Board.

(2) The members may be appointed for terms not exceeding 3 years and are eligible for reappointment.

(3) The members of the Commission are entitled to remuneration or other allowances determined by the Higher Salaries Commission.

(4) A member of the Commission may resign by giving 30 days notice to the Minister.

(5) The Minister may remove a member of the Commission for misconduct in office or for any other good reason, including bankruptcy, absences from 3 consecutive meetings or conviction in relation to a felony.

### *Qualification of members*

11. The members of the Commission shall be appointed on merit having regard to their educational background, work experience and their knowledge and understanding of Fijian traditional and customary usages and practices.

### *Functions of the Commission*

12. The functions of the Commission are

(a) to control, administer and manage fisheries resources within the qoliqoli areas;

(b) to complete the process of registration, including the surveying of boundaries, of the ownership and boundaries of qoliqoli areas determined by the Native Fisheries Commission under the Fisheries Act or clarified in accordance with this Act;

(c) from time to time, on the application of the qoliqoli owners, to redefine and resurvey the boundaries of any qoliqoli area, subject to the original decision made under the Fisheries Act;



(d) to advise the Minister on the regulation and control of the right of public access to the foreshore and other qoliqoli areas;

(e) to advise the Minister on the regulation and control of the non-fisheries use and commercial operation within qoliqoli areas;

(f) to facilitate the work of the Board in any dealings within qoliqoli areas;

(g) to perform any other function conferred upon it under this Act or any other written law.

### *Powers of the Commission*

13. For the purposes of performing its functions under this Act, the Commission shall have the following powers

(a) to inquire into and interpret, whether upon application or on its own volition as a result of a request or dispute among the owners, any decision previously made and recorded by the Native Fisheries Commission for the purposes of clarifying the ownership and boundaries of any qoliqoli area;

(b) to conduct inquiries into any dispute among owners or between the owners and non-owners in relation to the nature and meaning of qoliqoli rights;

(c) to establish any committee and provide for its functions, duties and powers for the purposes of carrying out any of its functions and duties under this Act;

(d) to enter any qoliqoli area or place for the purposes of carrying out its functions and powers.

### *Inquiry related powers*

14.-(1) For the purposes of any inquiries under this Act, the Commission has the following powers

(a) to summon any person to appear before it to give evidence or to produce documents which are in the opinion of the Commission relevant to its inquiries;

(b) to examine witnesses and to take evidence on oath and to admit oral or written evidence whether or not such evidence would be admissible in any proceedings before a court;

(c) to admit or exclude the members of the public from any of its inquiry where it considers it necessary in the best interests of the parties to the proceedings.

(2) Any inquiry carried out under this section shall be heard and determined by at least 3 members.

(3) Subject to this Act, the Commission may determine other procedures and rules relating to inquiries under this section.

(4) The Chairperson or the member presiding has the power to administer oath.

#### *Register of qoliqoli areas and owners*

15.-(1) The Register of qoliqoli areas and qoliqoli owners established and maintained by the Native Fisheries Commission appointed under the Fisheries Act shall continue under this Act and shall be maintained by the Commission.

(2) A certificate issued and signed by the Chairperson of Commission stating the owners or boundaries of a qoliqoli area as shown in the Register is conclusive evidence of what is stated in the Register.

## **PART 4 -COMMERCIAL OPERATIONS IN QOLIQOLI AREAS**

#### *Licence to undertake commercial fisheries operations*

16.-(1) Subject to section 17(4), no person may undertake any commercial fisheries operations within a qoliqoli area except under the authority of a licence issued under this section in accordance with the prescribed procedures.

(2) The Minister may, on the advice of the Commission and in consultation with the qoliqoli owners, prescribe

(a) quotas or limits on the catching or harvesting of fisheries resources for commercial fisheries operations for the purpose of conservation and management of fisheries resources; and

(b) quotas for the number of licences that may be issued in respect of the a qoliqoli area.

(3) The Commission may, upon application in the prescribed form, issue an annual licence, subject to prescribed or other conditions it may imposed, authorising the holder of the licence

to undertake commercial fisheries operations within a qoliqoli area.

(4) The power to issue a licence under subsection (3) includes the power

(a) to vary, suspend or cancel the licence; or

(b) to vary, suspend or cancel a condition of the licence.

(5) The Commission must give an opportunity to the licensee to be heard before it makes any decision

(a) to vary, suspend or cancel a licence; or

(b) to vary, suspend or cancel a condition of a licence.

(6) A person who contravenes

(a) subsection (1);

(b) subsection (2) relating to catching or harvesting fisheries resources in excess of the prescribed quotas or limits;

(c) a condition of a licence; or

(d) uses a suspended licence or condition; or

commits an offence and is liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 10 years.

*Permit to take fisheries for personal or home consumption or use*

17.-(1) No person, including qoliqoli owners, may take fisheries resources for personal or home consumption or use within a qoliqoli area in excess of the limits prescribed in the bylaws except under the authority of a permit issued in accordance with the prescribed procedures.

(2) The Commission may, in writing, appoint a member of the qoliqoli owner or other person, including a public officer to issue a permit under this section authorising the holder of the permit to catch, take or harvest fisheries resources within a qoliqoli area in excess of the prescribed limits.

(3) The power to issue a permit under subsection (2) includes the power

(a) to vary, suspend or cancel the permit; or

(b) to vary, suspend or cancel a conditions of a permit.

(4) Notwithstanding subsection (1), the qoliqoli owners may, without a permit, take such fisheries resources within their qoliqoli areas required for their communal and traditional purposes.

(5) Bylaws may prescribe different limits for different classes of persons.

(6) The limits prescribed for the qoliqoli owners under the bylaws shall take into account their customary practice and use of fisheries resources, including sale of fisheries resources for subsistence living.

(7) A person who contravenes subsection (1) or a condition of a permit commits an offence and is liable on conviction to a fine not exceeding [\$2,000/\$10,000] or to imprisonment for a term not exceeding 2 years or to both.

(8) This section does not apply to commercial fisheries operation,

*Fisheries operations in archipelagic waters adjacent to qoliqoli areas*

18. No licence for any fisheries operations or authorization for research or scientific activity, whether for commercial purpose or otherwise, shall be issued within Fiji's archipelagic waters without prior consultations with the Commission, which shall endorse any condition imposed by the Department of Fisheries for the undertaking of the fisheries operation or research or scientific activity in relation to areas adjacent to qoliqoli areas.

*Conditions for licences and permits*

19. A licence issued under section 16 and a permit issued under section 17 may be subject to such further terms and conditions, if any, as may be prescribed.

*Other commercial operations in qoliqoli areas*

20.-(1) The application of this section extends to qoliqoli owners.

(2) No person may, without the prior written approval of the Board, undertake any commercial operation within a qoliqoli area; and the Board shall, before granting such approval, consult with the Commission and qoliqoli owners, other than a member of qoliqoli owners who is an applicant for approval.

(3) Any commercial operation approved under subsection (2) shall be subject to such terms and conditions, if any, as the Board, after consultation with the Commission and the qoliqoli owners, may impose.

(4) If the Board is satisfied that the result of the consultation with the qoliqoli owners does not show a majority support for the commercial operation, the Board shall not approve an application.

(5) Any lease granted in any native land including rights and interest in any freehold land abutting any qoliqoli area does not confer any right within the qoliqoli area except by operation of this Act.

(6) Any commercial operation granted under this section shall not remove or in anyway affect the right of the qoliqoli owners to exercise their qoliqoli right within the qoliqoli area which is subject to the commercial operation unless the owners by way of a condition in the dealing or by an agreement have been consulted and agreed to the restriction on the qoliqoli rights,

(7) Any commercial operation granted under this section shall not affect the operation of section 7 unless there is a condition in the dealing that restricts that section.

(8) Any commercial operation granted in contravention of this section is void.

#### *Research activities within qoliqoli areas*

21.-(1) This Part does not apply to any fisheries research activity undertaken by the Government in any qoliqoli area or involving fisheries resources.

(2) Notwithstanding subsection (1), the Government may enter into any arrangement with the qoliqoli owners for the use of their qoliqoli areas or fisheries resources for research activity.

(3) Any other person who intends to undertake any research activity within a qoliqoli area shall first obtain a written permission from the Commission subject to subsection (2), unless the research is undertaken by or on behalf of the qoliqoli owners.

## **PART 5 - CREATION OF QOLIQOLI TRUST FUNDS**

### *Trust funds for qoliqoli income*

22.-(1) The Board shall establish separate qoliqoli trust funds for each qoliqoli area for the benefit of the qoliqoli owners,

(2) The following monies shall be paid into the respective qoliqoli trust funds

(a) all annual licensing fees received by the Commission in respect of commercial fisheries operations;

(b) all monies, except rental income for leases and licences, payable to the qoliqoli owners for non-fisheries commercial operations within qoliqoli areas approved by the Board under this Act;

(c) all monies or compensation paid in respect of damages to or the use of the qoliqoli areas whether as a result of reclamation, commercial operation or otherwise;

(d) all other monies received or payable for the benefit of qoliqoli owners.

### *Trustees*

23. The Commission

(a) on the recommendation of the qoliqoli owners, shall appoint not less than 5 trustees for each of the qoliqoli trust funds; and

(b) shall, in writing, notify the Board of appointments and any change to the appointment.

### *Distribution of monies from trust funds*

24.-(1) Monies in a qoliqoli trust fund shall be applied or distributed by the Board in accordance with regulations made under the Native Land Trust Act.

(2) For avoidance of doubt, all rental income for leases and licences approved by the Board within qoliqoli areas shall be paid to and distributed by the Board in accordance with regulations made under the Native Land Trust Act.

(3) The Commission and the qoliqoli owners shall first be consulted on any proposed regulations to be made for the purposes of this Part.

#### *Trust funds accounts*

25.-(1) The trustees shall prepare a bi-annual report on their respective trust funds for the information of the qoliqoli owners.

(2) The Board shall prepare an annual audited account of the qoliqoli trust funds established under this Part.

#### *Exclusion of the Trustee Act*

26. The Trustee Act and the rules against perpetuity do not apply to qoliqoli trust funds created under this Part.

## **Part 6 - RECLAMATION OF QOLIQOLI AREAS**

#### *Reclamation of qoliqoli areas*

27.-(1) No lease to reclaim any qoliqoli area shall be granted except with the prior written approval of the Minister acting on the recommendation of the Board.

(2) No approval shall be granted under subsection (1) unless the qoliqoli owners have been consulted on the proposed lease.

(3) The procedures, terms and conditions for leasing under this Part shall be prescribed by regulations.

#### *Exclusion of Part V of the State Lands Act*

28. Part V of the State Lands Act (Special Provisions Relating to Foreshore Land and Soil under the Waters of Fiji) does not apply to qoliqoli areas.

## **PART 7 - ENFORCEMENT AND OFFENCES**

### *Qoliqoli officers*

29.-(1) The Commission may appoint any public officer or a person or classe of public officers or of persons as qoliqoli officers for the purposes of this Act and may limit in any manner the Commission considers appropriate the powers that a qoliqoli officer may exercise under this Act or any other written law.

(2) Each qoliqoli officer shall be provided with a certificate in a form the Commission considers appropriate certifying the appointment as such and, where the powers of a qoliqoli officer is limited pursuant to subsection (1), specifying the powers that the officer may exercise under this Act or any other written law.

(3) On entering any place under this Actor any other written law, a qoliqoli officer shall, on request, show the certificate of appointment to the person in charge of the place.

### *Inspection*

30.-(1) Subject to subsection 2), for the purpose of ensuring compliance with this Act, regulations or bylaws, a qoliqoli officer may enter and inspect any place, including any premises, vessel or vehicle, in which the officer believes on reasonable grounds there is any work or undertaking or any fisheries resources or other thing in respect of which this Act, regulations or bylaws apply and may

(a) open any container that the officer believes on reasonable grounds contains any fisheries resources or other thing.

(b) examine and take samples of any fisheries resources or other thing that the officer finds;

(c) conduct any tests or analyses and take any measurements; and

(d) require any person to produce for examination or copying any records, books of account



or other documents that the officer believes on reasonable grounds contain information that is relevant to the administration of this Act, regulations or bylaws.

(2) In carrying out an inspection of a place under subsection (1), a qoliqoli officer may

(a) use or cause to be used any information storage system at the place to examine any information contained in or available in the system;

(b) reproduce any record or cause it to be reproduced from the information in the form of a print-out or other intelligible form and remove the print-out or other form for examination or copying; and

(c) use or cause to be used any copying equipment at the place to make copies of any record, book of account or other document.

(3) The owner or person in charge of a place that is inspected by a qoliqoli officer under subsection (1) and every person found in the place shall

(a) give the officer all reasonable assistance to enable the officer to carry out the inspection and exercise any power conferred by this section; and (b) provide the officer with any information relevant to the administration of this Act, regulations or bylaws that the officer may reasonably require.

(4) A qoliqoli officer who takes a sample under subsection (1)(b) may dispose of it in the prescribed manner.

(5) Where any place, premises, vessel or vehicle referred to in subsection (1) is a dwelling-house, a qoliqoli officer may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant issued under subsection (6).

(6) Where a magistrate is satisfied by information on oath

(a) that the conditions for entry described in subsection (1) exist in relation to a dwelling-house;

(b) that entry to the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, regulations or bylaws; and

(c) that entry to the dwelling-house has been refused or that there are reasonable grounds for believing that entry thereto will be refused,

the magistrate may issue a warrant under his hand authorizing the qoliqoli officer named

therein to enter that dwelling-house subject to such conditions as may be specified in the warrant.

### *Search*

31.-(1) A qoliqoli officer with a warrant issued under subsection (2) may enter and search any place, including any premises, vessel or vehicle other than a dwelling house, in which the officer believes on reasonable grounds there is

(a) any work or undertaking that is being or has been carried on in contravention of this Act or the regulations;

(b) any fisheries resources or other thing by means of or in relation to which this Act or the regulations have been contravened; or

(c) any fisheries resources or other thing that will afford evidence in respect of a contravention of this Act or the regulations.

(2) Where on ex parte application a magistrate is satisfied by information on oath that there are reasonable grounds to believe that there is in any place referred to in subsection (1) any fisheries resources or other thing referred to in subsection (1), the magistrate may issue a warrant authorizing the qoliqoli officer named in the warrant to enter and search the place vessel or vehicle for the thing subject to any conditions that may be specified in the warrant.

(3) Notwithstanding subsection (1), a qoliqoli officer may exercise the power of search referred to in that subsection without a warrant issued under subsection (2) if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be practical to obtain the warrant.

(4) For the purposes of subsection (3), exigent circumstances include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence.

(5) In carrying out a search of a place under this section, a qoliqoli officer may exercise any power mentioned in section 29(1), 2) or (4).

### *Entry*

32. In the discharge of duties, any qoliqoli officer or other person accompanying under this Act the qoliqoli officer may enter on and pass through or over private property without being liable for trespass.

### *Arrest*

33. A qoliqoli officer or police officer may arrest without warrant a person who that qoliqoli officer or police officer believes, on reasonable grounds, has committed an offence against this Act or any of the regulations or bylaws, or whom he finds committing or preparing to commit an offence against this Act or any of the regulations or bylaws.

### *Seizure*

34. A qoliqoli officer may seize any fishing vessel, vehicle, fisheries resources or other thing that the officer believes on reasonable grounds was obtained by or used in the commission of an offence under this Act, regulations or bylaws or will afford evidence of an offence under this Act, regulations or bylaws, including any fisheries resources that the officer believes on reasonable grounds

(a) was caught, killed, harvested, processed, transported, purchased, sold or possessed in contravention of this Act, regulations or by laws; or

(b) has been intermixed with fisheries resources referred to in paragraph (a).

### *Custody and detention of seized things*

35.-(1) A qoliqoli officer who seizes any fisheries resources, or other thing under this Act, regulations or bylaws may retain custody of it or deliver it into the custody of a police officer or public officer.

(2) A person who is given custody of any fisheries resources or other thing under subsection (1) shall, on the request of a qoliqoli officer at any reasonable time, make the fisheries resources or thing available for inspection by or deliver it into the custody of the officer.

(3) A qoliqoli officer who has custody of any fisheries resources or other perishable thing seized under this Act, regulations or bylaws may dispose of it in any manner the officer considers appropriate and any proceeds realized from its disposition shall be paid to the Consolidated Fund.

(4) Subject to this section, any fisheries resources or other thing seized under this Act, regulations or bylaws or any proceeds realized from its disposition, may be detained by the qoliqoli officer until the fisheries resources or thing or proceeds are forfeited or proceedings relating to the fisheries resources or thing are finally concluded

(5) Subject to section 35(4), a court may order any fisheries resources or other thing seized under this Act to be returned to the person from whom it was seized if security is given in a form and amount that is satisfactory to the Commission.

(6) Subject to section 35(4), where proceedings are not instituted in relation to any fisheries resources or other thing seized under this Act, the fisheries resources or thing or any proceeds realized from its disposition shall be returned to the person from whom it was seized

(a) on the Commission's decision not to institute proceedings; or

(b) on the expiration of 90 days after the day of the seizure or any further period that may be specified in an order made under subsection (7).

(7) Where a court is satisfied that detention of the fisheries resources or thing for a period greater than 90 days is justified in the circumstances, the court may, by order, permit the fisheries resources or thing to be detained for any further period that may be specified in the order.

(8) Where a person is convicted of an offence under this Act, the court may, in addition to any punishment imposed, order the person to pay the State an amount of money as compensation for any costs incurred in the seizure, storage or disposition of any fisheries resources or other thing seized under this Act by means of or in relation to which the offence was committed.

(9) Where a court orders a person to pay an amount of money as compensation under subsection (8), the amount and any interest payable on that amount constitute a debt due to the State and may be recovered as such in any court of competent jurisdiction

### *Forfeiture*

36. - (1) Where a person is convicted of an offence under this Act, regulations or bylaws the court may, in addition to any punishment imposed, order that any thing seized under this Act, regulations or bylaws by means of or in relation to which the offence was committed, or any proceeds realized from its disposition, be forfeited to the State

(2) Where a person is convicted of an offence under this Act that relates to fisheries resources seized pursuant to section 34(a), the court shall, in addition to any punishment imposed, order that the fisheries resources, or any proceeds realized from its disposition, be forfeited to the State.

(3) Where a person is charged with an offence under this Act that relates to fisheries resources seized pursuant to section 34(a) and the person is acquitted but it is proved that the fisheries resources was caught, taken or harvested in contravention of this Act or the regulations, the court may order that the fisheries resources, or any proceeds realized from its disposition. be forfeited to the State.

(4) Where the ownership of any fisheries resources or other thing seized under this Act, regulations or bylaws cannot be ascertained at the time of the seizure, the fisheries resources or thing is thereupon forfeited to the State.

(5) Where any fishing gear or equipment is forfeited under section 35(4), it may be disposed of immediately on its forfeiture, as the Commission directs.

*Use of explosives and poisonous substances*

37.-(1) No person shall use any kind of explosives for the taking of fisheries resources.

(2) No person shall take, stupefy, kill or harvest any fisheries resources by the use of any of the following substances or plants

(a) any chemical or chemical compound;

(b) any substance containing derris;

(c) any substances containing the active principal of derris, namely, rotenone; or

(d) any plant or extract or derivative from any plant, belonging to the genera Barringtonia, Derris, Euphorbia, Pittosporum or Tephrosia,

or place any such substance or plant in any water for the purpose of taking, stupefying killing or harvesting any fisheries resources.

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

(a) for subsection (1). to a fine not exceeding \$100,000 or to 10 years imprisonment;

(b) for subsection (2), to a fine not exceeding \$50,000 or to imprisonment for term not exceeding 5 years.

### *Obstructions*

38. A person who obstructs or hinders a qoliqoli officer or police officer who is carrying out duties, functions or powers under this Act, regulations or bylaws, commits an offence.

### *False statement*

39.-(1) A person who makes a false or misleading statement, whether orally or in writing, to a qoliqoli officer or any other person designated by the Commission who is carrying out duties, functions or powers under this Act, regulations or bylaws, commits an offence.

(2) A person who makes a false or misleading statement, whether orally or in writing, in an application for a licence or permit under this Act, commits an offence.

(3) A person who produces for examination or copying by a qoliqoli officer or any other person designated by the Commission any records, books of account or other documents that contain false or misleading information, commits an offence.

### *Offences by corporations*

40. Where a corporation commits an offence under this Act, regulations or bylaws, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and commits the offence and is liable on conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted.

### *Offences by employers*

41. In any prosecution for an offence under this Act, regulations or bylaws, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

### *Offences by licensees*

42. In any prosecution for an offence under this Act, regulations or bylaws, it is sufficient proof of the offence to establish that it was committed by a person in respect of any matter

relating to any operations under licence issued to the person pursuant to this Act, whether or not the person is identified or has been prosecuted for the offence, unless the person establishes that the offence was committed without the knowledge or consent of the person.

#### *Burden of proving licence*

43. In any prosecution for an offence under this Act, regulations or bylaws, where a question arises as to whether a person was issued a licence, the burden is on the person to establish that the licence was issued.

#### *Due diligence defence*

44. No person shall be convicted of an offence under this Act, regulations or bylaws if it is proven that the person -

(a) exercised all due diligence to prevent the commission of the offence; or

(b) reasonably and honestly believed in the existence of facts that, if true, would render the person's conduct innocent.

#### *General penalties*

45. A person who commits an offence under this Act for which no penalty is specified liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 4 years.

#### *Other additional penalties*

46. Where a person is convicted of an offence under this Act in respect of any matter relating to any operations under licence issued pursuant to this Act, in addition to any punishment imposed, the court may, by order

(a) cancel the licence or suspend it for any period the court considers appropriate; and

(b) prohibit the person to whom the licence was issued from applying for any new licence under this Act during any period the court considers appropriate.

## **PART 8 - MISCELLANEOUS**

### *Exemption from personal liability*

47. A member of Commission or any other person authorised to perform any duty, function of power under this Act shall not be personally liable for any act done in good faith under and by virtue of this Act.

### *Delegation of powers*

48. Subject to sections 31A, 31B and 31C of the Interpretation Act, the Commission may delegate its powers under this Act.

### *Right to be heard in any court*

49. The Commission shall be entitled to be heard either orally or in writing or both by any court or tribunal charged with the assessment of compensation for lost or diminished fisheries resources within any qoliqoli area as a result of any commercial operation.

### *Power to give directions*

50. The Minister may, in the public interest, give special or general policy directions to the Commission or the Board.

### *Non-derogation*

51.-(1) The provisions of this Act are in addition to the general provisions dealing with management, conservation and development of fisheries provided in other legislation regulating or controlling fisheries in the Fiji fisheries waters.

(2) If there is any inconsistency between the provisions of this Act and those other legislation, the provisions of this Act prevails.

### *Information returns*



52. - (1) The following persons may be required to provide information or to keep records, books of account or other documents -

- (a) any person who engages in catching, taking or harvesting of fisheries resources;
- (b) any person who purchases fisheries resources for the purpose of resale;
- (c) any owner, operator or manager of an enterprise that catches, processes or transports fisheries resources; and
- (d) any agent or employee of a person referred to in paragraphs (a) to (c).

(2) A person referred to in subsection (1) may be required to provide information or to keep records or other documents relating to any of the following matters:

- (a) the number, sex, size, weight, species, product form, value or other particulars of any fisheries resources caught, processed, transported, sold or purchased;
- (b) the time and place at which any fisheries resources was caught, landed or harvested and the person, enterprise or vessel by which the fisheries resources was caught, landed or harvested;
- (c) the time and place at which any fisheries resources were purchased and the person, enterprise or vessel from which the fisheries resources was purchased;
- (d) the vessels, gear and methods used and the number of persons employed for the purpose of catching or harvesting of fisheries resources;
- (e) the equipment, products and methods used and the number of persons employed for the purpose of processing fisheries resources; and
- (f) any other matter relating to the proper management and control of fisheries resources or the conservation and protection of fisheries resources.

(3) A person referred to in subsection (1) shall keep any records, books of account or other documents that may be required by the regulations or by the terms and conditions of any licence issued to the person under this Act and the records, books of account or other documents shall be kept in the manner and form and for the period prescribed by the regulations or licence.

(4) A person referred to in subsection (1) shall, on the request of any qoliqoli officer, provide the officer, or any authority designated by the officer, with any information relating to a matter mentioned in subsection (2) that the officer may request

(5) A person referred to in subsection (1) shall, in accordance with the regulations and the terms and conditions of any licence issued to the person under this Act, provide a qoliqoli officer or any other person designated by the Commission with any information relating to a matter mentioned in subsection (2).

#### *Consultation process*

53. Any consultation with the qoliqoli owners required to be undertaken under this Act shall follow prescribed procedures.

#### *Extension of jurisdictions of magistrates*

54. Notwithstanding any other written law, the jurisdiction of a resident magistrate to impose fines under this Act is extended to \$10,000.

#### *Regulations*

55. The Minister may, in consultation with the Commission, make regulations to give effect to the provisions of this Act, and in particular

- (a) to prescribe fees and forms required for use under the Act;
- (b) to prescribe rules and procedures for the hearing of any matter or dispute which the Commission is empowered to determine or adjudicate over;
- (c) to further regulate trust funds under Part 5, including rules and procedures;
- (d) to prescribe terms and conditions on which the members of the public may access the foreshores;
- (e) to prescribe conditions to which all fisheries licences shall be subject to; and to give effect to the powers and functions of the Commission as contained in this Act.

#### *Qoliqoli bylaws*

56. The Commission may, in consultation with the qoliqoli owners, make bylaws for the purpose of regulating and controlling the use, conservation, management and protection of qoliqoli areas and fisheries resources, and in particular

- (a) for the effective and efficient control and administration of qoliqoli rights and qoliqoli areas and resources;
- (b) to regulate other enforcement procedures;

(c) for the purpose of maintaining sustainable fisheries resources within qoliqoli areas, including conservation, management and protection of qoliqoli rights and areas and fisheries stock.

*Penalties for regulations and bylaws*

57. Any offence created by regulations or bylaws made under this Act may penalties for fines not exceeding \$5,000 or to imprisonment not exceeding 2 years.

*Consequential amendments, transitional and savings*

58.-(1) The State Lands Act is amended in section 2, in the definition of "State land" by deleting the words "including foreshores and the soil under the waters of Fiji," and substituting the words "including soil under the waters of Fiji, subject to the Qoliqoli Act"; and

(2) Any application for foreshore reclamation pending at the commencement of this Act shall be referred to the Minister to be dealt with in accordance with this Act.

(3) The Fisheries Act is amended by repealing all sections from 13 to 20.

(4) The Rules made under the Fisheries Act to govern the work of the Native Fisheries Commission continue in force as if the Rules had been made under this Act.

(5) Any legal rights, interest, leases, licences or permits existing over any qoliqoli area shall continue in force under their respective terms and conditions as if they were issued or granted under this Act, but any renewal of such leases, licences or permits shall be processed and determined under this Act.

(6) Any rent, premium, fees or other charges payable to the State in respect of any existing legal rights, interests, leases, licences or permits issued or granted within the qoliqoli areas shall be paid to the Board from the commencement of this Act.

(7) At the commencement of this Act, any existing commercial fishing licence issued in respect of a qoliqoli area continues as if it were issued under this Act until its cancellation under the provisions of this Act or its expiry.

(8) Fisheries Regulations made under the Fisheries Act that apply to qoliqoli areas continue to apply as if they are made under this Act, with necessary modifications, until regulations are made under this Act replacing the Fisheries Regulations

(9) Where a lease, licence or other authority of any qoliqoli area was granted to any person by the Director of Lands under the State Lands Act before the commencement of this Act

(a) the Director of Lands is replaced by the Board as lessor for all purposes; and

(b) the income from the lease must be dealt within accordance with the Native Lands Trust Act,

but otherwise the terms and conditions of the lease remain as before.

(10) All leases, deeds and instruments issued by the Director of Lands in respect of qoliqoli areas before the commencement of this Act and current at the commencement of this Act shall, until their expiry or earlier termination in accordance with their terms and conditions, be deemed to have been issued by the Board and governed by the Native Land Trust Act.

(11) All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings which

(a) were entered into by or made with and addressed to the Director of Lands (whether alone or with any other person);

(b) were in force at the commencement of this Act; and

(c) relate to qoliqoli areas before the commencement of this Act,

are binding and enforceable by or against the Board after the commencement of this Act.

(12) All documents or instruments brought into existence for the purpose of evidencing, recording or effecting the matters referred to in subsection (11) relating to the transfer from the Director of Lands to the Board or the vesting of any such property in the Board are exempt from stamp duty under the Stamp Duties Act and that Act does not

(a) apply to any agreement or instrument brought into existence for the purpose of recording, evidencing or effecting any transfer of property of the Director of Lands to the Board or the vesting of any such property in the Board;

(b) operate to impose or attract any duty, fine, penalty or assessment required or necessary to give effect to the purpose of this Act.

(13) Nothing in the State Acquisition of Lands Act, Land Sales Act, Land Transfer Act or any other written law invalidates or affects any mortgage, transfer, bill of sale or security given or made to the Director of Lands to which the Board is entitled to under this Act.

(14) The Registrar of Titles must, upon application and lodgement for registration made by the Board, make necessary entry on a certificate of title, mortgage, lease or other instrument or document under his or her custody or control as a result of the vesting in the Board of qoliqoli areas and the Board must notify the holder of the certificate of title, mortgage, lease, instrument or document to produce it to the Registrar of Titles for that purpose.

(15) The Registrar of Titles must, upon application and lodgement for registration made by [be Board, make any other memorial or entry in any public record that is necessary or expedient to record the vesting of qoliqoli areas in the Board under this Act.

(16) At the commencement of this Act, any action, arbitration or proceeding pending by, against, or in favour of the Director of Lands, does not abate and is not discontinued or in any way prejudicially affected by this Act but may be prosecuted, continued and enforced by, against or in favour of the Board.

(17) The arrangement provided in Part 5 shall replace the current system concerning all monies payable to qoliqoli owners under section 22(2), and all monies currently standing in the credit of qoliqoli owners in the accounts of the Fijian Affairs Board shall be transferred to their respective trust funds established under Part 5 on the coming into force of this Act.

Attorney General's Chambers  
5- 7 Floors, Suvavou House  
SUVA

August 2006

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## **QOLIQOLI BILL**

### **EXPLANATORY NOTE**

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

#### **1.0 INTRODUCTION**

The Bill seeks to provide for the transfer of the proprietary ownership of qoliqoli areas from the State to the qoliqoli owners, for the establishment of the Qoliqoli Commission with its powers and functions and for the purposes of regulating and managing fisheries resources within qoliqoli areas,

## **2.0 CLAUSES**

### Clause 1

The short title of the Bill has been changed from Customary Fisheries Bill to Qoliqoli Bill, because the new title helps capture more accurately the notion of customary fisheries rights as well as clarify some terms used in the draft Bill. The legislation will come into force when preparations of all subsidiary laws and resourcing requirements are completed.

### Clause 2

Terms defined have been revised to reflect more accurately the contexts in which these terms are used in the body of the Bill.

### Clause 3

The legislation will bind the Government as distinct from the State.

### Clause 4

This is the clause that gives effect to the principal objective of the legislation, i.e. to transfer to qoliqoli owners from the State the proprietary ownership of their respective qoliqoli areas which are currently owned by the State. The provisions of this clause then go on to vest the legal (as opposed to the beneficial) interests and ownership in the NLTB. The transfer will be by operation of law and not through ordinary conveyance.

### Clause 5

This clause clarifies the different roles of the NLTB and the Qoliqoli Commission. It also confirms that land within qoliqoli areas will be deemed to be native reserve land and may only be changed to de-reserved land by declaration by the Minister upon a request for the same from the qoliqoli owners. The clause also preserves all the legal interests and rights already granted or will be granted in qoliqoli areas.

### Clause 6

This clause excludes rights to water 'per se' from rights granted to qoliqoli owners under this Bill. It also confirms that the rights conferred are directly connected to traditional practices, usage and rules.

### Clause 7

This clause preserves the right of free access by vessels to qoliqoli areas for transportation purposes.

### Clause 8

This clause confirms the protection of legal rights and interests duly granted within qoliqoli

areas.

Clause 9

This clause disallows claims for compensation for past use of qoliqoli areas.

Clause 10

This clause establishes the Qoliqoli Commission, provides for its composition, the terms of appointments of members, and disciplinary aspects of such appointments.

Clause 11

This clause tries to prescribe the qualifications for suitable members of the commission.

Clause 12

This clause sets out the functions of the Qoliqoli Commission

Clause 13

This clause stipulates the powers available to the Qoliqoli Commission in the exercise of its functions.

Clause 14

This clause provides some details on the procedures to be followed during hearings conducted by the Commission.

Clause 15

This clause deals with the maintenance of a Qoliqoli Register which records the owners and boundaries of each qoliqoli area.

Clause 16

This clause prohibits anyone from undertaking commercial fishing in any qoliqoli area without a licence issued by the Qoliqoli Commission. The Minister may prescribe quotas for licensed fishermen in any qoliqoli area, if so recommended by the Commission after consultations with qoliqoli owners. The power to issue licences includes the power to vary, suspend or cancel such licences. Any person who contravenes these requirements commits an offence punishable by a fine or imprisonment.

Clause 17

This clause outlines the conditions and Limitations under which fisheries resources within qoliqoli areas may be harvested by anyone, including qoliqoli owners, for home consumption. These limitations are primarily for conservation purposes, and the conditions may differ from area to area at different times in the year. The permit system is prescribed in bylaws and public officers and qoliqoli owners maybe appointed by the Commission to monitor compliance.

Clause 18

This clause requires that no commercial fishing licence issued for operation within archipelagic waters may be issued without prior consultations with the Qoliqoli Commission which may require certain conditions to be imposed

Clause 19

Additional standard conditions for licences issued under clauses 16 and 17 may be

prescribed.

#### Clause 20

This clause prohibits the undertaking of any non-fisheries commercial operation within qoliqoli areas without prior the approval of the NLTB after consultations with the Qoliqoli Commission and the qoliqoli owners. The Qoliqoli Commission and the qoliqoli owners may insist on conditions for such approval. This clause also clarifies that ownership of any lease or fee simple of any land abutting any qoliqoli area does not confer any rights to such owners except as may be authorized under this legislation. Qoliqoli owners may waive their usage rights as owners through conditions agreed with the commercial operators.

#### Clause 21

This clause regulates the undertaking of research activities within qoliqoli areas. Government research are exempted subject to agreements for access, etc.

#### Clause 22

This clause requires the establishment of trust funds into which certain income from the commercial exploitation of qoliqoli areas or resources shall be paid for the benefit of qoliqoli owners.

#### Clause 23

The clause provides that the Commission may in consultation with qoliqoli owners, appoint trustees for each of the qoliqoli trust funds.

#### Clause 24

The clause provides that the qoliqoli trust fund be distributed in accordance with procedures approved by the Commission and the trustees in close consultation with the qoliqoli owners.

#### Clause 25

This clause requires the preparation of the bi-annual report on the trust account and the audit of annual accounts of the trust

#### Clause 26

This clause provides that the Trustees Act does not apply to qoliqoli trust funds created under the Act.

#### Clause 27

This clause stipulates that no lease to reclaim any qoliqoli area shall be granted unless the Minister gives a written approval on the recommendation of the Board and unless the qoliqoli owners have been consulted on the proposed lease,

#### Clause 28

This clause stipulates that Part V of the State Lands Act (Special Provisions Relating to Foreshore Land and Soil under the Waters of Fiji) does not apply to qoliqoli areas.

#### Clause 29

The clause provides that the Commission can appoint any persons or classes of persons as qoliqoli officers and the Commission may limit the powers the qoliqoli officers may exercise under the Act or any other written law,



#### Clause 30

This clause provides that qoliqoli officers may enter and inspect any place, premises, vessel or vehicle in which the officer believes on reasonable grounds there is any work or undertaking or any fisheries resources of which the Act, regulations or by laws apply. The clause further provides that owner or person in charge of a place to be inspected by a qoliqoli officer should give reasonable assistance to enable the officer to carry out an inspection and also provide any information relevant to the administration of this Act, regulations or bylaws. If the place, premise, or vehicle referred to in (1) is a dwelling house, the qoliqoli officer may not enter the dwelling house without the consent of the occupant except under the authority of a warrant issued by a magistrate who must be satisfied with the information under oath. If the entry to the dwellinghouse is refused or there is a reasonable belief that entry will be refused, the magistrate may issue a warrant under his warrant authorising the qoliqoli officer to enter the dwelling house subject to conditions to be specified in the warrant.

#### Clause 31

The clause provides that a qoliqoli officer with a warrant issued under subsection (2) may enter and search any place including any premises, vessel or vehicle on the reasonable grounds that there is work being carried out in contravention to the Act and or Regulations and the warrant could be subject to conditions imposed by the magistrate. The officer may exercise the power to search without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would not be practical to obtain the warrant.

#### Clause 32

Provides that in the discharge of his duties, any qoliqoli officer or other person accompanying him or authorised to such effect by the qoliqoli officer, may enter on and pass through or over the private property without being liable to trespass.

#### Clause 33

Provides that a qoliqoli officer or police officer may arrest without warrant a person who the qoliqoli officer or police officer believes on reasonable ground has committed an offence against the Act, regulations or by laws.

#### Clause 34

Provides that a qoliqoli officer may seize any fishing vessel, vehicle, fisheries resources or other things that the officer believes on reasonable grounds was obtained by or used in the commission of any offence under this Act, regulations or by laws.

#### Clause 35

Provides that a qoliqoli officer, or who seizes any fisheries resources under the Act, regulations or bylaws may retain custody of it or deliver it into the custody of any person or officer considers appropriate and that the person who is given the resources or other things shall on the request of the qoliqoli officer make available for inspection or deliver it into custody of the officer.

#### Clause 36

Provides that a person convicted of an offence under the Act, regulations or bylaws may in addition to the punishment imposed, the court may order that any thing seized under the Act, regulations or bylaws or proceeds realised from its disposition be forfeited to the State.

#### Clause 37

Provides that no person shall use any kind of explosive, or use any substances or plants for taking fisheries resources. A person who contravenes subsection (1) is liable to conviction and a fine not exceeding \$100,000 or to 10 years imprisonment and on contravention of subsection (2) is liable to conviction and to a fine not exceeding \$50,000 or to imprisonment term not exceeding 5 years.

#### Clause 38

Provides that no person shall obstruct or hinder a qoliqoli officer or police officer from carrying out duties, functions or powers under the Act, regulations or bylaws.

#### Clause 39

Provides that no person shall make a false or misleading statement whether orally, or in writing to a qoliqoli officer or any other officer designated by the Commission to carry out its duties, functions or powers under the Act, regulations or bylaws.

#### Clause 40

Provides that a where a corporation commits an offence under the Act, regulations or bylaws, any director or agent of the corporation who directed or authorised, or acquiesced in or participated in the commissioning of the offence is a party to and commits the offence, is liable to punishment provided for the offence, whether or not the corporation has been prosecuted.

#### Clause 41

Provides that in any prosecution under the Act, regulations or bylaws, it is sufficient proof of the offence it is established that it was committed by the employee or agent of the accused, whether or not the employee or agent has been identified unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

#### Clause 42

Provides that in any prosecution under the Act, regulations or bylaws, it is sufficient proof of the offence it is established that it was committed by a person in respect of any matter relating to any operation under licence issued to the accused pursuant to the Act, whether or not the person has been identified or prosecuted for the offence unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

#### Clause 43

Provides that in any prosecution for an offence under the Act, regulations or bylaws, where a question arises as to whether a person was issued with a licence, the burden is on the person to establish that the licence was issued.

#### Clause 44

Provides that no person shall be convicted of an offence under the Act, regulations or bylaws if the person established that the person exercised due diligence to prevent the commission of the offence or reasonably and honestly believed in the existence of facts, that if true, would render the person's conduct innocent.

#### Clause 45

Provides for general penalties for offences which do not specify a penalty.

#### Clause 46

Provides that where a person is convicted of an offence under the Act in respect or any matter relating to any operations under the licence issued under the Act, in addition to the punishment imposed, the Court may cancel the licence or suspend it for a period considered appropriate by the Court or prohibit the person to whom the licence was issued from applying for any new licence under the Act during any period the court considers appropriate.

#### Clause 47

Provides that the Commission, its members, staff, the Board or any other person authorised to perform any duty, function or power under this Act shall not be personally liable for any act done in good faith under and by virtue of the Act.

#### Clause 48

Provides that subject to sections 31 A, 31B, 31C of the Interpretation Act, the Commission may delegate its powers under the Act.

#### Clause 49

Provides that the Commission shall be entitled to be heard either orally or in writing or both by any Tribunal charged with assessing compensation for lost or diminished fisheries resources within any qoliqoli areas as a result of any non-fisheries commercial operations approved by the Board.

#### Clause 50

Provides that the Minister, may in the public interest, give special or general policy directions to the Commission or the Board.

#### Clause 51

Provides that the provisions of the Act are in addition to the general provisions dealing with management, conservation and development of fisheries provided in other legislations controlling or regulating fisheries in the Fiji Fisheries Waters.

#### Clause 52

Provides for persons who may be required under the Act, to provide information or to keep records, books of accounts or other documents.

#### Clause 53

Provides that any consultation with the qoliqoli owners required to be undertaken shall follow prescribed procedures.

#### Clause 54

Clause 54 extends the jurisdiction of the magistrates to impose monetary fine to \$10,000.

#### Clause 55

Provides that the Minister, may in consultation with the Commission, make regulations to give effect to the provisions of the Act.

#### Clause 56

Provides that the Commission, may in consultation with the owners, make bylaws to regulate the use, management and protection of qoliqoli areas and fisheries resources within such areas and to include bylaws, rules and orders for the effective and efficient control and

administration of qoliqoli areas and resources, procedures and sanctions for effective compliance with bylaws, rules and orders made by it, prescribe bylaws for the purpose of maintaining sustainable fisheries resources within qoliqoli areas, including conservation, protection and maintenance of such areas and fisheries and stock and to issue any practice directions to give effect to its decisions in relation to the effective and efficient control and administration of qoliqoli and qoliqoli areas.

Clause 57

Provides that offences created under the regulations or bylaws may prescribe penalties up to \$5,000 or 2 years imprisonment.

Clause 58

Provides for consequential amendments to the State Lands Act, Fisheries Act, Rules made under the Fisheries Act to govern the work of the Native Fisheries Commission to continue in force as if the Rules have been made under the Act and the transitional and savings matters.

### **3.0 MINISTERIAL RESPONSIBILITY**

The Bill comes under the responsibility of the Minister responsible for Fijian Affairs.

Q. B. BALE

Attorney General

and Minister for Justice